

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

**12 January 2006**

**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 6:56 p.m. and was continued to resume after the conclusion of the regular meeting.

The regular meeting of the Board of Commissioners was called to order by President Pellegrini at 7:00 p.m.

Commissioner Hunter led those present in the Pledge of Allegiance.

District Counsel reported on the items discussed during Closed Session: real property negotiations regarding the Redwood Dock property, lease with Evergreen Pulp, and a lease with Louis Goselin and potential litigation regarding the vessel Yankee Girl and the Louisiana-Pacific tideland leasehold improvement removal, but no action was taken. Discussion of the Closed Session items was not concluded and will be resumed at the end of the regular meeting.

**PUBLIC COMMENT**

Penny Elsebusch stated the County extended the deadline for comments on their Redevelopment Agency Draft EIR since the document did not contain the most up-to-date information on the Samoa Town Plan.

David Elsebusch said he was opposed to the very "flawed" County Redevelopment Agency Draft EIR. He also asked Commissioner Wilson if he was a signatory on the document. Commissioner Wilson replied that he was not; he was a subcontractor to a subcontractor.

David Elsebusch asked the Board to pull Consent Calendar Item C for further discussion.

Pete Oringer stated that thank goodness crab season has started! He delivered a copy of the January 9<sup>th</sup> RAPIT meeting actions to the Board of Commissioners. He suggested the Redwood Dock modernization would be a good topic for an advisory committee since staff and staff time are limited. Mr. Oringer also stated that representation of the Board of Commissioners by citizen involvement, but not necessarily by the Board, at state meetings would be advantageous so that appropriate and timely responses can be made by the Board. He urged the Board to keep up the pressure of making sure Humboldt County gets heard by the State.

Kaye Strickland stated HCAOG will hold a Regional Transportation Plan hearing on January 24<sup>th</sup>. She also stated she would be interested in being on the Redwood Dock advisory committee.

Moss Bittner said that since this is an election year, it is a good year to request financial assistance from the State. He said it is also a good time for the Board of Commissioners to use their connections and educate the State as to the specific projects important to the Harbor District and the County since the realignment of Highway 299 is being considered. Mr. Bittner said that out of the whole Regional Transportation Plan document, the railroad is only given 20 pages. He said that the Board of Commissioners should make sure that HCAOG has the most current information included in the RTP, since the allocation of dollars by the State is dependent upon the information in this document. Mr. Bittner said he thought the Port of Oakland advisory committee would be a good place to start to address specific issues for the Port, since the Headwaters Board is asking who the market is for port business in order to feel about their grant to the Harbor District.

Marcus Brown said that both the City of Eureka and City of Fortuna are having important anniversaries this year. He suggested that since the rail connection in Humboldt County was instrumental in the start of the fishing industry that a celebration such as a Crab Festival should be started and perpetuated into the future.

## **CONSENT CALENDAR**

President Pellegrini pulled Item C for further discussion.

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

David Elsebusch asked for an explanation of the Expenses Pending Transfer for FY 2004/05 report. District Treasurer replied that as a provision in the Harbor District's enabling legislation, the Board of Commissioners must approve expenditures becoming assets. This is typically done annually once the audit has been completed for the prior year. District Treasurer also stated that this report is also a way to show line items that have been included in the balance sheet for the previous year.

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

## **CEO REPORT**

- √ 12/31: CEO reported on the storm damage sustained to Harbor District property. Humboldt County was declared a disaster area. Staff is working with the District's insurer and County Office of Emergency Services to assess the cost of the damages. The Breakwater at the marina sustained the most damage due to compression fractures of the concrete deck. Kramer Dock at Fields Landing also had major damage. Because the deck of the dock was virtually destroyed and the loose pieces of decking in the bay became a hazard to navigation, a contractor with an excavator was hired to remove the pieces of the dock deck, leaving the pilings. CA Fish and Game, Coastal Commission and the US Army Corps of Engineers were consulted and an emergency permit was granted by the Coastal Commission. CEO reported on several other areas of damage.
- √ CEO reported that Buoy 2 moved ~150' north into the entrance channel of Humboldt Bay as a result of the storm. He said the Coast Guard Buoy Tender "Aspen" will be in the area in the next couple of weeks and may be able to move the buoy back.
- √ 1/23: CEO reported that the Corps of Engineers will initiate their winter channel surveying.
- √ CEO reported that the EPA's risk assessment regarding the level of dioxins in Humboldt Bay should be received soon. He stated that January 19<sup>th</sup> is the last day for Coastal Commission staff to submit an agenda item for the February Coastal Commission meeting.
- √ CEO reported that crab season started yesterday and District staff worked all night loading crab pots onto the boats.
- √ Commissioner Hunter commended Harbor District staff for their work during the storm on December 31<sup>st</sup>.
- √ HCAOG Regional Transportation Plan hearing is set for January 24<sup>th</sup> at 6 p.m. at Eureka City Hall.

