

**San Mateo County Harbor District  
Board of Harbor Commissioners  
Minutes**

**July 18, 2007  
7:00 p.m.**

**Municipal Services Building  
33 Arroyo Drive  
South San Francisco, CA 94083**

**Roll Call**

**Commissioners**

James Tucker, President  
Ken Lundie, Vice President  
Leo Padreddii, Treasurer  
Sally Campbell, Secretary  
x Pietro Parravano, Commissioner

**Staff**

Peter Grenell, General Manager  
Eileen M. Wilkerson, Human Resource Manager  
Marcia Schnapp, Director of Finance  
Robert Johnson, Harbormaster  
Dan Temko, Harbormaster  
Theresa N. Hayes, Deputy Secretary  
Marc Zafferano, District Counsel

x- absent

**Public Comments/Questions** - None

**Staff Recognition** – Johnson expressed his gratitude towards the Board and staff for considering his request at the previous Board meeting.

**Consent Calendar**

All items on the consent calendar are approved by one motion unless a Commissioner requests at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda. Any item on the regular agenda may be transferred to the consent calendar.

Campbell requested that item 2 be moved to continued business.

<b>1</b>	<b>TITLE:</b>	<b>Minutes of Meeting June 20, 2007</b>
	<b>REPORT:</b>	Draft minutes
	<b>PROPOSED ACTION:</b>	Approval

**Action:** Motion by Campbell, second by Lundie to approve item 1. The motion passed.

Padreddii stated that his vote is only for the time he spent during the teleconference at the June 20<sup>th</sup> meeting.

Ayes: 4 (Padreddii for Items 1 through 4 only)

Nays: 0

## **Public Hearing –**

- 3 TITLE: Amendment to Ordinance Code Section 3.2 to Provide for Event Permits**
- A. Declare Meeting Open: President James Tucker  
B. Report of Notice Given: Grenell  
C. Staff Report and Recommendation: Approve Amendment to Ordinance Code 3.2 to Provide for Event Permits  
D. Public Testimony:  
E. Harbor Commission Questions:  
F. Close Public Testimony: President James Tucker  
G. Commission Deliberation:  
H. Recommended Commission Action: Approve Amendment to Ordinance Code Section 3.2 to Provide for Event Permits

This item was postponed to the August 1, 2007 Agenda.

## **Continued Business**

Lundie recused himself at 7:02 p.m. due to a conflict of interest with item 4 and left the room.

- 4 TITLE: Amendment to Rates & Fees Schedule Regarding Berthing Rates for Eligible Commercial Fishermen**  
REPORT: Staff Report  
PROPOSED ACTION: To Be Determined

Grenell stated that staff recommends to the Board that the 15% discount for Commercial fishermen approved at the previous meeting be amended. He added that concerns were raised from fishermen that the discount would not be equitable to them.

Temko stated he spoke with the fishermen and they informed him that the 15% discount the Board approved would actually cause an increase to those who have been receiving the fishermen's discount previously in effect. He added that the 15% discount would cause their

berth rates to go up approximately 30%. Temko suggested a 5% cap for those fishermen who already have a discount rate more than 15%.

Campbell said the minutes of June 20<sup>th</sup> state that the discount was also for charter boats and asked for clarification. Temko said this is meant to include charter boat captains who are registered as commercial fishermen. He added that the motion can be made to include this.

**Action:** Motion by Campbell, second by Padreddii to approve item 4 to include supporting charter boat operators that are commercially registered.

Ayes: 3

Nays: 0

Lundie re-entered the room at 7:08 p.m.

**5 TITLE: Oyster Point Breakwater Reconfiguration: Notice of Intent to Publish CEQA Negative Declaration**  
**REPORT: Memo, Initial Study, Draft Negative Declaration**  
**PROPOSED ACTION: Authorize Circulation of Draft Negative Declaration and Initial Study for Public Review and Comment**

Grenell informed the Board that USACE needs to comply with the CEQA guidelines for this project and requested that the District as local sponsor act as lead agency preparing the documents for CEQA. He added that once this item is approved staff will prepare a package to send to the State Clearinghouse for review. Once the review period has ended the Negative Declaration will be brought back for final certification.

Campbell asked how much staff time is being used. Grenell said he prepared all of the written documents in one day and Hayes put together the packets for the Board and will do the mailings.

