



MINUTES
REGULAR MEETING
OF THE BOARD OF HARBOR COMMISSIONERS
MOSS LANDING HARBOR DISTRICT
7881 Sandholdt Road
MOSS LANDING, CA 95039
February 26, 2014, 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 Moss Landing Commercial Park (formerly National Refractories). Negotiating parties: General Manager and District Counsel.
2. 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.
3. Confer with legal counsel and General Manager regarding one matter of litigation pursuant to Government Code § 54956.9(a): Cramer vs. MLHD, et al.
4. 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.

B. OPEN SESSION CALL TO ORDER - PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:23 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

Staff present:

Linda G. McIntyre – General Manager
Mike Rodriguez – District Counsel
Marie Della Maggiore – Executive Assistant
Wendy Cumming, CPA

Commissioners excused:

Tony Leonardini - Commissioner

C. PRESIDENT'S REMARKS

President Jeffries stated that the Board met earlier in closed session and that direction was given to District Counsel and the General Manager and no other reportable action was taken. He added that Commissioner Leonardini had not joined the meeting by phone.

D. PUBLIC COMMENTS

No public comment. President Jeffries brought Item 10 forward on the agenda.

G. TREASURER'S REPORT

10. Wendy Cumming gave the financial report for the month ending January 31, 2014. She pointed out that General and Administrative expenses are remaining below budget by about \$29K. The combined net operations income is below last year by \$43K but bottom line of overall marina revenues is slightly higher than budget. Personnel costs are right in line with budget but employee benefits and workers compensation costs are over by \$12K.

A motion was made by Commissioner Ferrante and seconded by Commissioner Gomes to accept the month ending January 31, 2014 financial report. The motion passed 4-0-1, Commissioners Jeffries, Gideon, Ferrante and Gomes voting aye; Commissioner Leonardini absent.

E. MANAGER'S REPORTS

1. Projects Status/Update – Written report; no additional comments.
2. Community Relations; Requests/Issues – Written report; no additional comments.
3. Summary of Permits Issued – Written report; no additional comments.
4. Meeting Announcements – Written report; no additional comments.
5. Assigned Liveboard Report – Written report; no additional comments.
6. Assigned Slip Income Report – Written report; no additional comments.
7. Incident Report – Written report; no additional comments.

F. CONSENT CALENDAR

8. Approval of the January 22, 2014 Regular Meeting Minutes.
9. Approval of the February 20, 2014 Special Meeting Minutes.

Commissioner Ferrante noted a correction to the January 22, 2014 minutes. Item F, No. 7 should read "Chair Ferrante/Vice Chair Jeffries". A motion was made by Commissioner Ferrante and seconded by Commissioner Gomes to approve the January 22, 2014 meeting minutes with the noted correction and the February 20, 2014 meeting minutes as written. The motion passed 4-0-1; Commissioners Jeffries, Gideon, Ferrante and Gomes voting aye; Commissioner Leonardini absent.

(Item **G. 10** was brought forward and heard earlier on the Agenda)

H. COMMITTEE REPORTS

11. Finance Committee – No meetings reported.
12. Elkhorn Slough Advisory Committee – No meetings reported.
13. Special Districts/LAFCO – No meetings reported.
14. Liveboard Committee – No meetings reported.
15. Harbor Improvement Committee – No meetings reported.
16. Real Property Committee I – No meetings reported.
17. Real Property Committee II – No meetings reported.
18. Ad Hoc Budget Committee – No meetings reported.
19. Meetings attended by Commissioners at District expense since the last regular meeting of the Board (Per AB 1234 requirements). – No additional meetings reported.

I. NEW BUSINESS

20. ITEM – Consider reimbursement agreement between MLHD and the People's Moss Landing Desal Project/Nader Agha.

- a. Staff report – GM McIntyre gave the staff report.
- b. Public comment – Mr. Paul Hart, attorney for the Peoples Moss Landing Desal Project, said that he believes they have reached agreement on all terms except the time frame for return of funds requested by the Board. District Counsel Rodriguez commented that a minor modification could be made to accept 30 days as a doable timeline should no further agreement or partnership be entered into. Mr. Bill Hood, resident of Moss Landing, reiterated the issue giving rise to the need for retaining the reimbursement deposit in the event of a third party claim but suggested that

any applicable statutes of limitation in the agreement should be named and clarified (this comment followed the Board discussion).

