



HARBOR COMMISSION BOARD MEETING Minutes February 28, 2017

Commissioners present: Mary Matakovich, Drew Brandy, Bob Vessely, Bill Barrow and Jim Blecha

Commissioners absent: None

Staff present [for Closed Session]: Andrea Lueker, Harbor Manager; Loch Dreizler, Facilities Manager; Kristen Stout, Business Manager; Phil Sexton, Treasurer; Rick Rengel, Project Management Consultant;

Staff present [for Open Session]: Andrea Lueker, Harbor Manager; Loch Dreizler, Facilities Manager; Kristen Stout, Business Manager; Heather Zacker, Staff Accountant; Phil Sexton, Treasurer

Legal Counsel present: Jeff Minnery

CALL TO ORDER / PUBLIC COMMENT

President Matakovich called the meeting to order at 5:00 p.m.

All Commissioners were present.

There was no public comment.

CLOSED SESSION

President Matakovich adjourned to closed session at 4:35 p.m., **Pursuant to Government Code §54956.8: Conference with Real Property Negotiators.** Property: Approximately 32 acres commonly known as Harbor Terrace. Agency Negotiators: Andrea Lueker, Harbor Manager; Kristen Stout, Business Manager; Phil Sexton, Treasurer; Jeff Minnery, Legal Counsel; and Rick Rengel, Project Management Consultant. Negotiating Parties: Port San Luis Harbor District; Red Tail Acquisitions, LLC. Under negotiation: price and terms of payment of development and lease agreement.

Pursuant to Government Code §54956.8: Conference with Real Property Negotiators. **Property:** Harford Pier Lease Site occupied by Olde Port Inn Restaurant. Agency Negotiators: Andrea Lueker, Harbor Manager; Kristen Stout, Business Manager; Phil Sexton, Treasurer; and Jeff Minnery, Legal Counsel. Negotiating Parties: Port San Luis Harbor District; DRW Restaurants, Inc. dba Olde Port Inn. Under negotiation: price and terms of payment of lease agreement.

Pursuant to Government Code §54957(b): Public employee performance evaluation – Harbor Manager.

Pursuant to Government Code Section 54956.9(a): Conference with District legal counsel regarding existing litigation – Alcove Unique Gifts, Inc. v. Port San Luis Harbor District.
Pursuant to Government Code Section 54956.9(a): Conference with District legal counsel regarding existing litigation – Leckenby. v. Port San Luis Harbor District.

ADJOURN TO OPEN SESSION / ROLL CALL / FLAG SALUTE

Vice President Matakovich reconvened the meeting to open session at 6:03 p.m. and advised that the Board provided direction to staff, took no reportable action in closed session, and that closed session would reconvene at the end of open session to discuss the Harbor Manager's performance evaluation.

All Commissioners were present.

President Matakovich led the flag salute.

PUBLIC COMMENT

Public comment by Brad Wilcox, Wilcox Fisheries, was redirected to discussion of Consent Item M.

PRESENTATION

Jeffrey A. Minnery, District legal counsel, presented the Board and staff with a review of the Ralph M. Brown Act of 1953, which outlined the Commissioners' roles and responsibilities as a governing board, within the defined parameters set forth by the Act.

CONSENT ITEMS

Consent Items **A, E, H, I, M,** and **P** were pulled for discussion by the Harbor Commission.

Upon a motion made by Commissioner Barrow and seconded by Commissioner Blecha, the following Consent Items were unanimously approved without discussion:

- B. Treasurer's Report:** December 2016 was received.
 - C. Monthly Payables:** January 2017 check register was received; February 2017 payables were approved.
 - D. Minutes:** January 24, and February 21, 2017 minutes were approved.
 - F. Avila Pier Update:** January 2017 update was received.
 - G. Harbor Terrace Development Project:** January 2017 update was received.
 - J. 2nd Quarter Rent Report:** was received.
 - K. 2nd Quarter Financial Statements:** were received.
 - L. Fiscal Year 2017-18 Budget:** policies and calendar were approved.
 - N. Chief Harbor Patrol Officer:** employment agreement and salary for the new Chief Harbor Patrol Officer were approved.
 - O. Harbor Patrol Reserve Program:** job descriptions and unrepresented pay schedule for the Harbor Patrol Reserve Program were approved.
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CONSENT ITEM M): HARFORD PIER ICE FACILITY – AMENDMENT TO CONCESSION AGREEMENT; RECOMMEND APPROVAL

Consent Item M was pulled, and discussion was heard early in the meeting to allow members of the public who were present to speak on the matter the opportunity to do so in a timely manner.

