

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

13 December 2005

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Hunter
Commissioner Ollivier

The Closed Session was called to order at 6:02 p.m. Closed Session adjourned at 6:48 p.m.

The regular meeting of the Board of Commissioners was called to order by President Pellegrini at 7:02 p.m.

Administrative Assistant administered the Oath of Office to newly elected Commissioner Mike Wilson.

Roll call was taken. Commissioner Wilson led those present in the Pledge of Allegiance.

District Counsel reported on the items discussed during Closed Session: real property negotiations of the dredge line access agreement, the Redwood Dock property and the Louisiana-Pacific tideland leasehold improvement removal, but no action was taken.

PUBLIC COMMENT

Penny Elsebusch reported there was a Headwaters Fund Board meeting earlier today at which CEO was present. She said the District's CEO had prepared a very fine paper clarifying the benefits of the project and answering questions previously asked by the Headwaters Board.

Pete Nichols congratulated Commissioner Wilson on his successful election to the Harbor District Board. Mr. Nichols also stated the results of the recent dioxin sampling in the bay showed there was a dioxin problem that needs to be dealt with prior to the maintenance dredging. He also suggested that the Board postpone their consideration of approval of the Coast Seafoods permit until the Mariculture Monitoring Committee discusses it at their meeting tomorrow.

David Elsebusch stated the County of Humboldt is holding a meeting tomorrow afternoon regarding their redevelopment plan and Kirk Girard will be available to answer questions. He said in his opinion the County's redevelopment plan is flawed in how blighted areas are determined. Mr. Elsebusch asked about the discussion of Redwood Dock during Closed Session.

Melvin McKinney said he is surprised at the many changes in the dates of the Board of Commissioners meetings. He suggested the regular schedule be adhered to in order to allow the public the opportunity to plan for attending.

CONSENT CALENDAR

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

CEO REPORT

- ✓ 12/2: Cox Cable completed the installation of the high speed internet service at the Fields Landing Boat Yard which is the first phase of the installation of the security enhancement system.
- ✓ 12/13: CEO attended the Headwaters Fund Board meeting. CEO stated that the Headwaters Fund Board approved a \$200,000 grant to the Harbor District to develop a feasibility study on Redwood Dock. CEO acknowledged Mr. Bob Gearhart, who was sitting in the audience, and attributed his grant-writing skills to Mr. Gearhart.

DISTRICT COUNSEL'S REPORT

District Counsel reported the Harbor District recently received a call from US Bank regarding the potential creation of a security interest in a lease of one of the District's leaseholders, which is allowed under California law. District Counsel spoke with the US Bank attorney and a request for the Board's consent to the security interest will be forthcoming. The interest is only in the lease rights and will not encumber the real property.

STAFF REPORT

CEO stated that Jeff Robinson, Conservation Specialist, is out of town and therefore unable to report on the CENCOOS meeting.

COMMISSIONER REPORTS

Commissioner Hunter reported that he is the representative to the RREDC Board and Commissioner Fritzsche was appointed as the alternate. Commissioner Hunter requested President Pellegrini appoint a new alternate. President Pellegrini said she would happy to serve as the alternate.

Commissioner Ollivier reported he attended the NCRA Board meeting in Healdsburg, during which there was discussion on how NCRA can assist the Harbor District with port modernization. He asked President Pellegrini to speak about her China trip at the next NCRA meeting on January 11th and invited Fred Chien to attend as well.

President Pellegrini reported she attended the Air Quality Hearing Board on the Evergreen Pulp variance. She stated the Board granted a continuance to their meeting in January 2006.

President Pellegrini reported she spoke about her trip to China at the December Citizens for Port Development meeting.

President Pellegrini reported that on December 9th she attended the transfer of the LCI1091 to the Humboldt Bay Naval/Air/Sea Museum.

ADVISORY COMMITTEE REPORTS

Commissioner Hunter reported that the Human Resources Committee met and is ready to begin negotiations with the Harbor District employee's union representatives. He requested an action item be placed on the next agenda to hire a labor negotiations consultant.

a) Port of Oakland Advisory Committee Update: None

b) Long-Term Sediment Management Study Update: None

OTHER: None.

