

**MINUTES OF THE REGULAR SESSION
OF THE BOARD OF HARBOR COMMISSIONERS OF THE
CRESCENT CITY HARBOR DISTRICT**

March 2, 2010

COMMISSIONERS PRESENT:

Scott Feller, President
Ron Phillips
James Ramsey
Jack Reese

COMMISSIONERS ABSENT:

Ray Martell, Secretary

OTHERS PRESENT:

Richard Young, C.E.O/Harbormaster
Robert Black, Legal Counsel
Kenneth Towe, Harbor RV Anchor.
Nanette Scaggs
Garry Young
Erica Moore
Barbara Burke
Jon Parmentier
John Ginocchio

Wilma Madden, P.S. Business Services
Pat Rideout, Chart Room
Rachel Towe, Harbor RV Achor.
Don Shutt
Lavonne Young
Rika Blue
Del Higgerson
Richard M. Miles

President Feller opened the meeting at 6:34 p.m. in open session to discuss the following agenda items.

Commissioner Ramsey led the Pledge of Allegiance.

The Commission convened in closed session at 6:35 to discuss matters listed below under closed session. The Commission reconvened in open session at 6:40. Mr. Black reported no action taken during this closed session.

Public comment.

The following persons addressed the Commission: Richard M. Miles thanked Commissioner Phillips for attending a meeting this afternoon at which Tamera Leighton made a presentation at the First 5 Commission. Mr. Miles remarked on the idea of “branding” in the community, and urged the Commission to consider “branding”. Mr. Miles commented that he had inquired of the City as to availability of minutes for 2X 2 committee meetings, as was told none were available. He expressed the desire to see them made public. Mr. Miles then commented on the City’s intent to give an industrial waste permit to Alber Seafood for the sewer plant, adding that he felt it should be issued to the Harbor District rather than Alber Seafood since the District owns building Alber Seafood operates in. Mr. Miles then commented that the Harbor District should have a true business plan. Mr. Miles commented on one of the conditions of CDBG funding was the provision of jobs. President Feller pointed out that it was for the creation or retention of jobs, with which they intend to comply.

1. Consent agenda.

Public comment: Requests to remove items from the Consent Agenda may be heard at this time.

A) Approval of the warrants issued since February 16, 2010.

B) Approval of the minutes of the Regular Meeting of February 16, 2010.

President Feller requested two items be added to Consent Agenda 1A which came in subsequent to the posting of the agenda. One was for payment to Del Norte County for records and aerial photos requested by staff to support ongoing projects. The second was also to Del Norte County for the purchase of a surplus pickup from the Roads Division for which the Harbor District was the successful bidder.

ON A MOTION BY COMMISSIONER RAMSEY, SECONDED BY COMMISSIONER PHILLIPS, AND UNANIMOUSLY CARRIED BY POLLED VOTE, THE CRESCENT CITY HARBOR DISTRICT BOARD OF COMMISSIONERS FOUND THAT THE MATTER OF PAYMENT FOR THE COUNTY RECORDS AND THE PURCHASE OF THE SURPLUS TRUCK AROSE SUBSEQUENT TO THE POSTING OF THE AGENDA, REQUIRED ACTION PRIOR TO THE NEXT REGULAR MEETING AND APPROVED THE ADDITION OF THESE TWO ITEMS UNDER CONSENT AGENDA ITEM 1A.

No public comments were made with regard to the consent agenda.

ON A MOTION BY COMMISSIONER RAMSEY, SECONDED BY COMMISSIONER PHILLIPS, AND UNANIMOUSLY CARRIED BY POLLED VOTE, THE CRESCENT CITY HARBOR DISTRICT BOARD OF COMMISSIONERS APPROVED AND ADOPTED THE CONSENT AGENDA, CONSISTING OF ITEMS 1.A-B, AS PRESENTED AND MODIFIED.

2. Receive a report from Ken Towe regarding the status of his lease for Harbor RV Anchorage.

Kenneth Towe commented that he thought the lease committee would be making a report for this item. President Feller indicated they would be doing so under Committee reports later on the agenda. Mr. Black and Mr. Young each indicated they had not clearly understood Mr. Towe's request. They thought he wanted to speak to his specific lease. President Feller agreed to let Mr. Towe speak on his lease under committee reports. Richard Miles remarked again that the harbor needs a comprehensive business plan and felt that private business within the harbor is subsidizing the harbor fishing revenue. He added that the R.V. Park has regular customers that come every year with their boats. Mr. Miles stated that he didn't feel the Commission was negotiating fairly with the Toves.