Business Manager Kristen Stout presented the item, went over the key points in the staff report, and answered questions from the Board.

President Matakovich invited public comment.

Michael Cohen, Olde Port Fisheries, spoke about his request for the amendment to his Concession Agreement, noting that the space he had requested for storage is not to be used to sell bait or to turn a profit, and that the items currently stored at the location are often made available for use, at no charge, to other commercial fishermen. Mr. Cohen stated that the ice facility he has agreed to run breaks even at best, and that if he is to continue to run it, the requested storage space will provide incentive for him to continue to invest his time in the operation. Mr. Cohen answered questions from the Board.

Brad Wilcox, Wilcox Fisheries, spoke about the building's potential as a storage location for frozen bait, and potential changes in fishing regulations which would create a demand for the aforementioned supply. Mr. Wilcox spoke about legal counsel's recommendation to submit a Request for Proposals for a new Ice Facility operator, and questioned the Board's decision to wait to do so. Mr. Wilcox confirmed to Commissioner Vessely that there is, at times, a shortage of ice available to the fishing community.

Mark Hamerdinger, local fisherman, spoke in support of Brad Wilcox and expressed his belief that changing regulations could lead to a need for more ice. Mr. Hamerdinger recommended a book, *Hard Hat Divers Wear Dresses* by author Bob Kirby, and noted that it was an entertaining and informative read.

Butch Powers, President of the Port San Luis Commercial Fisherman's Association, expressed a desire to purchase another ice machine which would be made available to the commercial fishing community through Olde Port Fisheries, noting that the endeavor could take a couple of months.

Jesse Barrios, local fisherman, spoke about the logistics of the operation, and the changing needs of the fishing community. Mr. Barrios noted the current demand for ice to store bait as opposed to catch, as the majority of catch brought into the harbor currently is living and does not need ice for transport. Mr. Barrios stated that there will likely be a need for an additional ice facility in the near future to meet the demands of the community.

Tim Wilcox, San Luis Obispo County, spoke about the need for a fair and open RFP process. Mr. Wilcox commended Mr. Cohen for keeping the ice facilities running, but asked that the Board bring the item back and consider the input received.

Steve Snyder, local fisherman, stated that bait is perishable, and that it's not a good idea to cross-contaminate ice used for bait storage with ice used to store fresh food.

There was no further public comment.

The Board discussed the matter extensively and, following a consensus that the ice facility will need to continue to operate presently and that all input received from the community should be considered when a longer term solution is determined (RFP/extension, etc.) and/or repairs/renovations to Harford Pier are planned, the following action was taken:

Action:

Commissioner Brandy moved to approve the Amendment Request to the Ice Facility Operation and Maintenance Agreement to allow for the storing of two to four chest freezers for bait storage and boat loading materials (boxes and plastic barrels). Commissioner Barrow seconded, and the motion passed unanimously, 5-0.

DISCUSSION ITEM A): FISCAL YEAR 2016-17 MID-YEAR BUDGET REVIEW; RECEIVE AND FILE

Staff Accountant Heather Zacker introduced the item in the form of a Powerpoint presentation, went over the key points in the staff report, and answered questions from the Board. Ms. Zacker concluded with a list of goals completed, in progress and yet to be initiated.

The Board briefly discussed the report and thanked Ms. Zacker for her time and effort involved in the presentation and budget.

The item was informational only and required no action be taken.

DISCUSSION ITEM B): POINT SAN LUIS LIGHTHOUSE KEEPERS CARETAKER'S DUPLEX – REVIEW OF SUBLEASE AND SUBTENANT; PROVIDE DIRECTION TO STAFF

Business Manager Kristen Stout presented the item, went over the key points in the staff report, and answered questions from the Board. Ms. Stout stated that, after publication of the staff report, Rick Rengel of the Lighthouse Keepers' Board, had provided a modified addition to the terms, allowing for recreational equipment on paved areas identified in the common area.

The Commissioners expressed disappointment that the terms of the lease previously agreed upon in closed session had been changed in the terms of the proposed lease.

Jeffrey A. Minnery, legal counsel, advised that while the Board has the right to approve or disapprove of the lease, the terms relating to the subtenant remain a contractual issue between the Lighthouse Keepers and the subtenant, neither of whom are represented by District legal counsel. Mr. Minnery advised that the District abstain from involvement in the drafting of the document, and suggested an approval of the lease, contingent upon the District's advised changes, to keep the item from coming back to the full Commission should the Lighthouse Keepers approve the changes.