**Action:** Motion by Padreddii, second by Lundie to approve Item 5. The motion passed.

Ayes: 4

Nays: 0

**6 TITLE: Selection of Lowest Responsible Bidder for Oyster Point Marina/Park West Basin Dredging Project and Authorize Contract Execution**  
**REPORT: Staff Report**  
**PROPOSED ACTION: Approve Salt River Construction as Lowest Responsible Bidder and Authorize Execution of Contract with Salt River Construction in an Amount Not to Exceed \$1,029,000.00**

Tucker suggested that this item be continued to August 15<sup>th</sup> because of several issues with Salt River Construction regarding OSHA and prevailing wages. Campbell agreed that this item be postponed.

A short discussion on the depth of dredging took place.

Grenell informed the Board that three bids were received. He listed the bids from highest to lowest:

- 1- Dutra Dredging Company - \$1,555,369
- 2- Ghilotti Brothers/Cooper Crane - \$1,516,775
- 3- Salt River Construction - \$1,029,000

Grenell said Salt River appeared to be the lowest responsible bidder and added that staff undertook due-diligence investigation of Salt River Construction.

Grenell informed the Board that since this information was analyzed and the staff report was written, several concerns have been raised on potential OSHA issues and prevailing wages. He concluded that it is in the District's best interest to do additional analysis.

Dave Harrison, Business representative for Operating Engineers Local Union #3, handed out a letter to the Board listing the reasons why he believes Salt River is not a responsible bidder. Harrison brought up the current project in Strawberry that Salt River is working on which was scheduled to be completed in 2005 and is still not finished. He added that on an Emeryville project an excavator was lost off the barge and into the water which could create huge environmental issues. Harrison said that Salt River has received a subpoena from the Labor Commission for prevailing wages which were never submitted. He added that he took some information from the FED OSHA website which included an incident where a Salt River employee drowned in 1996 and he was not wearing a life vest. Since then there have been 15 OSHA incidents, nine of which were serious violations.

Tucker stated that Salt River was not held responsible for the death of the employee in 1996.

Harrison stated that there was possibly substance abuse, but questioned whether Salt River had a substance abuse policy in effect since then.

Rick Moseley, Owner of Salt River Construction for the last 18 years, stated that he dredged 114,000 yards in four months and dredged until they could not dredge anymore at the Strawberry project. He stated that his company was not found liable for the death of its employee in 1996 and that he does require employees to sign a policy stating that this is a drug-free workplace.

Campbell questioned why Salt River does not drug test their employees. Moseley said he has eight full-time employees who are people he has known for a long time. He added that random drug testing is a good idea and is looking into how to change his insurance rates for this.

Moseley said the largest fine he has paid was approximately \$1,450 as opposed to Cooper Crane who last year paid \$27,500 in fines which he believes had to do with an accident. He added that investigations, "letter writing," and "bad mouthing" will go both ways if the Board

decided to choose Cooper Crane. Moseley said he has better technology with the excavators as opposed to cranes and he is able to do the job for a more competitive price. Moseley said District staff has researched his company and checked with references who had nothing but good things to say about his company.

Moseley stated that his OSHA history includes changes made involving life jackets and cleanliness on their tugboats in 2007. He said they have had no life jacket incidents since 1998. Moseley said that they have received only three \$450 fines due to the way the crane was set up on the barge; he added that these fines were nothing like the fine Cooper Crane received last year. Moseley concluded that he has only been asked for prevailing wage records from the Foundation for Fair Contractors and not the Department of Labor. He passed out a letter he received from the Dept. of Labor who asked for payroll records only.

Tucker asked Moseley if his bid is still good through August 15, 2007. Moseley said yes.

Campbell said the Dept of Labor has marked several serious citations.

Moseley said the last time the Oyster Point Marina was dredged was by a non-Union contractor. He said Cooper Crane came along and bought them and have been in dire straights since then. He said in the last two years Cooper Crane and OE3 have tried to force them out of every job because they can't compete.

Lundie stated that he is in favor of continuing this item to August 15<sup>th</sup>. He said the letter Harrison passed out stated that there were several public comments received and he would like to see those.

Campbell requested that staff get completely satisfied on the second lowest bidder so the Board can compare and make a decision.

Zafferano stated that law requires that once the lowest bidder is determined responsible then it doesn't matter how much more or less responsible the higher bidders are. Law requires you to go with the lowest responsible bidder.

