

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

August 13, 2009

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Higgins
Commissioner Hunter

President Hunter called Closed Session to order at 6:03 p.m. Closed Session adjourned at 6:56 p.m. to reconvene after the Regular Meeting.

President Hunter called the regular meeting of the Board of Commissioners to order at 7:02 p.m.

President Hunter led those present in the Pledge of Allegiance.

President Hunter asked for a Moment of Silence to honor Arnie Millsap, former Police Chief for the City of Eureka, who recently passed away.

District Counsel reported on Closed Session. Real Property Negotiations: Timber Heritage Lease. No action was taken. Conference with Labor Negotiator: Discussion regarding the status of negotiations with the Harbor District employee union. No action was taken. Public Employee Performance Evaluation: The evaluation of the District Chief Executive Officer was not concluded. Closed Session would reconvene after the Regular Meeting, time permitting.

PUBLIC COMMENT

Pete Oringer acknowledged the passing of City of Arcata's City Manager Michael Hackett following a short illness.

Mr. Oringer said the public's reaction to the speeder train rides and collection of trains has been very positive. He said members of the Medford National Railroad Society will be visiting this weekend and will be presenting the Timber Heritage Society (THA) an award from the Southern Oregon National Railroad Society for their efforts to preserve railroad history. Mr. Oringer said this type of recognition validates THA's vision and enhances tourist trade for the area.

Andrew Lojo, representing AMEC Geomatrix, said they are the project manager for the design and planning of the Simpson swale remediation project. He thanked CEO, Director of Conservation and Lisa Shikany from the City of Eureka for their cooperation and help with the project. He asked the Board of Commissioners to consider repealing a recent decision by CEO to deny a request for an administrative permit on the grounds the project does not fit the District's administrative permit requirements. Mr. Lojo said the project must begin by September 1 or it will not be completed by the required date and this can only be accomplished by the issuance of an administrative permit.

District Counsel stated under the Brown Act items can be added to the meeting agenda only if the item came to the attention of the Board of Commissioners after the agenda has been published and requires immediate attention. Since the denial letter was written by the CEO yesterday and the timeline for a regular permit does not meet the project's needs, consideration of the appeal meets the Brown Act requirements and thus is appropriate to discuss under the Non Agenda portion of this meeting.

CONSENT CALENDAR

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

CEO REPORT

- ❖ 7/29: CEO attended the District's Economic Development Committee meeting.
- ❖ 7/13: Submittal for the RFQ on the Redwood Marine Terminal was due. Six RFQs were received.
- ❖ 8/10: District staff attended the MLPA meeting.
- ❖ 8/10: California Conservation Corps workers spent the day in the Gerald O. Hansen Wildlife Area on Woodley Island removing invasive species. Five truckloads of *Tansy Ragweed* were removed from the area around the pond.
- ❖ 8/12: CEO, Director of Conservation and Director of Administrative Services attended the Humboldt Bay Management Plan Advisory Committee meeting.

DISTRICT COUNSEL REPORT

District Counsel reported he tried to get Capt. Phil Harris of the History Channel's *Deadliest Catch*, to stay for his Rotary meeting after attending a fundraiser at Ray's Food Place on September 11. Unfortunately the crew has to be in Fort Wayne, IN on Monday, September 13.

STAFF REPORT: None

COMMISSIONERS REPORTS

Commissioner Wilson:

- ❖ Just returned from spending some time at the Trinity River with his family.

Commissioner Higgins:

- ❖ Attended an Economic Development seminar today at the Red Lion with Commissioner Hunter and CEO.
- ❖ Attended the PG&E Wave Energy meeting.

Commissioner Hunter:

- ❖ Attended the Economic Development seminar today with Commissioner Higgins and CEO. He said the information was positive.

ADVISORY COMMITTEE REPORTS

Commissioner Pellegrini:

- ❖ Reported she attended the MLPA North Coast Local Interest MPA Work Group meeting on August 10. Commissioner Higgins said recently the Fish & Game Commission Chair stepped down, an action appearing to be untimely and politically motivated.

Commissioner Wilson:

- ❖ Attended the Humboldt Bay Management Plan Advisory Committee meeting on August 12. He said the meeting focused on harbor issues. Several local stakeholders were interviewed by some of the Committee members. The main concern of the majority of those interviewed was keeping the Humboldt Bay entrance safe for maritime travel.

- ❖ Attended the Economic Development Committee meeting on July 29. That meeting's focus was tourism. The next meeting will be August 26 and will spotlight recreation.

