



MINUTES
REGULAR MEETING
OF THE BOARD OF HARBOR COMMISSIONERS
MOSS LANDING HARBOR DISTRICT
7881 Sandholdt Road
MOSS LANDING, CA 95039
March 27, 2013 7:00 p.m.

A. CLOSED SESSION

The Board adjourned to closed session at 6:00 p.m. to discuss the following:

1. Confer with real property negotiators pursuant to Government Code §54956.8 regarding APN 413.022.003 (NH Restaurant Pad). Negotiating parties: General Manager and District Counsel.
2. Confer with real property negotiators pursuant to Government Code §54956.8 regarding parcel(s) currently used for E & F Dock access easements (MBARI). Negotiating parties: General Manager and District Counsel.
3. Confer with real property negotiators pursuant to Government Code §54956.8 regarding Moss Landing Commercial Park (formerly National Refractories). Negotiating parties: General Manager and District Counsel.
4. Consider personnel matters pursuant to Government Code §54957 – General Manager annual performance evaluation.
5. Confer with legal counsel and General Manager regarding one matter of potential litigation pursuant to Government Code § 54956.9(b) (1) and is of the opinion that a significant exposure to litigation exists.
6. Confer with legal counsel and General Manager regarding one matters of potential litigation pursuant to Government Code § 54956.9(a): City of Salinas, et al, vs. County of Monterey, et al.

B. OPEN SESSION CALL TO ORDER - PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:05 p.m. After the Pledge of Allegiance, roll was called.

Commissioners present:

Russ Jeffries - President

Yohn Gideon – Vice President

Vince Ferrante – Secretary

Frank Gomes, Jr. – Commissioner

Tony Leonardini - Commissioner

Staff present:

Linda G. McIntyre – General Manager

Mike Rodriguez – District Counsel

Marie Della Maggiore, Executive Assistant

Wendy Cumming, CPA

C. PRESIDENT'S REMARKS

President Jeffries stated that the Board had met earlier in closed session and that direction was given to the General Manager and District Counsel and no other reportable action was taken. He then brought Item 11, the Treasurer's Financial Report, forward on the agenda.

H. TREASURER'S REPORT

11. Wendy Cumming gave the Financial Report for the month ending February 28, 2013. General Expenses and Personnel costs were remaining slightly below budget and she reported that we are better than budget by \$34K in net ordinary income. She noted that since the dredging project was completed, the costs were now moved from General Expenses to Capital Projects. There were no other significant changes noted.

A motion was made by Commissioner Ferrante and seconded by Commissioner Gomes to accept the month-ending February 28, 2013 financial report. The motion passed unanimously.

President Jeffries moved Item 1, Special Presentation, forward on the agenda.

E. SPECIAL PRESENTATION AND POSSIBLE ACTION

1. Presentation of the People's Moss Landing Water Desal Project. Consider request that the Moss Landing Harbor District assume position of Lead Agency for compliance with the California Environmental Quality Act (CEQA) and other environmental requirements.

a. Presentation by project proponents – Members of the People's ML Water Desal Project team Nader Agha, Owner, Safwat Malek, land use attorney Paul Hart, permitting specialist Gina Cathoria, and Carmelita Garcia, business manager each introduced themselves and spoke to the Board about the project and their roles. Although the City of Pacific Grove has voted to participate in the project, the team recognizes the benefits of entering into an agreement with MLHD, either as lead agency or as a partner in leasing or sharing part ownership of the project.

b. Public comment – No public comment

c. Board discussion – There was lengthy discussion of the project progress to date, permits, financial backing and project costs, public perception and input, and overall benefits of the project.

d. Board action – President Jeffries tabled the item to a future meeting and asked the project team to provide specific information for the Board's review including documents clarifying the District's ability to become a lead agency, specifically case law and government codes accompanied by a legal memo explaining the law and codes; documentation stating that it is the opinion of the PUC that Moss Landing is the ideal location for a desal plant; and a third-party review and opinion report that was done for the Mayors JPA.

President Jeffries called for a ten-minute break at 8:24 p.m.

The meeting reconvened in open session at 8:35 p.m.

D. PUBLIC COMMENTS

No public comment.

President Jeffries brought Items 9 and 10 forward on the agenda.

G. CONSENT CALENDAR

9. Approval of the February 27, 2013 Regular Meeting Minutes – A motion was made by Commissioner Ferrante and seconded by Commissioner Leonardini to approve the February 27, 2013 Regular Meeting Minutes. The motion passed unanimously.

10. Approve conceptual drawings for North Harbor Restaurant – Vicki Crow commented that boat owners were afraid that the restaurant project would cause an increase to slip fees. A motion was made by Commissioner Ferrante and seconded by Commissioner Gideon to approve the architect’s conceptual drawings for the North Harbor Restaurant. The motion passed unanimously.

President Jeffries moved to New Business Items on the agenda.

J. NEW BUSINESS

21. ITEM – Consider request by Dr. John Oliver and Coastal Conservation and Research, Inc. for a letter of support for a grant application filed January 4, 2013 for erosion control.