## **DISTRICT COUNSEL'S REPORT**

District Counsel reported that as of January 1, 2006, AB1234 requires members of bodies of local agencies to attend two hours of ethics training every two years. Records certifying the training must be kept in the office for five years.

**STAFF REPORT:** None

## **COMMISSIONER REPORTS**

Commissioner Curless reported that on February 18<sup>th</sup> at the River Lodge in Fortuna, a celebration free to the public will be held to celebrate Fortuna's 100<sup>th</sup> anniversary. He also said that in June the Humboldt Crabs baseball team will play the Humboldt All-Stars in Fortuna as part of the anniversary celebration.

Commissioner Wilson reported he attended the Mariculture Monitoring Committee and found it to be very educational. He said he spoke with Greg Dale of Coast Seafoods and Fish and Game staff about aquaculture management issues for the bay.

Commissioner Wilson reported he received several calls from constituents regarding billboards that fell over in the recent storm. He asked about the Harbor District's jurisdictional responsibilities for these signs.

Commissioner Wilson asked about the progress of putting the District's audit on the website. Administrative Assistant stated that staff is currently working with CopiaGroup to accomplish this request.

Commissioner Wilson stated that City of Arcata is currently rebuilding their floating dock at the Arcata Marsh and Wildlife Sanctuary.

Commissioner Hunter stated that he would like to begin the Strategic Plan set-up process at the next Board meeting on January 26<sup>th</sup>, the District's Annual Meeting.

Commissioner Ollivier reported that NCRA is seeking a new rail operator. He also reported that at the last NCRA meeting, discussion was held regarding starting the rail service around the bay.

President Pellegrini reported she attended the Mariculture Monitoring Committee meeting on December 14<sup>th</sup>.

President Pellegrini reported she had made her China Trip presentation to several service organizations in the last month and had several more scheduled, including one to the Grand Jury on January 23<sup>rd</sup>. She also met with J. Warren Hockaday of the Greater Eureka Chamber of Commerce to discuss her trip to China. President Pellegrini thanked Fred Chien who has volunteered his time to attend all the presentations.

President Pellegrini stated she, Commissioner Curless, CEO, Supervisor Neely and Kirk Girard met to discuss the wastewater treatment plant needs for the Samoa area.

President Pellegrini said she had received a letter from the County of Humboldt thanking the Harbor District for providing the storage for the tsunami warning sirens donated to the National Weather Service by PG&E.

## **ADVISORY COMMITTEE REPORTS**

### **a) Port of Oakland Advisory Committee Update**

CEO reported that due to time conflicts, Port of Oakland Port Director Wilson Lacy will not be able to visit Humboldt Bay this month. CEO is continuing to coordinate dates for a February visit.

President Pellegrini stated that a Redwood Dock advisory committee would be beneficial and stated she would accept letters of interest.

### **b) Long-Term Sediment Management Study Update**

CEO reported that Senator Chesbro has been made aware of the request for the State to develop a cost-share program to share in the local share of federally authorized navigation projects and investigations like the long-term sediment management program. Senator Chesbro's staff is investigating the request to see if can be included in one of the several proposed infrastructure bond proposals currently being considered by the legislature.