NON-AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF ACCEPTING FOR FILING ANNUAL AUDIT FOR FY 2004/05.

Stacey Edgmon, partner with Aycock and Edgmon CPAs, presented the annual audit for FY 2004/05 to the Board. She said the audit was prepared in accordance with the GASB 34 requirements. She said there were no incidents of non-compliance and the Harbor District was given an unqualified opinion, the highest ranking for an audit. Ms. Edgmon thanked the Harbor District staff for their cooperation during the audit process.

Commissioner Hunter stated that once again, even though the Harbor District has passed a negative annual budget, the annual audit shows a positive gain.

Commissioner Wilson suggested the audit be put on the Harbor District's website for easier public access.

COMMISSIONER CURLESS MOVED TO ACCEPT FOR FILING THE ANNUAL AUDIT FOR FY 2004/05. COMMISSIONER HUNTER SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF AGREEMENT OF INTENT FOR THE INDIAN ISLAND ROOKERY PROJECT.

Commissioner Wilson said that since the Wiyot Tribe was a client, he recused himself and left the room.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF AGREEMENT OF INTENT FOR THE INDIAN ISLAND ROOKERY PROJECT. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF ONE-YEAR EXTENSION OF PERMIT 1998-3 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

CEO stated a request had been received from Coast Seafoods to extend their Permit 1998-3 for one year. CEO stated that last year the Mariculture Monitoring Committee (MMC) recommended and the Board subsequently approved extending Coast's Permit 1998-3 in order to allow time for the new CEQA document to be prepared. In 2004, Coast had submitted a new Permit Application to the Harbor District that reflected the changes in culture practice that had been modified since the 1998 Permit. These changes were based on input from the MMC, the WRAC study and others.

CEO further stated that at this time last year we were hopeful that NMFS would complete their consultation work so that the CEQA document could be written with the benefit of that information. As we have just received NMFS Final Biological Opinion and Essential Fish Habitat Consultation, we are now ready to begin the CEQA process. The CEQA process will take many months and therefore it is staff's recommendation to extend the Permit 1998-3 for one additional year to allow the CEQA work to be completed.

CEO read the permit conditions as follows:

1. Coast Seafoods shall continue to diligently pursue the acquisition of all other permit approvals including a Coastal Commission Permit or interim operating agreement with the CA Coastal Commission; and a permit from the US Army Corps of Engineers.
2. Coast Seafoods shall not replant any beds in bottom culture.
3. Coast Seafoods shall continue to provide assistance to the Mariculture Monitoring Committee with regard to eelgrass avoidance issues, mapping of culture sites and research support. Specifically, Coast shall: A) continue to assist agency personnel and the members of the MMC in monitoring oyster operations, and B) avoid eelgrass to the maximum extent possible when planting new long-line beds.
4. Coast Seafoods shall stay at least 100 meters from Sand Island during the period April 1 through August 1 in order to avoid disturbing nesting Caspian Terns. If Coast Seafoods needs to enter any portion of bed SI-NK during the period April 1 to August 1, Coast Seafoods shall notify the CA Department of Fish and Game and US Fish and Wildlife Service. These agencies may assign an observer to accompany Coast Seafoods personnel. Anytime Coast Seafoods enters bed SI-NK between April 1 to August 1, Coast Seafoods shall record and report the date, time and nature of their activity.
5. All original conditions of Permit 1998-3 shall be carried over to this extension.

Commissioner Hunter asked that if Coast Seafoods is required to stay 100 meters from Sand Island, what would happen if they need to enter the area. Greg Dale replied that all the beds are outside of the 100 meters mark. Commissioner Hunter then asked what is the need for all of the monitoring and

surveying of the beds if they are outside Sand Island. CEO responded that several agencies have requested it through the MMC.

COMMISSIONER CURLESS MOVED THE APPROVAL OF A ONE-YEAR EXTENSION OF PERMIT 1998-3 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES TO INCLUDE THE CONDITIONS RECOMMENDED BY STAFF. COMMISSIONER OLLIVIER SECONDED.

Commissioner Wilson requested this item be held over to the next Board meeting so that he could attend the MMC meeting tomorrow and use the information from that meeting to make his decision.