President Matakovich invited public comment.

Deb Foughty, Executive Director of the Point San Luis Lighthouse Keepers, advised that the LHK Board would be meeting soon and could review the proposed changes to the lease terms at that time.

Missy Lintner, proposed subtenant for the Caretaker's Unit, spoke about the need to secure a five-year lease, as well as to modify the terms as addressed by Business Manager Kristen Stout. Ms. Lintner noted that Rick Rengel had already made some satisfactory changes, and that he had been easy and pleasant to work with.

There was no further public comment and the following action was taken:

Action:

Commissioner Vessely moved that the Commission approve the Lighthouse Keepers Lease for Subtenant for the Point San Luis Caretaker's Duplex, as conditional upon acceptance of the revisions as follows: a five-year lease term, with the option of five (5) one-year extensions; reasonable parking accommodations that meet the subtenant's needs, and the same freedoms awarded to the general public in terms of recreational equipment allowed in the paved area of the premises. Commissioner Barrow seconded, noting that if staff speaks to the Lighthouse Keepers' Board and they are agreeable, that the result will be approval of the lease. The motion carried unanimously, 5-0.

DISCUSSION ITEM C): COMMITTEE ASSIGNMENTS; APPROVE PRESIDENT'S RECOMMENDATIONS FOR 2017

President Matakovich presented the item and went over the key points in the staff report, noting that any proposed changes to Committee procedures had been reviewed with Harbor Manager Andrea Lueker, prior to publication of the report.

President Matakovich asked for input from the Board.

Commissioner Barrow expressed that he didn't feel that canceling Committee meetings if one Committee member cannot be present is appropriate, and instead favored the idea of allowing for substitutes to keep issues moving along.

President Matakovich and Commissioner Blecha expressed the importance of having two Commissioners present at each Committee meeting, with President Matakovich noting that a Committee of one is not in fact, a Committee, and suggesting that meetings are rescheduled – if possible – prior to cancelation.

Commissioner Brandy spoke about the proposed Advocacy Committee, and expressed his belief that the Committees are set up to receive input from the public, and the public will likely not have much to offer in the way of interest or concern with regards to advocacy issues before they are brought to the full Board.

Commissioner Matakovich expressed a desire to offer more transparency and measurable progress to the public with regard to District advocacy issues.

Commissioner Vessely called a point of order and asked for discussion regarding policy beyond what was advertised in the agenda to cease.

President Matakovich invited public comment, of which there was none, and the following action was taken:

Action:

Commissioner Vessely moved to approve the Standing and Ad-hoc Committee Assignments; Commissioner Blecha seconded, and the motion passed, 3-2, with Commissioners Brandy and Barrow dissenting.

DISCUSSION ITEM D): PUBLIC HEARING ON MOORING PERMIT REVOCATIONS – MOORINGS 671 (CABALLERO) AND 676 (CAMERON); RECOMMEND APPROVAL

Business Manager Kristen Stout presented the item, went over the key points in the staff report and the District's process for mooring revocation, noting that after publication of the staff report, Ms. Caballero of Mooring 671 had made payment in full on her account.

President Matakovich opened the public hearing at 8:35 p.m. and invited input from the Commissioners, who discussed the process of collection of monies owed to the District.

President Matakovich invited public comment at 8:40 p.m.; there was no input from the public and the hearing closed at 8:40 p.m.

The following action was taken:

Action:

Commissioner Blecha moved to direct staff to cancel Mooring Permit 676 for patron Cameron, and to authorize staff to lien vessels as appropriate, pull moorings and store, or apply buy-back value of mooring to past due balance. Commissioner Vessely seconded the motion as stated, and the motion carried unanimously, 5-0.

DISCUSSION ITEM E): FAIRWAY (CHANNEL) MARKER BUOY GRANT – ACCEPT FUNDS FROM THE BOATING INFRASTRUCTURE GRANT (BIG); ADOPT RESOLUTION 17-02

Facilities Manager Loch Dreizler presented the item and answered questions from the Board. Mr. Dreizler commended District employee Chris Munson's efforts in successfully pursuing the grant funds.

President Matakovich asked for public comment.

Butch Powers, Nipomo, inquired about the time frame for the replacement of the buoys. Mr. Dreizler explained the process of replacement to Mr. Powers, noting that the items could be replaced in as soon as three to six months.

