

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

10 February 2005

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Fritzsche
Commissioner Hunter
Commissioner Ollivier

The Closed Session was called to order at 6:02p.m. Closed Session adjourned at 6:50 p.m.

The regular meeting of the Board of Commissioners was called to order by President Pellegrini at 7:03 p.m. Roll call was taken. Commissioner Curless (whose 75th birthday is tomorrow) led those present in the Pledge of Allegiance.

District Counsel reported that during Closed Session real property pertaining to Redwood Dock and the Simpson Letter of Intent on the Board's agenda and potential litigation regarding the Louisiana-Pacific tideland lease were discussed, but no action was taken.

PUBLIC COMMENT

David Elsebusch stated he hopes the Board of Commissioners takes a negative position on the County's Redevelopment Agency formation and the assignment of areas countywide. He stated that he does not feel several areas are ready for reassignment to redevelopment; especially Samoa and that the Harbor District does not know to what extent the affect will be on property tax revenue. Mr. Elsebusch also stated that the public does not know what redevelopment is, there needs to be more public education and even though there will be community meetings, he is scared.

Penny Elsebusch stated that the Headwaters Fund Board is ready to make loans and the Harbor District should apply to the Community Investment Fund for rehabilitating the Redwood Dock property or other Harbor District property.

CONSENT CALENDAR

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

CEO REPORT

- √ 1/31-2/4: California Conservation Corps continued the work of clean up at the Redwood Dock property.
- √ 2/2: CEO met with Ken Davlin to discuss Mr. Davlin's kick-off tour to meet with NCRA and the Port of Oakland representatives. On 2/17 Mr. Davlin will meet with Wilson Lacy, Director of Maritime at the Port of Oakland.
- √ 2/7: CEO attended a forum on shipping and transportation in Humboldt Bay and spoke on the Harbor District's role as Port Authority of Humboldt Bay. Commissioners Fritzsche and Hunter also attended.
- √ 2/9: CEO, as well as other special district representatives, met with County staff on the preliminary report of their redevelopment project. The consensus of those in attendance was that the County is moving too quickly on this project and there will not be enough time for comments from those affected. CEO stated the County intends to give an individual presentation to the special districts on the financial impacts to their agency. The Harbor District's presentation is scheduled for the Board of Commissioners meeting on March 10th. The County will begin to collect property tax dollars from the special districts in FY 2006/07. CEO suggested an advisory committee be formed to assist CEO and District Counsel review the report because comments are due April 15th and the Board of Supervisors will consider the final proposal at the end of May. Commissioners Fritzsche and Hunter volunteered to be the advisory committee.
- √ Maintenance dredging of Woodley Island Marina and ten Eureka waterfront sites is still on the front burner of projects. Commissioner Hunter stated that the public still confuses the Harbor District's

maintenance dredging with the Corps' maintenance dredging and that some public education may be necessary.

DISTRICT COUNSEL'S REPORT: None

STAFF REPORT: None

COMMISSIONER REPORTS

Commissioner Curless reported that tomorrow is his 75th birthday.

Commissioner Curless also reported that Ferndale resident, Dennis Leonardi, was appointed to represent Humboldt County on the Regional Water Quality Control Board.

Commissioner Fritzsche reported the Chancellor's office of the California State University appointed him to be a representative on the Resources Agency Sea Grant Advisory Panel, which oversees the Sea Grant Program.

Commissioner Fritzsche reported he also attended the forum on shipping and transportation in Humboldt Bay. He said the comments made by Andy Westfall on the changes that have occurred in the shipping industry in Humboldt Bay over the last several decades were very interesting.

Commissioner Hunter passed around copies of an article in the Eureka Reporter on the synopsis of the forum. Commissioner Hunter commended CEO for his presentation during the forum.

Commissioner Hunter also stated he had received a call from the area manager of the local Easter Seals regarding a successful awareness campaign Easter Seals has in the Bay area called "A Day on the Bay" where people with disabilities are able to ride on vessels on the bay and whether this idea could be linked with the Humboldt Bay Maritime Expo. Commissioner Hunter suggested she call Harbor District Dockmaster who is the coordinator of the Expo.

President Pellegrini reported she attended her first Harbor District boat auction held this morning. The auction was presided over by Suzie Howser, Harbor District Dockmaster, who did an excellent job. The vessels were liened, only two of the three were sold.

ADVISORY COMMITTEE REPORTS

Commissioner Fritzsche attended the Humboldt Bay Management Plan Task Force meeting on February 8th. The 3½-hour discussion centered on "The State of the Bay" chapter of the Plan. Commissioner Fritzsche stated the draft Plan would be available for public comment in March.