**OTHER:** None.

**NON-AGENDA:** None

**UNFINISHED BUSINESS:** None

## **NEW BUSINESS**

### **A. CONSIDERATION OF ONE-YEAR EXTENSION OF PERMIT 03-05 TO NAIM AND LOUISE OBEJI FOR RENOVATION OF BOAT LAUNCHING AND MARINA FACILITIES AT E-Z LANDING.**

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF ONE-YEAR EXTENSION OF PERMIT 03-05 TO NAIM AND LOUISE OBEJI FOR RENOVATION OF BOAT LAUNCHING AND MARINA FACILITIES AT E-Z LANDING. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

### **B. CONSIDERATION OF ONE-YEAR EXTENSION OF PERMIT 03-04 TO RECLAMATION DISTRICT 768 FOR THE HUMBOLDT LEVEE REPAIR AND RESTORATION PROJECT.**

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF ONE-YEAR EXTENSION OF PERMIT 03-04 TO RECLAMATION DISTRICT 768 FOR THE HUMBOLDT LEVEE REPAIR AND RESTORATION PROJECT. COMMISSIONER HUNTER SECONDED.

Earl Moranda of the Reclamation District 768 asked why the permits were approved for a one-year period only. CEO replied that the Harbor District is limited to give a one-year permit with annual extensions, unless the project is changed from its original application.

Commissioner Hunter suggested the Board consider researching an ordinance change in order to streamline the permit process between agencies.

President Pellegrini requested staff to provide an agenda report at a future meeting regarding streamlining the Harbor District's permit process.

CEO stated there are provisions in the Humboldt Bay Management Plan dealing with permit streamlining. He suggested the ordinance revision be put on hold until the Management Plan has been approved by the Board, possible in April or May.

MOTION CARRIED WITHOUT DISSENT.

### **C. CONSIDERATION OF ADOPTION OF RESOLUTION 2006-01 ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT DURING THE 2006 LEGISLATIVE SESSION.**

COMMISSIONER CURLESS MOVED FOR THE ADOPTION OF RESOLUTION 2006-01 ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT DURING THE 2006 LEGISLATIVE SESSION. COMMISSIONER HUNTER SECONDED.

Commissioner Hunter stated that he and President Pellegrini, the Legislative Advisory Committee, met with CEO discuss the 2006 legislative priorities. This year the list is divided into Federal, State and Local sections.

Commissioner Wilson asked how it was determined that \$276,000 was needed for the Humboldt Bay Harbor District's short sea shipping program to fund promotion of the Humboldt Bay/Oakland Container Barge Service. CEO replied that the \$276,000 figure comes from the MARAD proposal in 2004. He said recently it was found that MARAD was no longer going to fund this program, but since Senator Feinstein's office had expressed interest in it, the program was left in the legislative priorities and broadened for possible funding through a variety of Federal sources.

Commissioner Wilson asked that the Federal priority #10 concerning the Klamath River be rewritten to include the whole Klamath River, not to stop at the Iron Gate Reservoir.

COMMISSIONER CURLESS AMENDED HIS MOTION TO INCLUDE COMMISSIONER WILSON'S REQUEST. COMMISSIONER HUNTER SECONDED.

Commissioner Wilson asked that the State priority #8 regarding the rail corridor from "Blue Lake and Fairhaven, California to Lombard, California" be changed to "Arcata and Fairhaven, California to Lombard, California".

COMMISSIONER CURLESS AMENDED HIS MOTION TO INCLUDE COMMISSIONER WILSON'S REQUEST. COMMISSIONER HUNTER SECONDED.

Commissioner Wilson stated he felt State priority #12 was too "absolutist" in that it doesn't lead to good regional planning, but he did not have a proposal for rewording the item. He said that the Harbor District should look at individual projects, not take an automatic stand on all projects.

Commissioner Wilson said that he would like to add "bay-side trail planning" to State priority #20. Commissioner Curless said he would amend his motion providing that bay-side trail planning does not interfere with private property rights. Commissioner Wilson responded that that assumption should be made with all of the priorities.

COMMISSIONER CURLESS AMENDED HIS MOTION TO INCLUDE COMMISSIONER WILSON'S REQUEST. COMMISSIONER HUNTER SECONDED.

Commissioner Wilson said he would like Local priority #2 to be changed to reflect "Arcata" instead of "Blue Lake."

