

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

**October 5, 2011
7:00 p.m.**

**Comfort Inn
2930 Cabrillo Highway
Half Moon Bay, Ca. 94019**

Roll Call

Commissioners

Pietro Parravano, President
James Tucker, Vice President
Leo Padreddii, Treasurer
Robert Bernardo, Secretary
Sally Campbell, Commissioner

Staff

Peter Grenell, General Manager
Genevieve Frederick, Director of Finance
x Marietta Harris, Human Resource Manager
Charles White, Assistant Harbor Master (OPM)
John Draper, Assistant Harbor Master (PPH)
Kathleen Kane, District Counsel
Debbie Nixon, Deputy Secretary

x-absent

Public Comments/Questions –

Report from Special Meeting – Kane reported out from the special meeting. She stated that item number 2 in closed session would be continued to the next meeting and that Parravano recused himself from item 5 as he has a boat berthed at Pillar Point Harbor. She stated there was no reportable action from closed session.

Staff Recognition- Draper stated that he received the Proclamation from the Coastside Fire Protection District recognizing Pemberton and Coasts for performing CPR and saving a ladies life on October 1, 2010. He passed the Proclamation around.

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calendar are approved by one motion unless a Commissioner requests at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda.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

- 1 **TITLE:** **Minutes of Meeting September 21, 2011**
 REPORT: Draft minutes
 PROPOSED ACTION: Approval

- 2 **TITLE:** **Extension of Certified Employment Lists: Deputy Harbor Master A and Harbor Worker B**
 REPORT: Harris, Memos, Certified Lists
 PROPOSED ACTION: Approve extension of lists

- 3 **TITLE:** **Resolution 12-11 for Memorandum of Understanding with Teamsters Local Union No. 856**
 REPORT: Grenell, Memo, Resolution
 PROPOSED ACTION: Adopt Resolution 12-11

Action: Motion by Tucker, second by Padreddii to approve the consent calendar. The motion passed unanimously.

Ayes: 4 on item 1, 5 on items 2 and 3
Nays: 0
Abstention: 1 (Campbell on item 1)

Public Hearing

- 4 **TITLE:** **Revocation of Independent Commercial Activity Permit for Tom Mattusch, F/V Huli Cat, for Nonpayment of Required Fees**
 REPORT: Memo, Attachments, Resolution 21-11
 PROPOSED ACTION: Revoke Independent Commercial Activity Permit and adopt Resolution 21-11

Parravano stated that he did not see Mattusch in the audience and stated the item will be continued to the next meeting.

Draper stated Mattusch paid his passenger service fees. Tucker asked counsel if the item needed to be continued. Kane stated that staff would need to verify payment and if all was in order, than the item did not need to be continued.

Continued Business

Parravano stated that item 6 will be taken up before item 5. The Commission agreed.

Urgency Item

Action: Motion by Campbell, second by Tucker to add the item to the agenda. The motion passed unanimously.

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| TITLE: | Destruction of Records |
| REPORT: | Grenell, Resolution |
| PROPOSED ACTION: | Adopt Resolution 23-11 to authorize General Manager to destroy District records consistent with District Records Management Policy 2.1.4 |

Grenell stated that the item was brought to the Commission as an urgency item due to last minute preparation. He stated that this is to destroy records that are no longer needed consistent with the District records management policy.

Action: Motion by Tucker, second by Campbell to adopt resolution 23-11 to authorize General Manager to destroy District records consistent with District Records Management Policy 2.1.4. The motion passed unanimously.

Ayes: 5
Nays: 0

New Business

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| 6 | TITLE: | Study Item: Surfer's Beach Restrooms |
| | REPORT: | Grenell |
| | PROPOSED ACTION: | No action proposed |

Grenell deferred to counsel to report to the Board on the item. Kane stated that there has been some question regarding the required access to the restrooms on Harbor District property currently leased out at the RV Park and day use parking facility. She stated the lease was reviewed and the lease terms require provision of the restroom facility to users of the overnight RV camping facility and the day use parking facility which is paying customers for

both facilities. She stated that Grenell sent a letter to Nerhan requesting that he comply with that. Nerhan has stated that he is in the process of complying with that and will do so within the 30 day time frame provided by the General Manager.

Merrill Bobele spoke on behalf of the Coastal Issues Committee of the Loma Prieta Chapter of the Sierra Club. He stated that the policy of the Sierra Club is to support, promote and encourage coastal access and anything that improves the access. He stated that although the terms of the lease state that the restroom will be for the use of the paid RV tenants and the day use parking, there is a long history of some controversy at the RV Park. He stated that the Master Plan for Pillar Point Harbor which was done in 1999, states on page 25 that at the RV Park is unpaved and that the restroom and fencing were the only improvements. He stated that was true at that time, however the intention of the Harbor District was quite clear in the Master Plan and the plans that were submitted in 2001 is for an over 5,000 square foot building that would have restrooms, laundry room and showers. It wasn't stated for the RV Park, but that permit was allowed to lapse. Then in 2005 it was modified to reduce the 2 story building from over 5,000 square feet, to a one story building of just over 2,000 square feet for restroom and laundry room for that building. He stated that the intention was quite clear that a public restroom enhances public access and another purpose of the restroom is to be visiting serving and that they are very important.