OTHER: None

NON-AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF ACCEPTING FOR FILING PERMIT 05-02 TO HUMBOLDT BAY FOREST PRODUCTS FOR DIKE RECONSTRUCTION.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING PERMIT 05-02 TO HUMBOLDT BAY FOREST PRODUCTS FOR DIKE RECONSTRUCTION. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF MODIFICATION NO. ONE TO FUNDING AGREEMENT #81331-1937-1003 EELGRASS FISH COMMUNITIES STUDY WITH US FISH AND WILDLIFE SERVICE.

CEO reported this agenda item is an extension of an existing agreement with the US Fish and Wildlife Service allowing the continuance of the fish communities study which is a requirement of Coast Seafoods' permit. NOAA and Coast Seafoods both assisted the Harbor District with the funding. CEO reported the \$24,500 needed for this modification is destined to come from the Headwaters Fund.

COMMISSIONER FRITZSCHE MOVED FOR THE APPROVAL OF MODIFICATION NO. ONE TO FUNDING AGREEMENT #81331-1937-1003 EEL GRASS FISH COMMUNITIES STUDY WITH US FISH AND WILDLIFE SERVICE. COMMISSIONER CURLESS SECONDED.

Commissioner Fritzsche reported he visited the USFWS Humboldt Bay National Wildlife Refuge interpretive center and looked at a diorama of plastic salmonids swimming in plastic eelgrass. He stated that there is no record of any salmonid ever being caught in eelgrass in Humboldt Bay.

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF LETTER OF INTENT WITH SIMPSON SAMOA COMPANY FOR ~200 ACRES ON SAMOA PENINSULA.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF LETTER OF INTENT WITH SIMPSON SAMOA COMPANY FOR ~200 ACRES ON SAMOA PENINSULA. COMMISSIONER OLLIVIER SECONDED.

District Counsel reported that he requested clarification of the Letter of Intent from Simpson, specifically regarding the deposit of \$100,000 and whether it must be deposited within 5 days of the signing of the Letter of Intent or the actual agreement. He stated that until the details are worked out with the satisfaction of both sides, sending the deposit is premature. However, if the \$100,000 were paid as a deposit, if the grant funding is not obtained, the deposit would be refunded.

COMMISSIONER CURLESS AMENDED HIS MOTION TO MOVE FOR THE APPROVAL OF LETTER OF INTENT WITH SIMPSON SAMOA COMPANY FOR ~200 ACRES ON SAMOA PENINSULA CONTINGENT UPON CLARIFICATION OF DISTRICT COUNSEL'S QUESTIONS AND WITH SIMPSON'S CONSENT AND TO AUTHORIZE PRESIDENT OF BOARD OF COMMISSIONERS TO SIGN THE SAME. COMMISSIONER OLLIVIER SECONDED THIS AMENDED MOTION.

David Elsebusch asked the Board of Commissioners to delay their decision on this item until the next Board meeting. He stated there needs to be more time for the public to comment. He also asked why the Board of Commissioners was interested in this piece of property and how the purchase price was determined.

Betsy Stapleton, a resident of the Dog Ranch property for approx. 10 years, stated that her family originally negotiated a lease for a portion of the property with Louisiana-Pacific and now leases from Simpson. She stated that her family has roots there and would like to remain on the property. She stated they are good stewards of the environment, long-term Humboldt County residents and taxpaying citizens.

Sean Armstrong, a co-director of Environmental Hostels, stated their organization has been looking since 2001 for a parcel of property, correctly zoned for their project, to put their youth hostel on. Mr. Armstrong said their idea for a youth hostel would provide an opportunity for youth from around the world to experience an environmentally appropriate lifestyle. He said they have been looking at the Dog Ranch property for a while, have met with Dave McEntee from Simpson who directed them to speak to the Harbor District. Mr. Armstrong said the youth hostel would occupy only about 10 acres of the land and they have formed an alliance with the Friends of the Dunes, who would manage the dunes area, while the Harbor District continues their use of the pipeline that runs across the property for sediment disposal for maintenance dredging. He said they expect to attract at least 8,000 visitors per year.

Michael Stapleton stated that of the ~200 acres being considered, the Dog Ranch is 9.4 acres and is zoned for their caretaker cabin. He said his family patrols the property on horseback and cleans up any garbage they see left on the property. Mr. Stapleton stated that in the 1930's, the property was a dog ranch; in the 1950's it became a horse ranch.

Bill Weaver, President of Friends of the Dunes (FOD), stated his organization is waiting to see what the Harbor District's intentions are. He said the Friends of the Dunes are interested in working with the Harbor District to develop educational and conservation projects for the property. Until last week, the FOD was working with Simpson to purchase the property; and if the Harbor District is unable to obtain grant funding for the purchase, FOD will move forward with their discussion with Simpson.