c. Board discussion – Commissioner Gideon asked what the project timeline looked like to which Mr. Agha responded they are within weeks of providing the engineer's information that needs to be included in the draft EIR. He added the Governor is now getting involved in the project and that he has been asked if the project and property would be for sale to the State. Mr. Agha said they will only work with the District and offered to sell 15-20 acres and all rights to the project to the District for fair market value. President Jeffries said before we go any further, we need to settle the reimbursement agreement and reiterated that this agreement does not obligate any further agreements but only sets forth reimbursement for staff and counsel time spent and that may be spent negotiating a potential agreement. Mr. Hart responded it is understood that this is a reimbursement agreement and nothing more; this is merely a first step and does not obligate the District to do anything. Mr. Agha said I will give it to you for free. Then he added that we could get bond financing to pay him back. Commissioner Gomes said the Board needs to stay neutral and Mr. Agha just offered to give us property – this is what I have been afraid of – we do have other people trying to do a desal plant and they may need our help also. I am concerned that we have not yet made a decision on any partnership agreement and I don't want you to have the impression that we are signing on to your project because we are not. When you said you would give us property it seems in your mind that you do think we have signed on to your project and it's too early for that decision. President Jeffries mentioned that DWD had informed us that they would be coming to the Board for permits, leases or construction permits for their project so yes; we have to remain neutral and flexible. Mr. Rodriguez also reiterated that the agreement before the Board only establishes a means for reimbursing the District and it does not commit the District to any course of action. Mr. Rodriguez added that he anticipated that any subsequent agreements would include language that supersedes this reimbursement agreement. Commissioner Gideon reiterated that the District has a small staff and limited time. He wants to make sure we are compensated accordingly. Commissioner Gomes said he had a final question for District Counsel: this money and this agreement do not compromise our neutrality at all? District Counsel responded that this reimbursement agreement is very similar to other agreements with other public entity clients where the developer comes in and advances monies to pay for staff time and processing his project with no guarantee of the final outcome.

d. Board action – A motion was made by Commissioner Ferrante and seconded by Commissioner Gomes to accept the terms of the reimbursement agreement as amended. The motion passed 4-0-1: President Jeffries, Commissioner Gideon, Commissioner Ferrante and Commissioner Gomes voting aye; Commissioner Leonardini absent.

President Jeffries requested of Mr. Agha and Mr. Hart that the Board be provided a specific and direct list of expectations, A to Z, duties and tasks that will be asked of the District. I don't want it piecemeal, I don't want you coming back with additions or changes; the Board wants to know where we are and where we may be going. Mr. Hart said he will confer with the GM and District Counsel on how to present the information clearly and completely. President Jeffries said that earlier Mr. Agha made an offer in all good faith that he would sell us the property or give us the property but doesn't want any money now. I want to see that in writing. And I just

want to reiterate again that if it doesn't work out and we can't come to an agreement that we would still part as friends and neighbors and there's no hard feelings either way. Mr. Agha asked that the Real Property Committee remain intact so the points of the proposal can be presented to that Committee and they can help make the presentation to the Board. President Jeffries said yes. Commissioner Ferrante said the operative word is "transparency".

21. ITEM – Consider authorizing the General Manager to execute documents for refunding and consolidating the District's debts at a lower interest rate.

a. Staff report – GM McIntyre gave the staff report. She added that after her report was written, she received further information that the bank that made the offer has stated they will only set a rate for ten years.

b. Public comment – No public comment.

c. Board discussion – There was discussion of the terms of the refinancing agreement. It appears at this time, with this offer; the savings would be approximately \$12K per year and would also resolve balloon payment terms of current District loans.

d. Board action – The Board advised the GM to move forward and continue to bring proposals to the Finance committee and the full Board if necessary.

J. COMMISSIONERS COMMENTS AND CONCERNS

There was further discussion of the concern over entering into agreements. Commissioner Gomes asked that all further negotiations on The People's Desal Project be done in front of the full Board and Commissioner Ferrante agreed. Discussion of how to proceed with negotiations. Recommended that the General Manager and District Counsel make initial contacts on all proposals and then bring to the full Board for discussion and decision.

K. ADJOURNMENT

The meeting adjourned at 8:46 p.m.

Respectfully Submitted,

ATTEST:

Vince Ferrante, Secretary

Linda G. McIntyre, Deputy Secretary
Board of Harbor Commissioners