3. Discuss and consider a thank you letter to Congressman Thompson and others for dredging of the Federal Channel.

Mr. Young reported the dredging was a real success for the harbor, city and county in securing the funding for the dredging of the federal channel. Congressman Thompson put in an earmark for the funding, and it was well spent. Mr. Young indicated he wanted to include the city and the county in thank you letter as they provided support in the request for the funding. He added that there was \$2.5 million left in the funding, which may be available for additional dredging. Commissioner Phillips indicated that he would like to go one step further than a letter, and thought that perhaps a plaque such as those done for crab, wine and cheese festival would be more appreciative. He added that they should include the Army Corps of Engineers in thank you letter. Mr. Black stated that Congressman Thompson will be present for a Border Coast Regional Airport Authority function later this month, and that it would be a nice touch to be able to make the presentation of the plaque in person.

ON A MOTION BY COMMISSIONER PHILLIPS, SECONDED BY COMMISSIONER RAMSEY, AND CARRIED ON A FOUR-FIFTHS POLLED VOTE, WITH COMMISSIONER REESE DISSENTING, THE CRESCENT CITY HARBOR DISTRICT BOARD OF COMMISSIONERS APPROVED SENDING A LETTER THANKS TO CONGRESSMAN THOMPSON, ALONG WITH PRESENTATION OF A PLAQUE, INCLUDING THE CITY OF CRESCENT CITY, THE COUNTY OF DEL NORTE, AND THE U.S. ARMY CORPS OF ENGINEERS IN THE THANK YOU LETTER REGARDING DREDGING OF THE FEDERAL CHANNEL.

4. Discuss and approve a Chamber of Commerce mixer for March 11, celebrating the arrival of the Hawaiian Chieftain and the 60th anniversary of Citizens Dock.

Mr. Young reported on the plans for the upcoming chamber mixer. The owners of The Chart Room Restaurant have offered to open the restaurant for the mixer, which will hold more people than the harbor office. Commissioner Phillips reviewed the proposed

menu from Bar-O Boys Ranch culinary school. He added that they need to plan for between 40 and 100 people, and that they plan to include the staff of the Hawaiian Chieftain in the invitation, with any left-over food to be given to the crew of the Chieftain that have to remain on board. Commissioner Phillips indicated that the cost would be approximately \$400.00. President Feller thanked Pat Rideout for opening the Chart Room for this event. Mr. Miles suggested they make the 60th anniversary a special event and invite past commissioners to the 60th anniversary celebration. President Feller commented that that was a good idea. Commissioner Reese concurred. Commissioner Phillips commented they should provide an announcement to the radio station and newspaper. Commissioner Phillips indicated the Chamber of Commerce will cover the cost of the notice.

ON A MOTION BY COMMISSIONER RAMSEY, SECONDED BY COMMISSIONER REESE, AND UNANIMOUSLY CARRIED BY POLLED VOTE, THE CRESCENT CITY HARBOR DISTRICT BOARD OF COMMISSIONERS APPROVED THE EXPENDITURE FOR FOOD AS REQUESTED AND HOSTING THE CHAMBER OF COMMERCE MIXER ON MARCH 11, CELEBRATING THE ARRIVAL OF THE HAWAIIAN CHIEFTAIN AND THE 60TH ANNIVERSARY OF CITIZENS DOCK.

5. Standing Agenda Item. Discussion and consideration of status of inner basin rebuilding project.

Mr. Young reported the inner basin project remains on schedule. Stover Engineering has been working with Ben C. Gerwick, Inc. on the tsunami modeling. President Feller indicated that the preferred alternative is Alternative 8 and it is available at the harbor office for viewing. Commissioner Phillips suggested having that part of the display at Chamber mixer. The other Commissioners concurred

6. Standing Agenda item. Discussion and consideration of status of Marine Life Protection Act initiative on the North Coast.