Tim Ayres, a resident of Manila, stated he has a long history with the property. In 1993 he helped start the beach and dunes stewards group who worked with the Humboldt County Sheriffs under a grant from the California Coastal Conservancy and NOAA. He said several volunteers removed several tons of debris, cars, etc. and have helped preserve the property over the years. Mr. Ayres said the Stapletons were responsible for spearheading this effort. He then asked who was going to provide the funding.

President Pellegrini stated the Letter of Intent starts the process to obtain the grant funding. District Counsel stated the purchase is contingent upon obtaining grant funding. No Harbor District funding would be involved.

Mr. Ayres continue to say that he spoke with Su Corbaley of the California Coastal Conservancy who stated she thought there was a lot line adjustment to carve out the Dog Ranch for the private residence of the Stapletons. He asked the Board of Commissioners to consider that the Stapletons have been good stewards of the land and to allow them to continue to live there.

Melvin McKinney asked why the Board of Commissioners was considering this purchase. He said he realized the pipeline across the property was necessary for dredge spoils, but that it was leased before, so why buy now? He stated the grant funds from the California Coastal Conservancy (CCC) are just about dried up, so why does the Harbor District think they can get the funding? Mr. McKinney suggested the Harbor District collaborate with the Friends of the Dunes and then work out an easement for the pipeline because it is his feeling the Friends of the Dunes would be more successful obtaining the grant funding from the CCC. He suggested the Board of Commissioners take more time making their decision, do the necessary environmental studies in order to use the pipeline and investigate the cost of barging the dredge spoils out of Humboldt Bay.

Brett Roslosnik stated he lives at the Dog Ranch with his mother and stepfather and has devoted his time to care for the land. He said he is concerned with the numbers of tourists the youth hostel expects to attract in the concentrated area of land. Mr. Roslosnik stated the water table is 3' below the surface and septic tanks would be required. He stated the land is very fragile and would hope to see an impact report on the effects of foot traffic.

Diane Beck stated she is disappointed at the lack of public information on a piece of property that is important to the public and the Harbor District should do a better job of informing the public. She asked what the Harbor District's plan is for the property.

David Elsebusch questioned section #11 of the Letter of Intent that states that neither party would make a public disclosure or announcements of the transaction without the consent of the other party and isn't this agenda item just that? District Counsel stated that Simpson knows the Harbor District is a public entity and public disclosure is required.

Penny Elsebusch stated she trusts the \$100,000 deposit would not be made up front if the Harbor District purchases the property. She suggested the Stapleton's section of property should be surveyed, fair market value determined and offered back to the Stapleton's as a purchase. An easement for the pipeline could be carved out, everyone wins and the Harbor District is not the landlord.

Pete Nichols, representative of the Baykeepers, asked what use the District intends for this property. President Pellegrini responded that each Commissioner probably has a different idea and these ideas cannot be discussed in Closed Session, so no discussions have been held yet on what to do with the property. Mr. Nichols stated the property is a sensitive area for natural resources, he urged the Board of Commissioners to work with the Friends of the Dunes and provide better public disclosure in the future.

Maggie Herbelin stated there is a lot of public concern over this issue. She stated the Stapletons should be able to remain in their home for their lifetime or until they move and then revert back to a caretaker residence for the natural resources property. She urged the Board of Commissioners to take more time to review the issue.

District Counsel stated that to date, the only discussion the Board of Commissioners could have under the law is the potential purchase of the property. It would be illegal for the Board to have discussions about use of the property in Closed Session at this stage. If the purchase goes forward and the District acquires the property, then the plan for the use of the property would be public discussion. At this point, the pipeline has been used under a licensed agreement through the consent of Simpson; therefore the Harbor District does not have an easement at this point. The Harbor District would have to continue under a licensed agreement with the subsequent owner or negotiate or condemn an easement. Also, one of the Harbor District's functions is as a conservation district; and part of the Board's rationale for this purchase is as the leading public agency with the interest of all aspects of the use of the Bay, including conservation issues, is if the property can be acquired without cost to the District, it would be a good fit to go with the other functions of the District. District Counsel stated that the \$1.5 million is an estimate, target price, placed on the property by Simpson. The Letter of Intent contemplates an agreement where there would be an appraisal. If the appraisal comes in higher, Simpson would have the option to adjust the price upwards and the District would have the option of declining. If the appraisal price comes in lower than \$1.5 million, both Simpson and the District would have the option of calling the deal off.

David Elsebusch said he was flabbergasted that there have been no discussions to date by the Board of Commissioners of the uses of the property. He could not conceive of making a \$1.5 million purchase with no conceptual idea of what to do with it.

District Counsel stated there is a huge amount of public interest in the property and as a public agency that is at the forefront of the interests of Humboldt Bay, what better entity to take ownership of the property and then allow the public to have input as to how the property should be used.

Commissioner Hunter stated he was concerned also with the short amount of time allowed to make the decision and concerned with the price of the property. He stated Simpson made the offer to the Harbor District and the public process has been started, but he too would like to have more time to make the decision. His concern is that the Harbor District has an easement over the property for the pipeline.