Lundie asked if there is a clause that says they can accept or refuse any bid if it is in the District's best interest. Zafferano said that Government Section Code 2.7.4.1.3 states that the project must be awarded to the lowest responsible bidder, although you can reject all bids and re-advertise.

**Action:** Motion by Campbell, second by Padreddii to move this item to the August 15, 2007 Agenda. The motion passed unanimously.

Lundie requested staff to give the Board all correspondence from the public comments. He also asked for clarification on page two of the staff report. The report states that Salt River took a long time to complete the dredging at San Leandro Marina and San Francisco Yacht Club; Lundie asked for clarification on exactly how much longer this took. He added that since Ghilotti Bros/Cooper Crane is the second lowest bidder that they should be looked into too. Lundie concluded that he wants history on all three bidders regarding change orders in the last five years.

- 2      TITLE:                                    **Amendment to Resolution 17-07 to Adopt Rates and Fees Schedule for Pillar Point Harbor for Fiscal Years 2007-08 and 2008-09 and for Oyster Point Marina/Park for Fiscal Year 2007-08**
- REPORT:                                    Resolution 17-07
- PROPOSED ACTION:                    Approve Amendment to Resolution 17-07 to Adopt Rates and Fees Schedule for Pillar Point Harbor for Fiscal Years 2007-08 and 2008-09 and for Oyster Point Marina/Park for Fiscal Year 2007-08

Campbell stated that she moved this item to continued business in case a member of the public showed up to speak on it. No public comments were made on this item.

Schnapp asked if this item can be approved with the changes made with the commercial fisherman discount as approved in item 4.

Lundie recused himself at 7:48 p.m. and left the room.

Campbell stated that she would like to see items like this on open session rather than the consent calendar.

**Action:** Motion by Padreddii, second by Tucker to approve item 2 with the changes made in item 4. The motion passed.

Ayes: 3

Nays: 0

Lundie re-entered the room.

## **New Business**

- 7      TITLE:                                    **Limited Commercial Activity Permit for Elyane Calubaquilo at Pillar Point Harbor**
- REPORT:                                    Application
- PROPOSED ACTION:                    Approve Limited Commercial Activity Permit for Elyane Calubaquilo at Pillar Point Harbor

Temko stated that after reviewing the map that the applicant has submitted, the X that marks the spot for the wedding ceremony appears to be in the San Mateo County-owned Fitzgerald Marine Reserve. He said he recommends approval of the event on District property only.

A short discussion was held on permits for fireworks in the same area. Information regarding the legal liability on fireworks done outside of District jurisdiction will be brought back at the August 1<sup>st</sup> meeting.

**Action:** Motion by Campbell, second by Lundie to approve item 7 as long as it takes place on District property.

Ayes: 4  
Nays: 0

- 8 TITLE: Limited Commercial Activity Permit for Seventh Wave Productions at Pillar Point Harbor**  
**REPORT:** Application  
**PROPOSED ACTION:** Approve Limited Commercial Activity Permit for Seventh Wave Productions at Pillar Point Harbor

**Action:** Motion by Campbell, second by Padreddii to approve item 8. The motion passed.

Ayes: 4  
Nays: 0

- 9 TITLE: OPM Trail Asphalt Repair**  
**REPORT:** Grenell  
**PROPOSED ACTION:** Authorize General Manager to Execute Asphalt Trail Repair at OPM in an Amount Not to Exceed \$4,999

Grenell said staff is prepared to bring the Oyster Point launch ramp project and parking lot paving project for approval in August. He said staff anticipates left-over asphalt after the parking lot paving is completed. Staff would like to use that left-over asphalt to fill in the areas along the trail before the docks. Grenell concluded that this would be cost-effective since the material is already on site and the construction mobilized.

Campbell questioned why there is need for repaving the trail at Oyster Point. Johnson explained that there is a shallow rooted tree that caused buckling of the asphalt and there are certain areas along the main promenade that date back to 1983.

**Action:** Motion by Padreddii, second by Lundie to approve item 9. The motion passed.

Ayes: 4  
Nays: 0

### **URGENCY ITEM**

**Action:** Motion by Padreddii, second by Campbell to add an urgency item to the Agenda. The motion passed unanimously.

- 9A TITLE: Commercial Activity Permit for Commodore Cruise and Events at Oyster Point Marina/Park**  
**REPORT:** Memo, Attachments  
**PROPOSED ACTION:** Approve Commercial Activity Permit for Commodore Cruise





10% of value is a possibility and GSD declined.

