

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

9 September 2004

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Fritzsche
Commissioner Hunter

ABSENT:

Commissioner Ollivier

The Closed Session was called to order at 6:10 p.m. Closed Session adjourned at 6:40 p.m.

The regular meeting of the Board of Commissioners was called to order by President Pellegrini at 7:00 p.m. Roll call was taken. President Pellegrini led those present in the Pledge of Allegiance.

President Pellegrini moved New Business, Item 10(a) to the top of the agenda.

NEW BUSINESS

A. CONSIDERATION OF RESOLUTION 2004-12 COMMENDING JEREMIAH SCOTT, JR. FOR HIS THIRTY YEARS OF SERVICE AS DISTRICT COUNSEL TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT.

President Pellegrini read the resolution, which highlighted the various projects Jerry has played an integral part in over the last thirty years.

COMMISSIONER CURLESS MOVED FOR THE ADOPTION OF RESOLUTION 2004-12 COMMENDING JEREMIAH SCOTT, JR. FOR HIS THIRTY YEARS OF SERVICE AS DISTRICT COUNSEL TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT. COMMISSIONERS FRITZSCHE AND HUNTER SECONDED. A ROLL CALL VOTE WAS TAKEN:

Commissioner Pellegrini – Aye
Commissioner Curless – Aye
Commissioner Fritzsche – Aye
Commissioner Hunter – Aye
Commissioner Ollivier – Absent

MOTION CARRIED WITHOUT DISSENT.

Jerry expressed his appreciation to the Board of Commissioners for the resolution and spoke about his many years of service to 18 different Commissioners. He also commended the Commissioners for standing strong under the scrutiny of special interest groups.

CEO reported that during Closed Session the Simpson-Samoa tideland lease was discussed, but no action was taken.

PUBLIC COMMENT

Kaye Strickland asked the Board of Commissioners to give more consideration to obtaining a decommissioned ship for placement in Humboldt Bay as a tourist attraction.

Pete Oringer suggested reports on the status of container barging from the Port of Oakland and the status of the railroad be given a permanent place on the board meeting agendas.

David Elsebusch commented on the minutes from the August 12, 2004 meeting of the Board of Commissioners. He stated that what appeared to be a training session for new District Counsel Paul Brisso during Closed Session bordered on the edge of a Brown Act violation.

CONSENT CALENDAR

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF THE CONSENT CALENDAR.
COMMISSIONER CURLLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

CEO REPORT

- √ The construction of the back wall of the Fields Landing Boat Yard Travelift building has been completed.
- √ 8/17: CEO and Commissioners Pellegrini and Ollivier met with Wilson Lacy and Eva Kong of the Port of Oakland regarding container barging.
- √ 8/31: Commissioners Pellegrini and Curless and CEO met with a group of residents and recreational users, including commercial and recreational fishermen and surfers, of the Shelter Cove area regarding the breakwater project. Dilip Trevedi from Moffitt & Nichols Engineering presented three options for the project and the attendees discussed the benefits of each option.
- √ 9/8: Commissioner Ollivier met with representatives of the Port of Oakland, Pacific Maritime Association and the ILWU Local 10 at the Port of Oakland regarding container barging between the Port of Oakland and the Port of Humboldt Bay and the possibility the service could begin mid November.
- √ CEO reported Senator Feinstein sent a letter of support for the MARAD container barge service promotion grant.
- √ 9/25: The Humboldt Bay Maritime Expo will be held on Woodley Island.
- √ The comment period for the Mitigated Negative Declaration for the maintenance dredging of Woodley Island Marina and various Eureka waterfront sites will continue until October 11, 2004.

DISTRICT COUNSEL'S REPORT: None

STAFF REPORT

District Treasurer presented the Monthly Management and Treasurer's Report for the fiscal year ending June 30, 2004. The reports were based on accrual accounting and unaudited figures. The purpose of the reports is to provide monthly budget information throughout the year for purposes of revenue and expenditure planning. District Treasurer reported that annual revenues are at 98.76% of budgeted, expenses 97.77% of budgeted and capital expenditures are at 33.67% of budgeted due to the fact that the Harbor Deepening Project audit has not been finalized and a final payment has not been made to the US Army Corps of Engineers.