Commissioner Fritzsche asked if the Harbor District purchased the property if portions of the property could be leased or sold. District Counsel replied that the Harbor District, as owners of the property, would have that power to lease. Selling a portion of the property is more complicated. The portion of the property would have to be declared surplus and not needed for Harbor District purposes. Commissioner Fritzsche then asked if the property consisted of one single parcel or a number of parcels. CEO stated the property was multiple parcels.

Commissioner Fritzsche asked about security and maintenance of the property, would there be someone to live in the caretaker house to act as a ranger of sorts. District Counsel stated that the Harbor District has that option.

CEO stated that this purchase has the potential to satisfy all three of the mandates of the Harbor District: harbor (dredge spoils pipeline), recreation (collaboration with Friends of the Dunes and Mr. Ayres group) and conservation (wildlife area and dune restoration).

President Pellegrini stated that many comments received during the Humboldt Bay Management Plan and Strategic Plan public meetings concerned the need for property available for mitigation, for which this property may be used.

Commissioner Curless stated that portions of the property would be ideal for mitigation, provided the grant funding could be obtained.

Commissioner Fritzsche suggested that even if the Board of Commissioners approves the letter of intent at this meeting that it remain and agenda item for public discussion for the next two meetings since the Board can terminate the deal prior to March 11th. District Counsel replied that opportunities for discussion will be presented during the due diligence period and there may be an adjustment to the purchase price upon the results of the appraisal.

Bill Weaver stated it was his understanding that a California Coastal Conservancy grant or other such grant funding was limiting in its use for mitigation purposes.

Maggie Herbelin told the Board of Commissioners that if they could buy the property for \$1.5 million that they were getting a "steal".

Commissioner Hunter asked if the Board of Commissioners approves the Letter of Intent will it then be difficult to back out of the purchase. District Counsel responded that the Definitive Asset Agreement is the binding contract; but that if grant funding is not obtained, there is no deal. Commissioner Hunter asked about the due diligence period and getting the grant funding. District Counsel responded that if the end of the due diligence period is reached and there is no grant funding, the agreement could not be rescinded based on any of the due diligence considerations. But the entire deal is contingent upon grant funding; so if there is no grant funding, the transaction would be rescinded.

Commissioner Hunter asked if the due diligence period could be extended in order to assure the grant funding is obtained. District Counsel replied that when the terms of the due diligence period are negotiated, it can be specified to have the due diligence period coincide with the grant funding.

Commissioner Ollivier stated that Simpson approached the Harbor District with the offer. He asked if there is still an offer without the Letter of Intent. District Counsel responded there would not.

Melvin McKinney asked if Simpson had ever denied the Harbor District access to the pipeline. CEO responded that they had not, but that Simpson wants to sell the property.

Commissioner Fritzsche suggested the City of Eureka might support the grant funding since they too would benefit from the use of the pipeline during maintenance dredging.

Penny Elsebusch asked if an EIR would be required if the pipeline was laid across the property permanently. District Counsel responded that whether there is an easement or the Harbor District owns the property, there are still laws and regulations requiring environmental compliance.

District Counsel stated that even though the Letter of Intent includes a "drop dead" date, Simpson has expressed a willingness to discuss the offer. If the Board of Commissioners does not approve the Letter at this meeting, there is opportunity to meet with Simpson to discuss the details further.

MOTION CARRIED WITHOUT DISSENT.

Sean Armstrong distributed packets of information regarding the youth hostel project to the Board of Commissioners.

D. CONSIDERATION OF RESOLUTION 2005-02 A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT TO THE STATE OF CALIFORNIA REQUESTING A GRANT IN THE AMOUNT OF \$1.5

MILLION FROM THE DEPARTMENT OF BOATING AND WATERWAYS FOR THE IMPROVEMENT OF THE BOAT LAUNCHING FACILITY LOCATED AT SHELTER COVE CALIFORNIA.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF RESOLUTION 2005-02 A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT TO THE STATE OF CALIFORNIA REQUESTING A GRANT IN THE AMOUNT OF \$1.5 MILLION FROM THE DEPARTMENT OF BOATING AND WATERWAYS FOR THE IMPROVEMENT OF THE BOAT LAUNCHING FACILITY LOCATED AT SHELTER COVE CALIFORNIA. COMMISSIONER FRITZSCHE SECONDED. MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF DECLARING 1987 DODGE DIPLOMAT SURPLUS PROPERTY.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF DECLARING 1987 DODGE DIPLOMAT SURPLUS PROPERTY. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 8:38 p.m.

APPROVED BY:

RECORDED BY:

____Signature on File_____
Roy Curless, Secretary

____Signature on File_____
Patricia L. Tyson, Admin. Assistant