Leonard Woren stated that he doesn't see how the lease agreement has any language that the attorney claims it does. He stated that the history prior to the current lessee, the public restroom was open to all and there was no monitoring at the RV Lot and it was just a gravel dirt lot. The average person reading the lease agreement will not see that the restrooms are restricted to the people paying at the RV Lot. He stated that the restrooms were constructed at the public's expense and to have it be a private facility of the lessee is a violation of Section 6 of Article 16 of the California Constitution which states gift of loans or public monies are pledging credit prohibited. He stated that he is not going to read the appropriate language but he stated that he will be writing a letter to the Attorney General unless the Commission takes action tonight to have the restroom open to the public. He stated that the letter that he will write to the Attorney General will state that there is an illegal gifting of public funds because the lease agreement to the average person states the restroom is to be open to the public. He stated that the Commission won't even enforce the other things that are required and in the lease agreement such as having picnic tables and trash cans and showers. He stated that all those things are gone and the lessee isn't being held accountable.

Bob Cantillo stated that he doesn't see how allowing or not allowing anyone to use the restroom generates a profit unless there is a fee being charged to use the facility.

Harry Ysselstein stated that he is a member of the Veterans of Foreign Wars, the American Legion and is a naturalized American citizen and English is his second language. He stated that the fact that someone is saying that Nerhan by flying the American flag and California flag as blocking views, he found aberrate. He strongly suggests that if this goes any further, than the Pacific Legal Foundation should be brought in. He stated that when he looks at the

American flag, what it represents to him is all of the people who followed it into combat and for someone to say that it is blocking their view and should be taken down, is so un-American. He stated that if Nerhan is asked to take down the flag, he will contact the Pacific Legal Foundation and fight it. He stated that a property owner has the right to fly the American flag.

David Seeton stated that when it comes to the American flag, there should be talks about more places it can be put up. He stated that the American flag means so much to our Veterans and to his family and grandparents that have immigrated here. He stated to even discuss taking down an American flag, the burden of proof needs to be so high. He stated that people should be outraged even talking about such a thing. He stated that you see all the time, the American flag, the California flag and a business flag. He stated that to him it means a lot and hearing a passionate speech that was just given, means ten times more than any of us that haven't been in combat can even realize. Regarding the bathrooms, he rhetorically asked who was paying for the maintenance of the bathrooms. He stated that it is very difficult to say anyone can come in and use your restroom but you have to pay for all the maintenance. He stated that to expect a private person to cover the maintenance cost of a public facility for a whole community and visitors that use that restroom is not only a violation the lease, but it doesn't make sense from a business perspective on how to off-set the cost.

Bob Cantillo stated that he has been living on the Coastside for five years and one of the first things that he did when he bought his house, was put a flag pole in his front yard. He stated that it is good to display the American flag and is always pleased when he sees the flag in front of government buildings such as the Post Office and the Harbor Masters office. He stated that when private businesses put the American flag up he said that is significantly good as it is paying into out tax base and taking on the additional expense of putting the flag pole up and buying a flag on a regular basis. He stated that it is a good reminder that they are living in America and it is a good place to live and a good country and we are glad to live here. He stated that we should always be grateful to those who fly the flag. He stated that we should remember that there are three wars going on right now and when the soldiers come home there are not going to be many yellow ribbons tied around oak trees and parades in their honor. He stated that it would be nice that when they drove down the highway that they see the flags being flown.

Bob Resch stated that he is a Vietnam Vet and when he returned home from war, he was not very well accepted. He stated that the only mutual respect that he got was from the American flag and he stated that it should remain up.

Leonard Woren stated that the issue isn't the flag or the flag pole, the issue is that it was done without a permit along with a bunch of other things that have been done without a permit. The coastal act states very clearly and in plain English that any construction done at all needs a coastal development permit. He stated that the Coastal Commission will get involved in this.

Neerhan stated that he is the lessee and wanted to respond to the concerns. He stated that he has been operating the RV Lot and obtained permits to make improvements in 1998 and the permits were in place. There have been some things that have been said and he received a call from Grenell stating that someone stated that the flag pole and American flag was blocking someone's view. He stated that he believes in the American flag and he is a citizen. He stated that he has been in Half Moon Bay for 42 years. He mentioned the concern to some people and that is why they were there supporting him and that he didn't do anything wrong. He stated that he has pictures of the vandalism that was done to the restroom in the past. He stated that there have been gang related problems and even a shooting. He stated that his responsibility is the safety and welfare of the people who are visiting the RV Lot. He stated that he has never heard of putting a two story building on the property. He stated that he spent \$200,000.00 to put in a new sewer line. He stated that he has never had any problems in the past and the problems only arise when Leonard trespasses on the property and he doesn't even let Nerhan know he is here. He stated that he will comply with the request and re-open the restrooms and give it another try but can't guarantee what will happen and that there will not be any problems. Campbell asked Nerhan how long the flag poles have been up for. He stated that they have been up for a while and the one that is there now has a spot light under it. He stated that he is also working with the City of Half Moon Bay on the flag pole as a call was made to them as well.