There was no further public comment and the following action was taken:

Action:

Commissioner Blecha moved to adopt Resolution 17-02 to accept grant funding from the Division of Boating and Waterways to purchase two additional, lighted channel markers, and waive the reading. Commissioner Barrow seconded, and the resolution passed by a unanimous roll call vote of 5-0.

DISCUSSION ITEM F): CALIFORNIA SPECIAL DISTRICTS ASSOCIATION (CSDA) LEADERSHIP ACADEMY CONFERENCE – CONSIDERATION OF PARTICIPATION IN CONFERENCE; PROVIDE DIRECTION TO STAFF

President Matakovich presented the item and went over the key points in the staff report. Dr. Matakovich spoke about an application attachment in the report, which presented an opportunity for a scholarship award to Commissioners interested in attending the CSDA workshop.

Harbor Manager Andrea Lueker noted that the maximum award for scholarship is \$1500 per District.

President Matakovich asked for public comment, of which there was none.

Direction was given to the Commissioners to submit their applications for scholarship to the Harbor Manager if interested in attending the workshop.

No motion was made, and the item required no action be taken.

DISCUSSION ITEM G): HARBOR TERRACE DEVELOPMENT – REQUEST FROM RED TAIL ACQUISITIONS TO EXTEND THE EXCLUSIVE RIGHT TO NEGOTIATE (ERN) AGREEMENT FOR AN ADDITIONAL 30 DAYS; RECOMMEND APPROVAL

Harbor Manager Andrea Lueker presented and brought the item up to date, going over key points in the staff report.

The Commissioners discussed the item.

President Matakovich called for public comment.

There was no public comment and the following action was taken:

Action:

President Matakovich moved to approve extension of the Negotiation Period for the ERN Agreement for an additional 36 days, ending on March 30, 2017. Commissioner Barrow seconded, and the motion passed by a roll call vote of 3-2, with Commissioners Brandy and Vessely dissenting.

DISCUSSION ITEM H): GOVERNING BOARD EFFECTIVENESS SURVEY – CONSIDERATION OF PARTICIPATION; RECOMMEND APPROVAL

President Matakovich presented the item and proposed that the Commissioners, staff, and members of the public take the Governing Board Effectiveness Survey with the intention of analyzing the results, and then re-issuing the survey in six months' time to evaluate any differences in perceived effectiveness.

The Board discussed the proposal and provided input, with Commissioner Vessely stating that he'd like to keep the item from becoming an additional task for staff.

President Matakovich asked for public comment.

Butch Powers, Nipomo, suggested that the survey be sent to lessees and licensees.

Direction was given to staff to provide names of lessees and licensees to which the survey could be sent.

There was no further public comment and no formal action was taken.

DISCUSSION OF PULLED CONSENT ITEMS

Following discussion among the Commissioners and staff, the Consent Items below were approved by motions moved, seconded and carried:

- A. Activity Reports:** January 2017 were received.
- E. Lighthouse Keepers:** January 2017 update was received.
- H. Harford Pier Hoist #4 Project:** January/February 2017 update was received.
- I. Lighthouse Keeper's Sponsored Trolley Days:** event schedule was approved.
- P. Provision of Community Priorities for the Envision Avila Program:** was received.

COMMUNICATIONS

Commissioner Barrow inquired about electrical work at a District building, and discussed the process of bid acceptance with Facilities Manager Loch Dreizler.

Commissioner Brandy announced his upcoming visit to Washington, D.C. to attend CMANC. Mr. Brandy spoke about showing his support for Jim Haussner, and the potential funding for the District that could result from Board member presence at the event.

Commissioner Vessely commented that the Board may cease to be effective after a notably long meeting.

President Matakovich spoke about her recent attendance at the CSDA dinner in Avila Beach and expressed that it had been a positive experience.

Harbor Manager Andrea Lueker announced her visit to Washinton, D.C. to attend CMANC alongside Commissioner Brandy, and noted that it may be wise to change the regularly-scheduled Committee meeting day to another date when both she and Commissioner Brandy would be present to attend meetings.

There were no further communications.

CLOSED SESSION

President Matakovich adjourned to closed session at 9:33 p.m. **Pursuant to Government Code §54957(b):** Public employee performance evaluation – Harbor Manager.

ADJOURNMENT

President Matakovich adjourned to open session at 9:50 p.m. and reported that the Board took no reportable action. The meeting adjourned to the next scheduled meeting on Tuesday, March 28, 2017 at 6:00 p.m.



Mary Matakovich, President

Attest:



Robert Vessely, Secretary