COMMISSIONER REPORTS

Commissioner Curless reported the community meeting in Shelter Cove regarding the breakwater project was beneficial and that the attendees were pleased with the project options presented by Moffitt & Nichols. President Pellegrini stated that a combination of the first and third alternatives seemed to be the choice of the group, but that further reconfigurations based on wave studies were to be done by Moffitt & Nichols.

Commissioner Fritzsche stated that he traveled to Shelter Cove to look at the existing breakwater and the boat-launching ramp. While he was there he heard stories of an accident that occurred as a tractor was backing a boat on a trailer down the ramp and the trailer broke away and went over the side of the ramp. Fortunately, no one was hurt, but Commissioner Fritzsche expressed his concern over the Harbor District's liability in such situations.

Commissioner Fritzsche reported that an article appeared in *The Virginian-Pilot* that spoke about a \$78,000 project on Chesapeake Bay to restore native oysters. One million baby oysters had been scattered on an artificial reef in June and almost all were devoured in one day by cow-nosed rays.

Commissioner Fritzsche stated that recently the Harbor District Board of Commissioners had passed a motion to send a letter of support of HELP (Humboldt Economic and Land Plan), urging the County of Humboldt to densify housing before going into agricultural and forestland areas. He said he was disappointed to see that the media has failed to include this emphasis when writing about our support.

Commissioner Fritzsche urged everyone to attend the Paddlefest on Humboldt Bay on Saturday, September 11th.

Commissioner Hunter reported he attended the August 30th meeting of RREDC at which Healthy Humboldt presented their sketch plans 1-4 as alternatives to the County's General Plan.

Commissioner Hunter stated he spoke at a recent Fortuna Kiwanis meeting regarding the container barging concept. He said he also attended this week's Citizens for Port Development meeting at which Commissioner Ollivier spoke on container barging. Commissioner Hunter thanked Pete Oringer and Kaye Strickland, among others, for their input in helping the concept get started.

Commissioner Hunter reported that Commissioner Ollivier has been invited to speak at the Eureka Rotary club on Monday, September 13th. Eureka Rotary President invited the full Board of Commissioners to attend the meeting to hear Commissioner Ollivier's talk.

President Pellegrini reported that she, Commission Fritzsche and CEO met with the representatives of SEADOG pumps regarding the concept and stages of the permits required. SEADOG was invited to participate with an informative display at the Maritime Expo.

President Pellegrini reported that she and Commissioner Ollivier met with Wilson Lacy and Eva Kong of the Port of Oakland. She stated that they toured various facilities around Humboldt Bay. President Pellegrini said that if not for Commissioner Ollivier's relationship and involvement with the ILWU, container barging between the Port of Oakland and the Port of Humboldt Bay would not have come this far in the discussion process.

President Pellegrini reported she is still looking for volunteer chefs for the salmon cook-off at the Humboldt Bay Maritime Expo; and since Eureka City Manager David Tyson and Humboldt County Supervisor John Woolley were in the audience, she asked them to participate. They both agreed.

ADVISORY COMMITTEE REPORTS: None

OTHER: None

NON-AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

B. CONSIDERATION OF RESOLUTION 2004-11 SUPPORTING PROPOSITION 1A.

CEO introduced Eureka City Manager David Tyson and Eureka Finance Director Carolynn Thomas who were invited by the District to present information (not promote) to the Board of Commissioners on Proposition 1A which provides for the protection of local

government revenues. This proposition is supported by a bipartisan coalition of government officials, including Governor Schwarzenegger and Republican and Democratic State leaders. Under Proposition 1A, if the State is in financial need of local government revenues, it may only take the funds under certain limited conditions, which differs from Proposition 65 which is currently on the November ballot.

Ms. Thomas stated that over the last 10 years, the State has taken over \$7.8 million from the City of Eureka, \$3.7 million from the City of Arcata and over \$127 million from the County of Humboldt. The propositions restrict the State's ability to raid local government revenues, protects funding for services (i.e. police and fire), provides dollars for State mandated programs and will not cause taxes to increase to fund the proposition's elements.

Commissioner Fritzsche asked who would be opposed to Proposition 1A and so why does it need to be a proposition? Mr. Tyson replied that the State's Constitution requires voter approval. If Propositions 65 and 1A are passed in November, Proposition 1A will take precedence over Proposition 65.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF RESOLUTION 2004-11 SUPPORTING PROPOSITION 1A. COMMISSIONER FRITZSCHE SECONDED.