COMMISSIONER CURLESS AMENDED HIS MOTION TO INCLUDE COMMISSIONER WILSON'S REQUEST. COMMISSIONER HUNTER SECONDED.

David Elsebusch stated he appreciated Commissioner Wilson's comments. He said that if the Board of Commissioners approved the resolution as it stands, that State priority #10 will essentially state the Board's opposition to the County's Redevelopment Agency. He said that the Harbor District should not oppose the reduction or restriction of the Coastal Dependent Industrial zoning in Humboldt County, that the Harbor District should be more flexible. Mr. Elsebusch asked why the Harbor District is asking the State to support the Upstate California Economic Development Commission since the Harbor District is already financially supports the organization.

Pete Oringer said he felt that as long as NCRA has jurisdiction of the rail in Humboldt County, "Blue Lake" should not be substituted by "Arcata".

Moss Bittner said that zoning changes would happen whether the Harbor District wants it or not. He said that unless the project is a good one, the Harbor District should maintain its stance of opposition to a zoning change in Coastal Dependent Industrial areas.

Leroy Marsh said that currently the number of US flag ships are increasing and that by including Federal priority #11 allowing foreign flag ships easier mobility in US waters, the Harbor District would be limiting the US flag ships with their competition. Commissioner Curless suggested the Board revisit this item during next year's legislative priority discussion.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – AYE  
COMMISSIONER CURLESS – AYE  
COMMISSIONER WILSON – AYE  
COMMISSIONER HUNTER – AYE  
COMMISSIONER OLLIVIER – AYE

MOTION CARRIED WITHOUT DISSENT.

**D. CONSIDERATION OF APPROVAL OF CONTRACT WITH NICKOLAUS AND HAEG, LLC FOR LABOR NEGOTIATIONS.**

Commissioner Hunter stated that he and President Pellegrini, the Human Resources advisory committee, are recommending the hiring of Nickolaus and Haeg, LLC for the upcoming negotiations with the Harbor District's employee union. He said in the past the HR committee has done the negotiating, resulting in a long, arduous process and that hiring professional negotiators would be more beneficial.

Commissioner Ollivier expressed his concern over the cost. He said that more money should not be paid for consultants than the employees would receive in their contract. Commissioner Hunter replied that Nickolaus and Haeg, LLC charge \$125/hour with a \$500 minimum, but that a "not to exceed" amount should be included in the contract.

President Pellegrini suggested a \$1,000 "not to exceed" amount.

District Counsel stated that Randy Nickolaus and Rick Haeg have worked as labor negotiators for numerous public agencies and are extremely knowledgeable.

Commissioner Wilson suggested an end date be included in the contract. District Counsel stated that as the contract is currently written the agreement can be terminated at any time.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF CONTRACT WITH NICKOLAUS AND HAEG, LLC FOR LABOR NEGOTIATIONS NOT TO EXCEED \$1,000 AND NOT TO EXTEND PAST JUNE 30, 2006. COMMISSIONER OLLIVIER SECONDED.

David Elsebusch stated that he thought the recommendation by the District Counsel was "gratuitous" and involved a certain conflict of interest since District Counsel also does work for the County of Humboldt, as does Rick Haeg. Mr. Elsebusch said he understood that it might be hard to say no to the employees, but he felt that the HR advisory committee should do the negotiations as they have done in the past.

Kaye Strickland said that Randy Nickolaus no longer works for the City, but that Rick Haeg currently works for the County. She said she was surprised that someone who currently works for the County would be able to do this work.

MOTION CARRIED WITHOUT DISSENT.

**E. CONSIDERATION OF APPROVAL OF TASK ORDER NO. 3 WITH OSCAR LARSON AND ASSOCIATES FOR CONSULTING SERVICES RELATED TO PORT DEVELOPMENT.**

CEO reported this task order is the next phase of Ken Davlin's contract. CEO stated that the trigger to initiate this amendment was the recent Headwater's Fund Board approval of the District's Redwood Dock Modernization project grant request. The Headwaters Fund committee has asked CEO to fine tune the scope of work that was included in the grant application prior to consideration for approval by the Board of Supervisors. This task order will include the information to be given to the committee as well as assistance in developing the RFP for soliciting consultant teams to work on the Redwood Dock Modernization project..