## **B) General Manager's Report**

Grenell said he received a letter from Congress Member Anna Eshoo stating that \$2,580,000 was approved in the House appropriations bill for the USACE budget for repairs to the outer breakwater at Pillar Point Harbor.

District's 75<sup>th</sup> Anniversary: Grenell said the District has a 75<sup>th</sup> anniversary next year and staff is ready to work with the Board on a celebration if the Board is interested. Tucker formed a committee comprised of Campbell and Padreddii to plan the event(s).

### **12 Director of Finance - Schnapp**

Schnapp clarified that no changes have been made in the final budget with the commercial fishing berth rate. She added that the final budget will be sent out in the next couple of days.

Tucker asked about the audited financials for FY 2005-06. Schnapp said the auditors had a sub-contractor preparing the documents. The lead auditors decided to make changes and the packet had to be sent back to the sub-contractor. A draft has been promised by August 1<sup>st</sup> Board meeting.

### **13 Human Resources Manager - Wilkerson**

Nothing further to add to written report.

## **Operations**

### **14 Oyster Point Marina/Park - Johnson**

Johnson informed the Board that occupancy continues to climb. There has been a 2% increase since the last meeting. Tucker asked what the increase in occupancy is due to. Johnson said it is the economy and the interest with upcoming events in the Marina.

### **15 Pillar Point Harbor – Temko**

Campbell asked for a specific date on when the restroom renovation item will be brought before the Board. Temko said the contractor is currently working on drawings and Temko will set up a committee meeting (Campbell, Parravano) as soon as possible.

Temko stated that he has made preliminary calls regarding diesel fuels at surrounding Harbors and Ports. He said Pillar Point is three cents less than Bodega Bay and 72 cents less than Sausalito.

## **Board of Harbor Commissioners**

### **16 A. Committee Reports**

Campbell stated that she and Parravano met with Joanne Franklin of Ketch Joanne's and are close to resolving a new lease. She said a closed session item should be added to the August 15<sup>th</sup> Board meeting.

### **B. Commission Statements and Requests**

**The Board of Harbor Commissioners may make public statements and requests. Requests may be made to place items on future agendas.**

Lundie stated that a local fisherman drowned off the coast less than a week ago. He asked staff what the procedure is to add his name to the memorial plaque at Pillar Point Harbor.

Temko said that the fishermen's memorial plaque is specifically for bodies that were never recovered.

Lundie made a motion to adjourn the meeting in memory of Paul Wade second by Campbell. The motion passed unanimously.

Campbell asked Temko to check with the Fishermen's Association if they are interested in doing plaques for fishermen whose bodies were recovered.

Campbell said that when any of the Board members make requests of the General Manager she would like to see the item in the General Manager's report until the request is completed and the Board is satisfied.

Tucker stated that he is glad to see Padreddii back and recovered from surgery. Tucker asked Grenell when his contract will end. Grenell said August 31<sup>st</sup>. Tucker requested that Grenell make a list of items and requests he has of the Board.

<b>17 TITLE:</b>	<b>Identify Labor Negotiator Pursuant to Government Code Section 54957.6</b>
REPORT:	Zafferano
PROPOSED ACTION:	Identify Labor Negotiator Peter Grenell

Tucker identified Grenell as Labor Negotiator.

**Action:** Motion by Lundie, second by Campbell to adjourn the meeting. The motion passed.

Ayes: 4

Nays: 0

## Closed Session

18 TITLE: **Conference with Labor Negotiator Pursuant to Government Code Section 54957.6: Operating Engineers Local Union No. 3**  
REPORT: Grenell  
PROPOSED ACTION: To Be Determined

19 TITLE: **Public Employee Performance Evaluation: General Manager, Pursuant to Government Code Section §54957.6**  
REPORT: None  
PROPOSED ACTION: To Be Determined

**Action:** Motion by Padreddii, second by Campbell to adjourn to Open Session. The motion passed unanimously at 8:44 p.m.

## Open Session, Continued.

There was no reportable action from Closed Session.

## Adjournment

**Action:** Motion by Lundie, second by Campbell to adjourn the meeting. The motion passed unanimously at 8:45 p.m.

APPROVED BY:

*Leo Padreddii*

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Leo Padreddii  
Acting President

ATTESTED BY:

*Theresa N. Hayes*

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Theresa N. Hayes  
Deputy Secretary