Mr. Young reported that since the last Harbor Commission meeting there has been one MLPA meeting, a webinar to discuss recognition of tribal rights. They have made a recommendation to the Blue Ribbon Task Force for recognition of tribal rights. Nanette Scaggs asked if the public would be losing access to beaches. Mr. Young responded that nothing has been decided as yet, but did not anticipate that. He added that the local work group met under Zach Larson to review recommendations to make with regard to the Marine Life Protection Act. Mr. Young suggested Ms. Scaggs come to the office where he could review the recommendations in more detail with her. Ms. Scaggs didn't feel the public was sufficiently aware of the Act and asked what the funding sources were. Mr. Young replied the MLPA Initiative Act Team and the Legacy Foundation were the funding sources. He explained that this process started several years ago in the lower parts of the state, and is coming to the north coast last. Ms. Scaggs asked if all of the proposals include closure of access to beaches from White Rock to above the Mouth of the Smith River. Mr. Young responded they did not, and indicated that the different proposals are on the website for the MLPA. Ms. Scaggs

commented that she was unhappy about the public losing access to beaches. Mr. Young replied that any closures were to surf fishing access, rather than access for people to walk on the beach. President Feller remarked that there had been three public meetings held, and that the issue as been well publicized in the local newspaper. He added that the County had hired Zach Larson to coordinate Del Norte with Humboldt and Mendocino Counties to make a coordinated proposal. President Feller also indicated that Mr. Young is on the Regional Stakeholders group, which is watching out for local interests. Mr. Young commented the process won't be complete until November. He further indicated that the regional stakeholders group will be meeting here in Crescent City on March 24 and 25. Mr. Young reiterated that he did not believe the MLPA would affect walking on the beach, but it could impact beach fishing in certain areas. Mr. Miles commented that he attend today's Board of Supervisors meeting, at which Zach Larson made a presentation on this subject. He added that the discussion involved an economic impact study that Mr. Larson is requesting funding for in order to complete. Mr. Miles indicated that Mr. Larson can be found at the 4H/Sea Grant office on G Street. President Feller remarked that Humboldt County has hired, using funds from the Headwaters Fund, a firm to work on the economic impact study, a representative from which he and Mr. Young have met. Don Shutt asked for confirmation that the area to be protected is in the water, not on the beaches. Mr. Young responded that was his understanding. Mr. Shutt asked if the MLPA would affect currently undeveloped parcels. Mr. Young responded that he did not believe so. Mr. Young offered to add Mr. Shutt to an e-mail list for notifications during the MLPA process, if Mr. Shutt wanted to provide his e-mail address. Mr. Shutt asked who Zach Larson was. Mr. Young responded that Mr. Larson was a private consultant hired by the County to guide the local process.

7. Committee reports from other standing and ad hoc committees.

Commissioner Phillips reported on attending the Tri-Agency meeting on February 24. He indicated they had discussed the Crab, Wine and Cheese Festival. They had expected 300 to 400 people, but had 600 to 800 instead. They are hoping to have someone step up to take it on as a yearly event. A townhall meeting will be on March 20th and the Chamber's Economic Summit will be on March 22nd to be held at Elk Valley Rancheria. Commissioner Phillips reported he also attended the Chamber Board of Directors meeting, and they are starting 4th of July plans. He indicated they have worked all year to increase their membership and now have nine new members. They discussed letters of support for the City regarding the sewer plant issues, but made no decision. Commissioner Reese indicated he had nothing to report. Commissioner Ramsey commented that there would be a Chamber mixer this coming Friday at the Requa Inn. Commissioner Ramsey reported on a meeting of the lease committee with Mr. Towe. He indicated Mr. Towe wasn't pleased with the value the appraiser arrived at and wants to extend his lease. Commissioner Ramsey commented that Mr. Towe has indicated there is no longer a lawyer involved and the Commission can talk directly to him now. President Feller reported that he will be making a presentation on behalf of the Harbor at the Economic Summit. He reported on the meeting of the lease committee with Mr. Towe. The Commission had hired an independent appraiser out of