OTHER: None

NON-AGENDA

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF PLACING ON THE AGENDA AS ITEM NEW BUSINESS (A) CONSIDERATION OF APPEAL OF STAFF'S DECISION ON DENIAL OF ADMINISTRATIVE PERMIT FOR THE SIMPSON DRAINAGE SWALE REMEDIATION PROJECT. COMMISSIONER PELLEGRINI SECONDED. MOTION CARRIED WITHOUT DISSENT.

NEW BUSINESS

A. CONSIDERATION OF APPEAL OF STAFF'S DECISION OF DENIAL OF ADMINISTRATIVE PERMIT FOR THE SIMPSON DRAINAGE SWALE REMEDIATION PROJECT.

CEO reported the original request was for an emergency permit, which was denied because the project did not fit the emergency permit requirements. Administrative permits are for maintenance and repair, which does not fit this project either. The project manager is concerned the regular permit process is too lengthy and the project will not be completed by October 15, the time specified by the City of Eureka's Coastal Development Plan. CEO stated he, the Director of Conservation and District Counsel have had several discussions and have considered various alternatives but feels there is no choice but to deny processing the project as emergency or administratively, but rather process as a regular District permit..

Commissioner Higgins asked Mr. Lojo why this permit is just now coming to the Board of Commissioners for consideration. Mr. Lojo stated they have been working on the project for two years, but did not realize the Harbor District has jurisdiction.

CEO stated the Harbor District's jurisdiction is only on a piece of the project, not the entire length of the project.

Commissioner Pellegrini asked what would happen if the deadline is missed. Mr. Lojo said the main concern is increased costs, but the real issue is that there are dioxins that need to be removed. Commissioner Pellegrini said she doesn't want the Harbor District to be viewed as an agency that hinders business.

Commissioner Wilson asked who the lead agency is for CEQA. CEO responded the City of Eureka, but for the contamination clean-up, not for the maintenance dredging. CEO said if the permit is approved, there is a question if the CEQA fits for the maintenance dredging portion of the project.

COMMISSIONER WILSON MOVED TO RESCIND CEO'S DENIAL OF THE ADMINISTRATIVE PERMIT AND TO DIRECT CEO TO APPROVE THE ADMINISTRATIVE PERMIT REQUIRING APPLICANT TO COMPLY WITH ALL PERMITS AND INDEMNIFY THE HARBOR DISTRICT. COMMISSIONER PELLEGRINI SECONDED.

District Counsel stated the complete permit includes the excavation, liner, etc. , which constitutes enlargement and doesn't qualify for an administrative permit. CEO and Director of Conservation have done everything possible to facilitate the project. There was no option, but to deny the administrative permit and bring to the Board of Commissioners to make the determination.

Commissioner Pellegrini thanked staff and District Counsel for all their work on this issue.

COMMISSIONER WILSON AMENDED HIS MOTION TO STATE: RESCIND THE DENIAL OF THE PHASE 1 ADMINISTRATIVE PERMIT (maintenance dredging) AND ADD THE CONDITIONS APPLICANT WILL COMPLY WITH ALL PERMITS AND INDEMNIFY THE HARBOR DISTRICT. MOTION CARRIED WITHOUT DISSENT WITHOUT DISSENT.

B. CONSIDERATION OF ACCEPTING FOR FILING PERMIT NO. 09-05 TO SIMPSON TIMBER COMPANY FOR THE SIMPSON DRAINAGE SWALE REMEDIATION PROJECT.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING PERMIT NO. 09-05 TO SIMPSON TIMBER COMPANY FOR THE SIMPSON DRAINAGE SWALE REMEDIATION PROJECT. COMMISSIONER PELLEGRINI SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF ACCEPTING FOR FILING PERMIT NO. 09-06 TO THE CITY OF EUREKA FOR THE PALCO MARSH ENHANCEMENT PLAN PHASE 1A.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING PERMIT NO. 09-06 TO THE CITY OF EUREKA FOR THE PALCO MARSH ENHANCEMENT PLAN PHASE 1A. COMMISSIONER CURLESS SECONDED.

District Counsel stated both New Business items B & C require the 30-day public comment period.

CEO suggested moving the Board of Commissioners meeting of September 10 to September 14. This would allow the 30-day public comment period for both permits to be completed, but would allow consideration of issuing the permits 10 days sooner than having the issue on the District's regular September 24 Board Meeting. The Board agreed to move the September 10 Board meeting to September 14, 2009.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 8:29 p.m.

The Board of Commissioners reconvened to Closed Session at 8:34 p.m.

The Closed Session of the Board of Commissioners adjourned at 9:41 p.m.

APPROVED BY:

RECORDED BY:

____ Signature on File _____
Mike Wilson
Secretary

____ Signature on File _____
Patricia L. Tyson
Director of Administrative Services