President Pellegrini said she and Commissioner Ollivier, the Port of Oakland advisory committee, recommended the approval of Task Order #3.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF TASK ORDER NO. 3 WITH OSCAR LARSON AND ASSOCIATES FOR CONSULTING SERVICES RELATED TO PORT DEVELOPMENT. COMMISSIONER CURLESS SECONDED.

Commissioner Wilson asked if the task order was an extension of an existing contract and if a RFQ was included in the original contract?

CEO responded that the Board of Commissioners has the discretion to hire consultants without going through the RFQ process. Mr. Davlin's familiarity with the subject and project were attributes the Board considered when hiring Mr. Davlin. Mr. Davlin originally volunteered his time several years ago when the Port of Oakland partnership idea was in the planning stages. Eventually the demand on Mr. Davlin's time was too great for volunteer work and he was hired as a consultant.

Commissioner Hunter stated that educating a new consultant would be very time-consuming and therefore expensive.

Commissioner Wilson said that some of his constituents have questioned Mr. Davlin's objectivity because he started as a volunteer. He also asked District Counsel about a completion date and how fixed the target estimates are.

District Counsel stated the task order should be completed in approximately 90 days, not to exceed \$25,000.

Commissioner Wilson asked if Mr. Davlin would work at the Board or CEO's direction. CEO responded that Mr. Davlin would take direction from both the CEO and the Board's Advisory Committee.

Commissioner Wilson suggested the Board consider hiring a staff engineer since \$80,000 has been allocated to Mr. Davlin to date for this project. Commissioner Hunter stated that a staff position of District Engineer on retainer was discussed during the last budget process.

Pete Oringer suggested the ultimate goal should be to have a staff engineer/planner when the Harbor District can afford one. He said that Mr. Davlin has worn all of these hats in his involvement in local, state, national and international projects. Mr. Oringer said the \$25, 000 will be money well spent.

Kaye Strickland said since the Headwaters Fund committee wanted more information for the grant application and it was a time-sensitive request, the Board should approve the task order with Mr. Davlin since he has the background and knowledge.

David Elsebusch said he agreed with revisiting the staff engineer/planner position. He said the CEO does not have enough time in the day to do all the required work. Mr. Elsebusch did say however that Mr. Davlin was hired without regard to anyone else because he is connected. He said the Board should not hire an engineer to "schmooze." He suggested the consultant cord be cut and hire a staff position. Even though the CEO was complimented in his application writing, he needs more staff to help.

Commissioner Wilson apologized to CEO, saying he didn't mean to blindside him with all the questions and concerns. Commissioner Wilson stated he could've called CEO prior to meeting to discuss the task order.

Commissioner Wilson then asked Commissioner Ollivier if he would amend his motion to set a lower dollar amount. Commissioner Ollivier said he would not.

Moss Bittner said this would be a good opportunity for the Harbor District to hire a staff engineer or planner.

President Pellegrini said this issue would be considered at a future Board meeting.

MOTION CARRIED WITH COMMISSIONER WILSON DISSENTING.

**F. CONSIDERATION OF APPROVAL OF AGREEMENT AND CONSENT TO ENCUMBRANCE OF LEASE WITH SEQUOIA INVESTMENTS X, LLC AND US BANK NATIONAL ASSOCIATION.**

District Counsel asked the Board of Commissioners to postpone this item until a future meeting. He said there was an underlying lease assignment yet to be finalized.

**ADMINISTRATIVE AND EMERGENCY PERMITS**

CEO stated an administrative permit was given to Ted Kuiper for culvert replacement.

The Regular Meeting of the Board of Commissioners adjourned at 9:25 p.m.

Closed Session reconvened at 9:30 p.m. and adjourned at 10:00 p.m.

APPROVED BY:

\_\_\_\_ Signature on File \_\_\_\_\_  
Roy Curless, Secretary

RECORDED BY:

\_\_\_\_ Signature on File \_\_\_\_\_  
Patricia L. Tyson, Admin. Assistant