Sacramento who came back with a value range. The lease committee made an offer based on that value range, with which Mr. Towe was not pleased. Mr. Towe indicated that every time he has requested an extension on his lease, the response has been that the Harbor wants to buy the lease instead. He felt that the Harbor now wants to let his lease run out and take the park that way. Mr. Towe then stated that Commissioner Ramsey had told him he would not have the votes on the Board for the extension. Mr. Towe stated he did not feel this was right and felt that no extension of his lease amounts to taking the park away from him. Commissioner Reese asked what the current term of the lease was. Mr. Towe responded that it is 10 years with an option. He added that he has had the park for 33 years. Commissioner Reese confirmed that there is 7 years left on the current Lease. Mr. Towe responded that was correct. He then commented that the new owners of the Chart Room got a 30 year lease. Commissioner Reese confirmed there is no additional option to renew on the current lease. Mr. Towe replied that was correct. Mr. Towe added that he cannot sell the park without the additional option. He indicated he doesn't really want to sell, but does want the option in order to continue running the park. Commissioner Reese asked Mr. Towe if he would put the park on the market if he received the option. Mr. Towe responded he would not, but wants the option to extend the lease for himself. President Feller asked Mr. Towe to clarify his stance. Mr. Towe again responded he had no intention of selling. Mr. Towe added that he felt he paid a fair rent. President Feller commented on the Chart Room lease, indicating the prior Board would not entertain lease extension. However, their current lease, done under the new lease policy of the current Board, is quite different from the lease Mr. Towe has, and is therefore not a fair comparison. Mr. Towe indicated that there were comments at the meeting that if he sold park, they wouldn't give an extension. President Feller indicated they had hired the appraiser based on comments from Mr. Towe. Mr. Black stated that he felt that it was too soon to be discussing extension of a lease with 7 years left. Mr. Towe and Mrs. Towe each indicated they felt the extension would allow them to invest more money in the park and its upkeep. President Feller remarked that the older leases are not written the way the newer leases are written, and the Towe's lease is one of the older leases. Mrs. Towe commented the Harbor is not able to attract new tenants and they don't seem to want new tenants. She added that the Harbor's current tactics seem to run off potential tenants. She added that they had a buyer that harbor would give a 30 year lease to, but the buyer (Margo Perry) backed out of the purchase. President Feller asked how long ago that was. Mrs. Towe responded that it was in 2004. She added that she felt the reluctance by the Board to give an extension came up when their income started increasing, which was also in 2004. Mr. Towe indicated that he had wanted to sell in 2004 as he had some serious health issues at that time. He added that his health issues have been resolved and he no longer wants to sell. Mr. Miles asked if Commissioner Ramsey or others were having meetings in violation in Brown Act. Mr. Miles commented on how he and the Gateway group had cleaned up the harbor some years ago. He added that he felt the Towe's kept their park clean and the other R.V. Park, which is a "sh__hole", did not. Mr. Young remarked that the other park, Bayside R.V. Park, was kept clean. Mr. Black explained that any Commissioner, without violating the Brown Act, can express their opinion as to how the Board will vote on an issue and that whether or not the Board actually votes that way may or may not happen.

Mr. Black stated that no votes have been taken and that real property negotiations are properly reserved for closed session. President Feller stated that all public discussion should be kept clean and Mr. Miles will not be allowed back if he cannot keep his language clean. At this point Mr. Miles was evicted from the meeting for the use of profanity and suggesting unnatural sexual positions to the Harbor Commissioner.

8. C.E.O.'s report on current matters and issues planned or in progress.

The C.E.O.'s report included the following topics: 1) the travelift repair has been completed by Fashion Blacksmith. It has been an enormous investment over the past few years and is essentially new now; 2) the water quality control board's proposed marina permit process is effectively dead thanks to the Harbormasters group and others; 3) a tsunami evacuation drill is planned for March 24th and the harbor is participating in the planning process. Staff is working with the County's Emergency Services Manager to conduct an outreach to the Harbor tenants prior to the drill; 4) the harbor did experience a tsunami on February 27th, this past Saturday, caused by the earthquake in Chile. The main energy arrived about 2 hours after the event began. There was great cooperation with other agencies and did not appear to have caused any damage; 5) dredging of the federal channel is done for this year. The Army Corps is trying to find a way to empty the harbor's dredge ponds, which would be very beneficial for the harbor; 6) the Harbor bid on two vehicles be surplus by the County Road Department, and were successful on the bid for the vehicle they really wanted. They still need some smaller vehicles, and are investigating the use of electric vehicles for use within the Harbor grounds; 7) there is no change in the status of the FEMA projects from last meeting.

9. Board Comments.

Commissioner Reese indicated he had no comments. Commissioner Phillips commented on the amount of the destruction in Chile, especially their harbor areas, and expressed the hope that the tenants of the harbor would have as many people as possible participate in the tsunami evacuation drill. Mr. Young concurred and commented on the need to have tenant management trained on how to respond for their customers, especially those from out of town. Commissioner Ramsey indicated he had no comments. President Feller commented that the harbor office got wired with four cameras before the tsunami and they are able to record 24/7. Humboldt State University sent several representatives here for the event and filmed the event Saturday. The video they filmed is available to watch on YouTube. The County Information Technology Department staff did the camera wiring. The Harbor may be able to keep the cameras, which were provided by Office of Emergency Services. President Feller remarked that it would nice to get the camera's recordings available online. President Feller added that they trying to update the Harbor's vehicles, as some of the existing ones are quite old and in poor shape. They have lease, short-term, a Zap electric vehicle to be tested for use within the harbor by security and maintenance staff. President Feller then requested Mr. Young or staff prepare a surplus vehicle and

equipment list for items for disposal. Mr. Young indicated he would have the list ready for the next meeting.