Commissioner Hunter said that if the permit had already expired on December 2nd, what if anything would be the harm of moving the item to the next meeting. CEO stated that once the item has been considered by the Board, which would include moving it to the next meeting, the issue is in process. CEO also stated that the MMC is an advisory committee only.

Commissioner Curless asked if there are other permits that have not been issued. CEO replied that both the Corps of Engineers and the Coastal Commission permits have not been issued. Commissioner Pellegrini stated that the Corps of Engineers has had to delay issuing the permit due to the delay of NMFS's Biological Opinion.

Melvin McKinney said that normally the MMC meetings are prior to the Board's meeting and the MMC gives their recommendations to the Board of Commissioners. He said that the Biological Opinion is 79 pages and that some consideration should be given to the document. He also asked why the MMC meeting wasn't called until after the Board meeting.

Vicki Frey said that it would be inappropriate for the Board of Commissioners to issue the permit prior to the MMC meeting. She said the item should be held over to January so the advisory committee could meeting to discuss the Biological Opinion.

Pete Nichols said it would be important to hear the advisory committee's comments. He said the WRAC study has been completed, but the CEQA documents have not moved forward. He asked why the Coastal Commission permit has not been pursued.

CEO replied that the Coastal Commission already has the WRAC information and therefore decided to wait for the Biological Opinion prior to making their decision on the permit. They are continuing their discussions with Coast Seafoods and NMFS.

Commissioner Hunter stated the dates of the extension will remain the same regardless of when the Board approves it. He said the Board owes the advisory committee an apology for the change in the date of the Board meeting. He requested this agenda item be tabled until January 2006.

Commissioner Curless stated he was not willing to withdraw his motion.

Melvin McKinney said that it would be a good idea to give the MMC a chance to peruse the information in the Biological Opinion.

Melvin McKinney then stated that Commissioner Curless, the maker of the motion, had a conflict of interest in his relationship with Greg Dale of Coast Seafoods.

Commissioner Wilson stated that since the motion was made to include the conditions with the permit, he would like information from the MMC meeting in order to make his decision. Commissioner Pellegrini stated the conditions are the same as last year's recommendations from the MMC.

Pete Nichols said the Harbor District has been criticized in the past because they don't take public comments. He said the Board of Commissioners should not be railroaded by process.

Commissioner Curlless asked Mr. McKinney to explain his conflict of interest comment. Mr. McKinney said that Commissioner Curlless is always promoting aquaculture. Commissioner Curlless asked if that was because he eats oysters. Mr. McKinney did not reply.

Commissioner Hunter said that Board members recuse themselves from discussions of an issue when there is a conflict of interest. A conflict of interest might be a real or perceived financial interest, not an acquaintance with the subject of the issue.

District Counsel stated that the mere fact that Commissioner Curlless has supported an issue in the past, does not preclude him from voting on an issue in the future. He also stated he has not heard anything at this meeting that would bring up a conflict of issue concern.

MOTION CARRIED WITH COMMISSIONERS WILSON AND HUNTER DISSENTING.

D. CONSIDERATION OF ACCEPTING FOR FILING PERMIT 05-08 TO US FISH & WILDLIFE SERVICE FOR SALMON CREEK ANADROMOUS SALMONID ACCESS, TIDE WATER HABITAT ENHANCEMENT AND FLOOD CONTROL MAINTENANCE PROJECTS.

COMMISSIONER HUNTER MOVED FOR ACCEPTING FOR FILING PERMIT 05-08 TO US FISH & WILDLIFE SERVICE FOR SALMON CREEK ANADROMOUS SALMONID ACCESS, TIDE WATER HABITAT ENHANCEMENT AND FLOOD CONTROL MAINTENANCE PROJECTS. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF APPROVAL OF DREDGING LEASE WITH STATE LANDS COMMISSION FOR WOODLEY ISLAND MARINA MAINTENANCE DREDGING PROJECT.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF DREDGING LEASE WITH STATE LANDS COMMISSION FOR WOODLEY ISLAND MARINA MAINTENANCE DREDGING PROJECT. COMMISSIONER OLLIVIER SECONDED.