Commissioner Gideon recused himself.

a. Staff report – GM McIntyre gave the staff report. She noted the special conditions and verbiage added and/or changed to the permit application regarding definition of project, and locations.

b. Public comment – Dr. John Oliver of MLML spoke to the Board about the erosion control project and how it may benefit the District. He said he had met with the Real Property Committee and understands the District’s concerns over the use of eel grass and site locations. Dr. Oliver assured the Board that eel grass would not be used and that the locations selected for the projects would not affect any boats or slips in the harbor and that advance permission would be requested and authorization granted by the District before any activities took place under the Permit. If no authorization is granted, no activity would take place.

c. Board discussion – There was discussion of the type of materials and products being developed for the project. President Jeffries suggested a generic letter of support as well as issuing a Facilities Use Permit for the proposed project.

d. Board action – A motion was made by Commissioner Gomes and seconded by Commissioner Ferrante to provide Dr. Oliver a letter of support to be included with his grant application. The motion passed 4-0-1 (Gideon recused).

A motion was made by Commissioner Gomes and seconded by Commissioner Leonardini to issue a Facilities Use Permit to Dr. Oliver for the proposed project subject to terms and conditions to be added and subject to review and approval by District Counsel. The motion passed 4-0-1 (Gideon recused).

Commissioner Leonardini complimented and thanked Dr. Oliver for all the remarkable work he had done over the years.

22. ITEM – Consider Resolution No. 13-04 authorizing the expenditure of funds to cut installed piles to ensure symmetrical appearance throughout Harbor.

a. Staff report – GM McIntyre gave the staff report.

b. Public comment – Vicki Crow stated that she has heard comments from boat owners about the piles looking unstable.

c. Board discussion – Commissioner Gideon reported on behalf of the Harbor Improvement Committee. He said that he and Commissioner Gomes had toured the harbor and found about six of the newly installed piles that were substantially out of alignment with the rest. He commented that the new piles look very professional and aesthetically there are six piles of which they consider trimming absolutely necessary. The committee recommends spending the money to trim these six piles.

d. Board action – A motion was made by Commissioner Leonardini and seconded by Commissioner Gomes to adopt Resolution No. 13-04 authorizing the expenditure of not more than \$4,800 for pile trimming. The motion passed unanimously.

23. ITEM – Consider extending the term of the funding Agreement between the Moss Landing Community Plan EIR Project Applicants and the County of Monterey from May 31, 2013 to May 31, 2014.

a. Staff report – GM McIntyre gave the staff report.

b. Public comment – No public comment.

c. Board discussion – No additional comments.

d. Board action – A motion was made by Commissioner Gideon and seconded by Commissioner Leonardini to agree to extend the term of the ML Community Plan EIR Project funding agreement. The motion passed unanimously.

F. MANAGER'S REPORTS

2. Projects Status/Update – Written report, no additional comments.

3. Community Relations; Requests/Issues – Commissioner Gideon asked how much it would cost for the Cal Recycle Program to remove and demolish vessels to which GM McIntyre explained we only need to authorize them to remove the boats from the harbor; there is no work or expense to the District.

4. Summary of Permits Issued – Written report, no additional comments.

5. Meeting Announcements – Written report, no additional comments.

6. Assigned Liveboard Report – Written report, no additional comments.

7. Assigned Slip Income Report – Written report, no additional comments.

8. Incident Report – Written report, no additional comments.

I. COMMITTEE REPORTS

12. Finance Committee – Ferrante/Gideon – No report.

13. Elkhorn Slough Advisory Committee – Leonardini/Alternate – Gomes – No report.

14. Special Districts/CSDA – Jeffries/Ferrante – Next meeting of Monterey County Special Districts is April 16, 2013. Commissioner Ferrante reported that he attended several meetings of CSDA committees of which he is a committee member including the Education and Membership committees and Regionalization Task Force. He reported that the 2013 CSDA Conference will be held in September in Monterey. Commissioner Ferrante added that CSDA had previously taken no stand on legislation introduced to streamline the State Lands requirement of a lease for dredging but because of the efforts of GM McIntyre spearheading the campaign for reform and collaborating with other harbors and the CAHM&PC, CSDA has taken a “support” stand on the bill now being introduced by Assemblyman Mark Stone.

15. Liveboard Committee – Gideon/Jeffries – No report.

16. Harbor Improvement Committee – Reported earlier on Item 22.

17. Real Property Committee I – President Jeffries reported the committee had met with Gregg Drilling. They will prepare a master plan and get back to us.

18. Real Property Committee II – No report.

19. Ad Hoc Budget Committee – Commissioner Gomes reported the committee had been meeting and working on the preliminary budget which will be on the next meeting agenda.

20. Meetings attended by Commissioners at District expense since the last regular Board meeting (Per AB 1234 requirements). No additional meetings reported.

K. COMMISSIONERS COMMENTS AND CONCERNS

Commissioner Gideon complimented Marie for a nice job on the Fish Sniffer Magazine ad.

L. ADJOURNMENT

President Jeffries adjourned the meeting at 9:25 p.m.

Respectfully submitted,

ATTEST:

Vince Ferrante, Secretary
Board of Harbor Commissioners

Linda G. McIntyre, Deputy Secretary
Board of Harbor Commissioners