10. **CLOSED SESSION.** The Board of Harbor Commissioners will now meet in closed session to discuss five items:

Pursuant to Government Code Section 54956.8. Conference with real property negotiators. Two Items.

Item 1) Property: 170 Marine Way. Agency negotiators: Commissioner Scott Feller, Commissioner James Ramsey, CEO Richard Young. Negotiating Parties: Crescent City Harbor District with Rika Blue, dba Talking Crow Studios. Under negotiation: Lease terms including monthly rent and term of lease.

Item 2) Property: 161 Starfish Way. Agency negotiators: Commissioner Scott Feller, Commissioner James Ramsey, CEO Richard Young. Negotiating Parties: Crescent City Harbor District with Alber Seafoods. Under negotiation: Lease extension terms including monthly rent and term of lease.

(3) Conference with legal counsel pursuant to Government Code Section 54956.9 (a): Existing Litigation, Mark Russo vs. Crescent City Harbor District, USDC, Case No. C09-02910SI.

(4-5) Conference with legal counsel pursuant to Government Code Sections 54956.9(b) Anticipated litigation (two cases).

The following persons made comment on closed session items: Barbara Burke indicated they all have a huge a commitment in the community and its development. She commented that she had worked hard providing information for the CDBG grant for the harbor, and the harbor was successful in obtaining that grant. She stated she now wants to fight to keep jobs in the harbor and was concerned about losing jobs or businesses in harbor. Ms. Burke indicated that in her opinion, Rika Blue cannot afford more than half the rent that is being asked. She added they have wonderful qualified artists in the harbor that provide jobs and benefit the community. Ms. Burke stated she realizes that the harbor is working hard to make improvements to the harbor, and hopes that an agreement can be reached to keep Talking Crow Studio in the harbor. Ms. Burke remarked that the Coast Guard Auxiliary doesn't pay rent for their building. Del Higgerson indicated that his daughter goes to the Talking Crow art studio and that it would be a big detriment to have it closed down. Mr. Higgerson added that he thought the handshake agreement had been a good idea and that any business closing in town would be harmful to local the economy. Mr. Higgerson stated that the taxpayers would not benefit from the closure of the business. Jon Parmentier indicated he did not believe they should have used a handshake agreement, from the perspective of either side. Every business that is in the harbor is one small part of the whole. He added that if Talking Crow Studio closes, the harbor will lose rent overall. Mr. Parmentier indicated that he felt the work that has been done to the building was beneficial to the harbor. He commented that Ms. Blue's daughter conducts fundraising efforts in order to be able to attend art workshops out of the area, and that Ms. Blue does not have the financial resources for the rent increase proposed. He concluded that her business is a great

thing for the community and harbor. Erica Moore, an art teacher who works with at risk students, stated that she has learned pottery at Talking Crow studio, and students from Del Norte High, Castle Rock Charter School, Crescent Elk, Uncharted Shores Academy, and Pacific View Charter School attend classes there. She remarked on the artistic and aesthetic value of the studio, and indicated she felt that the ability for students to participate in the art program will keep them from getting into trouble. Ms. Moore added that the school budget cutbacks have adversely impacted art and music programs and she uses Talking Crow Studio to teach classes to students. Ms. Moore commented that it costs the State of California \$47,000 per year to house an inmate, and felt that to empower people creatively promote their ability in making good choices instead of bad was preferable. Ms. Moore indicated that a filmmaker from Bay Area recently visited who will be coming back to make a mini-documentary including Talking Crow Studio to be shown in the Bay Area. President Feller explained that at the last meeting, the committee instructed Mr. Young to discuss the situation with Ms. Blue, but her attorney has not released her to speak directly to harbor staff, so all communication must go from Mr. Black to her attorney.

President Feller recessed the open session at 8:15 p.m. and immediately convened in closed session to discuss the closed session items listed above. The closed session was adjourned at 9:25 p.m. and Counsel announced that no action was taken during closed session.

11. **Adjournment**

There being no further business to come before the commission, President Feller adjourned the meeting at 9:25 p.m. until the next regularly scheduled meeting on March 16, 2010 at 6:30 p.m. at the Flynn Administrative Center.

Scott Feller, President

Ray Martell, Secretary

Approved this _____ day
of _____, 2010.