Pete Nichols asked why the Board of Commissioners is considering this item now when State Lands had acted a year ago. CEO replied that there had not been an impending reason until now. Mr. Nichols asked if State Lands had been aware of the results of the dioxin testing. CEO replies that State Lands had the information.

MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF APPROVAL OF SITE ACCESS AGREEMENT WITH SEQUOIA INVESTMENTS XI FOR MAINTENANCE DREDGING PURPOSES.

District Counsel reported this is the property formerly known as the Simpson Dog Ranch property. The agreement is the same as the agreement and conditions of the last maintenance dredging project. District Counsel stated that if the dredging was unable to begin this year, the agreement could be renegotiated.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF SITE ACCESS AGREEMENT WITH SEQUOIA INVESTMENTS XI FOR MAINTENANCE DREDGING PURPOSES. COMMISSIONER CURLESS SECONDED.

Commissioner Wilson asked why the agenda listed the agreement with Security National Servicing Corporation and the motion is being made to contract with Sequoia Investments XI. District Counsel replied that Sequoia Investments XI is the technical name for the part of Security National Servicing Corporation that the agreement would be with and that this was discussed in Closed Session. Commissioner Wilson was not yet sworn into office at the time of Closed Session.

Commissioner Wilson asked when did the public have a chance to review the agreement. District Counsel responded that the agreement was covered under attorney/client privilege until this evening and that the Board had the discretion to table the agreement for public review.

Commissioner Wilson said that public review should always happen.

MOTION CARRIED WITH COMMISSIONER WILSON DISSENTING.

G. CONSIDERATION OF APPROVAL OF CONTRACTED SERVICES AGREEMENT WITH COPIA GROUP FOR WEBSITE SERVICES.

CEO reported that this agreement establishes a five-year agreement with CopiaGroup to host the Harbor District's website exclusively. Presently CopiaGroup is the web host through the HSU agreement.

CEO stated the fiscal impact would be \$40,000 over five years. The service would include additions, deletions and changes to the website as well as maintenance.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF CONTRACTED SERVICES AGREEMENT WITH COPIAGROUP FOR WEBSITE SERVICES. COMMISSIONER OLLIVIER SECONDED.

Commissioner Hunter said he felt this was money well spent since the work is very technical and requires training, experience and knowledge.

Commissioner Wilson asked what constitutes an extension of an agreement. He asked if this was a new service and if their had been a competitive bidding process.

District Counsel stated that since this is not an improvement to real property, the Public Contract Code (PCC) states that a public agency must spend their money wisely and they have the ability to shop around.

Commissioner Wilson asked when the last time was that CopiaGroup presented the Board of Commissioners with their abilities/qualifications in the marketplace. CEO stated that about a year ago CopiaGroup took over for HSU. At that time the Board was presented with CopiaGroup's qualifications for subcontracting. Currently CopiaGroup has worked extensively with the Conservation Specialist on updates to the website and it is his recommendation that the Board of Commissioners contract with CopiaGroup.

Doug Renwick, CopiaGroup, said that his company is international and provides the technical mechanism for the website. He said the Harbor District's website is quite sophisticated and entails GIS, electronic maps, document management, etc. He said this contract provides for even more sophistication.

Penny Elsebusch asked when the complete Board packet will be put on the website.

Pete Oringer said that the District would be getting a great buy for the cost and suggested putting committee agendas on the website also. Mr. Oringer said the District's website is not the normal type. It is used as a library, for legal information and as a marketing tool. He said it is important to keep attention on certain areas of the site and suggested the website could be in a format easier to find documents.

Gordon Leppik said the website is good, but could be improved. He asked what the Board's policy is for a bid process.

District Counsel stated the PCC requires a bid process for improvements to real property and there is no legal requirement for services, other than prudent business practices.

David Elsebusch said he felt there is a deficiency at the Harbor District because there is no procedures manual.

Pete Nichols suggested the Harbor District develop a policy with a competitive essence to the process.

MOTION CARRIED WITHOUT DISSENT.

President Pellegrini appointed Commissioners Hunter and Wilson to work with Mr. Renwick on the format and content of the Harbor District website.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

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

APPROVED BY:

____Signature on File____
Roy Curless, Secretary

RECORDED BY:

____Signature on File____
Patricia L. Tyson, Admin. Assistant