David Elsebusch stated that he took exception to this proceeding. He said this item should be tabled until the Board of Commissioners could hear about both propositions (1A and 65), possibly from the Humboldt Taxpayers League.

A ROLL CALL VOTE WAS TAKEN:

Commissioner Pellegrini – Aye
Commissioner Curless – Aye
Commissioner Fritzsche – Aye
Commissioner Hunter – Aye
Commissioner Ollivier – Absent

MOTION CARRIED WITHOUT DISSENT.

President Pellegrini thanked Mr. Tyson and Ms. Thomas for their presentation and stated she had requested they attend the meeting in order to provide information to the Board.

Commissioner Hunter stated that he did not feel it was necessary to explain why someone was making a presentation to the Board.

C. CONSIDERATION OF GRANTING EXTENSION OF PERMIT 01-05 TO THE EUREKA WATERFRONT PARTNERS FOR THE EUREKA PIER PROJECT.

CEO reported the extension of the permit is for one year only.

Joe Vellutini, representative for Eureka Waterfront Partners, explained that the plans for the permit and the plan check will be sent to the Coastal Commission by the end of September. Mr. Vellutini said that they expect the pile driving to begin in January 2005.

COMMISSIONER HUNTER MOVED FOR THE GRANTING OF EXTENSION OF PERMIT 01-05 TO THE EUREKA WATERFRONT PARTNERS FOR THE EUREKA PIER PROJECT. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF OPPOSING PROPOSED ROCKFISH SPORT FISHING MANAGEMENT MEASURES.

CEO reported that the Department of Fish & Game (DF&G) has proposed changes in California's ocean sport fishing regulations for all federally-designed groundfish and state-managed species. The proposals include changes to management areas, changes to fishing seasons and fishing depths and changes to size and bag limits. These changes may have economic impacts on small businesses in California, mainly commercial passenger fishing vessels. The fishing season will be shortened to four months – July to October, which happens to be the period of greatest activity for this type of fishing.

Tom Leshar, who owns a sport fishing charter out of Trinidad Bay, told the Board that the season is closed from October through May and if there are further limitations placed on the shortened time period, the impact on income would be destructive. He stated it would be more realistic to shift the shortened period to be in line with recreational fishing season, to include June.

Commissioner Fritzsche stated he spoke with Fish and Game wardens who expressed to him the changes were confusing.

COMMISSIONER HUNTER MOVED TO DIRECT STAFF TO DRAFT A LETTER TO CALIFORNIA DEPARTMENT OF FISH AND GAME REGARDING PROPOSED CHANGES IN ROCKFISH REGULATIONS AND SUGGEST ALTERNATIVES, PARTICULARLY FOR THE LENGTH OF THE SEASON, AND REQUEST THE REASON FOR SUCH CHANGES. COMMISSIONER CURLISS SECONDED. COMMISSIONER FRITZSCHE MADE A FRIENDLY AMENDMENT TO WHICH COMMISSIONER HUNTER AGREED THAT TWO BOARD MEMBERS WORK WITH CEO TO COMPOSE THE LETTER.

Commissioner Fritzsche and Commissioner Pellegrini offered to work with the CEO.

Melvin McKinney stated that from a sport fisherman's perspective, the proposed changes are needed for biological reasons to perpetuate the species. He stated that many man hours and public hours were spent developing these changes.

Tom Leshar stated the jetties where Melvin fishes are not a part of the proposed regulations.

Pete Oringer stated he thought immediate opposition would not be a good idea, but that offering suggestions to the DF&G would be a good way to start up a dialogue. He also said that it sounded like these proposed changes were remotely determined and he suggested DF&G representatives should be invited here to discuss how the new regulations apply to the area north of Cape Mendocino.

Commissioner Fritzsche suggested the letter request the biological information used to determine the regulations.

David Elsebusch stated that he supported the motion on the table because the Board of Commissioners was not automatically opposing the regulations before receiving the pertinent information.

Penny Elsebusch stated that it is unclear as to what the opposition might be. She suggestion the Board of Commissioners find out what the June date means to the decimation of the groundfish.

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF AUTHORIZING THE BOARD PRESIDENT TO APPROVE A SECURED SHORT-TERM LOAN OF \$200,000 TO NORTH COAST RAILROAD AUTHORITY.