Merrill Bobele made reference to how complicated this issue really is and stated that back in 1977 and 1987, even if the lessee doesn't have a responsibility for public restrooms, it is very clear that the Harbor District does. He stated that you can't ignore that there were use permits issued. He stated that when the restrooms were built, he asked Grenell for some history of the restroom and he didn't get it. He stated that if it was built by the Harbor District, than it should be in the records. He stated that the use permit that was issued in 1999 the restroom to the Granada Sanitary District is interesting because the City of Half Moon Bay issued the building permit before the sewer permit was issued. He stated that when he looked at the correspondence, what happened is the Harbor District tapped into the Granada Sanitary District without a permit. He stated that some really strange things have happened and now the Commission has an opportunity to correct some of them. He stated that the issue of public access doesn't go away and the letters that he has seen from the Coastal Commission are very clear that they want access. He stated that there are other issues such as how long can the tenants stay at the RV Park. He stated that State law is very clear on that and so is the Coastal Commission. He stated that the access to public parking for the day use area is also unresolved and the restrooms are important to the day use people. He stated he is looking for solutions and so is the Sierra Club.

Grenell requested the Bobele make available the document which he alleges is the 1999 Master Plan. Grenell stated that he isn't aware of such document. Bobele stated that he obtained the documents from him. Campbell stated that there was no Master Plan in 1999. Grenell stated that he has the December 4, 1991 Pillar Point Master Plan but isn't aware of a 1999 one. Bobele made a correction and that he has the 1991 Master Plan.

Parravano thanked the veterans in the audience for their service to this Country and the sacrifices they have made.

- 5 **TITLE:** **Pillar Point Harbor Circulation Study: San Mateo County Resource Conservation District**
 REPORT: Grenell, Kellyx Nelson, Presentation
 PROPOSED ACTION: To Be Determined

Kellyx Nelson was not in the audience. Parravano stated that the item will be continued to the next meeting.

- 7 **TITLE:** **Report: Berth Fees and Fishermen's Discount**
 REPORT: Grenell, Frederick
 PROPOSED ACTION: No action proposed

Parravano recused himself from item 7. Grenell stated that no action is proposed for this item. He stated that staff will be moving forward with the previously approved Rates & Fees and intend to provide fishermen's discounts to those who applied. He stated that a complete review of rates and discounts will begin in the next few months, beginning February/March, when the Commission starts their annual deliberation of the Rates and Fees for the next fiscal year. Frederick stated that back in September a question came up regarding payment of arrears and stated that staff will not be pursuing any retroactive payment.

- 8 **TITLE:** **Revised Harbor Master Job Description and Suspend Hiring Freeze and Prepare New Certified Employment List for Harbor Master Classification**
 REPORT: Grenell, Memo, Attachments
 PROPOSED ACTION: Approve revised Harbor Master job description and authorize General Manager to prepare Certified Employment List and suspend hiring freeze and authorize the General Manager to prepare a certified employment list for the Harbor Master classification following Commission approval of revised Harbor Master job description and present to Commission for consideration and possible action

Parravano stated the item will be continued to the next meeting.

Action: Motion by Campbell, second by Tucker to continue the item at the next meeting. The motion passed unanimously.

- 9 **TITLE:** **Bills and Claims in the Amount of \$105,161.15**
 REPORT: Bills and Claims Detailed Summary
 PROPOSED ACTION: Approval of Bills and Claims for payment and a transfer in

the amount of \$105,161.15 to cover payment of Bills and Claims

Padreddii stated that he reviewed the bills and claims and stated there was a correction. He stated the Director of Finance found an error in a bill which has reduced the amount of the bills and claims to \$104,804.33. He recommended approval.

Action: Motion by Padreddii, second by Tucker to approve the bills and claims. The motion passed unanimously by a roll call vote.

Ayes: 5
Nays: 0

Reports for Possible Discussion/Action Administration and Finance

10 General Manager - Grenell

Nothing further to add to written report.

11 Director of Finance – Frederick

12 Human Resources Manager – Harris

Nothing further to add to written report.

Operations

13 Oyster Point Marina/Park - White

Nothing further to add to written report.

14 Pillar Point Harbor – Draper

Nothing further to add to written report.

Board of Harbor Commissioners

15 A. Committee Reports

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.

Parravano stated that Sheriff Monks and Lt. Williams will be visiting the Harbor on November 14, 2011 at 2:00 p.m. and asked the Commission to let him know if they were able to attend.

Adjournment

Action: Motion by Tucker, second by Campbell to adjourn the meeting. The motion passed unanimously at 7:45 p.m.

The next scheduled meeting will be held on October 19, 2010 at the Municipal Services Building, 33 Arroyo Drive, South San Francisco at 7:00 p.m.

Debbie Nixon
Deputy Secretary

James Tucker
Acting President