CEO reported that North Coast Railroad Authority has requested a short-term loan from the Harbor District of \$200,000. Historically the Harbor District has made loans to NCRA and they have been repaid in a timely fashion.

CEO stated staff recommendations as follows: 1) Direct the Chief Executive Officer, District Counsel and District Treasurer to work with the Staff and Counsel of the NCRA to develop a loan document that provides for: a) a loan of \$200,000 to the NCRA; b) inclusion of an appropriate interest rate; c) repayment to be made in full, plus interest, within 12 months of the date of the agreement; and d) the loan to be secured by collateral owned solely by NCRA of a current value no less than \$200,000; and 2) Authorize the President of the Board of Commissioners to sign the loan document when the conditions detailed in Paragraph 1 above are met and District CEO, Counsel, and Treasurer have reviewed and approved the agreement as to form.

NCRA Board President John Woolley introduced Executive Director Mitch Stogner and Board member Dave Ripple. Mr. Woolley stated the NCRA was created by the State, but was not allocated the dollars to operate. The current revenue for the NCRA comes from property leases. Mr. Woolley explained that currently they are capital rich and operations poor. He said that until the southern end of the line is operational and they begin receiving revenue, these situations will continue.

Mitch Stogner stated that the irony of the situation is that \$7.9 million of FEMA funds were to be received months ago, but now due to the hurricane season FEMA funds are being diverted. He said currently they are working with Congressman Thompson and the legislature on forgiving a \$12 million federal loan and they should know within the next five weeks if successful.

Commissioner Fritzsche stated that not too long ago the NCRA made a similar request, but that the collateral offered was not owned by the NCRA. CEO replied that the collateral for this request would be real property owned by the NCRA. Mr. Stogner confirmed that the Ukiah depot will most likely be proposed as collateral, but that the NCRA Board will have to approve the offer.

Commissioner Fritzsche asked if the Annie & Mary Line could be used for collateral. Mr. Stogner replied that the majority of that line was purchased with state and/or federal dollars and therefore could not be used for collateral. Commissioner Fritzsche stated that property in Humboldt County would be the first choice.

Commissioner Hunter stated the Harbor District has had a long history with the NCRA and the railroad is a very important cog in the future of the port. He said the Harbor District would like to support the railroad, but that the Harbor District is facing budget deficits and reduced property tax revenues and he would like to see other agencies help out too.

Mr. Stogner said that the NCRA appreciates the consistent support of the Harbor District over the years and that the City of Fortuna and County of Sonoma are both considering financial assistance.

Commissioner Curless stated the entire Harbor District Board of Commissioners should approve both the agreement and the collateral specifics at the next Board meeting on September 23rd. He also suggested an appraisal should be done on the property prior to signed agreement.

Commissioner Hunter suggested that an advisory committee consisting of two Board members, CEO, District Counsel and District Treasurer should meet and return to the Board a recommendation including collateral, term of agreement and interest rate.

Dave Ripple said they would look first to property in Humboldt County for collateral, but would the Board of Commissioners also consider equipment as collateral. The consensus by the Board was that property would be the only collateral considered.

Commissioner Curless suggested this item be tabled and the complete agreement, including collateral, should be brought back to the meeting on September 23rd for consideration.

President Pellegrini appointed Commissioners Fritzsche and Hunter to be the advisory committee to work with CEO, District Counsel and District Treasurer on a loan agreement for the Board's consideration.

David Elsebusch asked why the NCRA was asking the Harbor District for a loan. Aren't there other agencies that would loan them money? He suggested an agency whose jurisdiction is south of Willits should be contacted and also asked why, if the railroad is not currently in operation, salaries are still being paid.

Kaye Strickland said it is interesting that there is transportation dollars still owed to the Harbor District, but that they are tied up with railroad funds.

COMMISSIONER CURLESS MOVED TO TABLE THIS ITEM UNTIL THE BOARD MEETING ON SEPTEMBER 23RD AT WHICH TIME THE BOARD OF COMMISSIONERS WILL CONSIDER A PROMISSORY NOTE AND SECURITY AGREEMENT.
COMMISSIONER HUNTER SECONDED. MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 8:35 p.m.

APPROVED BY:

RECORDED BY:

____ Signature on File _____
Ronald A. Fritzsche, Secretary

____ Signature on File _____
Patricia L. Tyson, Admin. Assistant