

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

**April 18, 2012
7:00 p.m.**

**Municipal Services Building
33 Arroyo Drive
South San Francisco, Ca. 94080**

Roll Call

Commissioners

James Tucker, President
Leo Padreddii, Vice President
Robert Bernardo, Treasurer
x Pietro Parravano, Secretary
Vacant, Commissioner

Staff

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

x-absent

Public Comments/Questions — None.

Staff Recognition- None.

**Continued on next page

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calendar are approved by one motion unless a Commissioner requests at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda.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

Item 1 was pulled from the consent calendar.

- 2 TITLE: **Minutes of Meeting April 4, 2012**
 REPORT: Draft minutes
 PROPOSED ACTION: Approval

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

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

New Business

- 1 TITLE: **Harbor Commission Vacancy: Authorization to Issue Invitation for Applications to fill Harbor Commission Vacancy**
 REPORT: Grenell, Memo
 PROPOSED ACTION: Authorize General Manager to issue invitation for applications to fill Harbor Commission vacancy

Grenell stated that the Harbors and Navigation Code states that the Board of Harbor Commissioners shall designate a successor to fill a vacancy on the Harbor Commission and to do so within 30 days. He stated that the vacancy began April 7, 2012 and there are about 3 weeks left for the Board to take action. If no action is taken, the Board of Supervisors for the County of San Mateo has the option of appointing a successor. Grenell stated that the Harbor Commission will hold a special meeting on Thursday, April 26, 2012 and any qualified persons who are residents of the county and are qualified electors can submit letters of interest and resumes to the Harbor District. The deadline for submission is Wednesday, April 25, 2012 at 4:00 p.m. He recommended that the Board have a special meeting on Thursday, April 26, 2012 to conduct the interviews. He stated that the interviews will be held at 9:00 a.m. and will be held at the Harbor District's administration office in South San Francisco. The Harbor Commission would then make the appointment at the regular May 2, 2012 Board meeting.

Tucker asked if this notice would be displayed at the post office. Grenell stated that it will be placed on the District web site, posted at both Harbors, post it on Coastside.com, at the El

Granada post office board and also to the Half Moon Bay Review, San Mateo Times, and the Daily Journal.

Action: Motion by Padreddii, second by Bernardo to authorize the General Manager to issue an invitation for applications to fill the Harbor Commission vacancy. The motion passed unanimously.

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

Tucker stated that it is a tremendous loss for the Harbor District to lose Commissioner Sally Campbell, who he referred to as the dean of the Harbor Commission as she was the longest serving member.

Public Hearing

- 3 TITLE: Lease Proposal from Half Moon Bay Sportfishing for Parcel 4, Concessionaires Building, Pillar Point Harbor, El Granada, San Mateo County, APN 047-083-060**
- A. Declare Hearing Open: President Tucker
B. Report of Notice Given: Grenell
C. Staff Report and Recommendation: Grenell, Memo
D. Public Testimony:
E. Harbor Commission Questions:
F. Close Public Testimony: President Tucker
G. Commission Deliberation:
H. Recommended Commission Action: To be determined

Tucker declared the hearing open. Grenell stated notice had been given.

Sherry Ingles mentioned that at the last meeting the previous agenda item before theirs was denied. That item was for a commercial activity permit and the applicant requested a waiver of fees, the Commission enforced the regulations and decided that they needed to pay the fee. Ingles stated that she and Grenell are toward the end of their lease negotiations and it looks like the terms will be base plus percentage. The only thing that is not in the lease, is that

there is no provision beyond the end of the lease. She requested approval of the proposed lease with an additional provision that would allow for discussion or negotiations at the end of the last option period that would allow them to extend the lease.

Tucker asked Ingles what her understanding is of the length of the term of the proposed lease. Ingles stated that her understanding is that it is a 5 year lease with 2 five year options. She stated at the end of the second option of the current lease there was no provision to do so. Tucker stated that at any time she has the right to negotiate. Ingles stated that she would like the option to possibly extend the lease past the initial term, for example at year 14, she would like to be able to negotiate for another 5 years. Tucker stated that she has already had that option. Ingles said that is contrary to what she was told before. Tucker asked Grenell if he was correct. Grenell stated that the leases did not have any language provision in them for that. Tucker clarified what Ingles was asking for. Ingles stated an initial 5 year term with 2 five year option to extend and language to negotiate at the end of the term. Tucker stated he was fine with that.

Action: Motion by Padreddii, second by Bernardo to approve the lease for Half Moon Bay Sportfishing. The motion passed unanimously by a roll call vote.

Action: Motion by Padreddii, second by Bernardo to close the public hearing. The motion passed.

- 4 TITLE: Lease Proposals for Fish Buying and Fish Unloading; Pillar Point Seafood (McHenry), Three Captains Sea Products, Inc. (Fortado), Morning Star Fisheries (Mallory), Bettencourt Fisheries, Inc. (Bettencourt), Johnson Pier, Pillar Point Harbor, El Granada, San Mateo County, APN 047-083-060**
- A. Declare Hearing Open: President Tucker
 - B. Report of Notice Given: Grenell
 - C. Staff Report and Recommendation: Grenell, Memo
 - D. Public Testimony:
 - E. Harbor Commission Questions:
 - F. Close Public Testimony: President Tucker
 - G. Commission Deliberation:
 - H. Recommended Commission Action: To be determined

Tucker declared the hearing open. Grenell stated that notice had been given. Tucker asked the Commission if it would be all right to allow a bit of flexibility with the three minute time

limit to speak as this is a very important step in the lives of many people and felt a little flexibility was in order. The Commission concurred.

Zeke Grader, Executive Director with the Pacific Coast Federation of Fisheries Association, who represents fishermen and fishermen's organizations up and down the coast, primarily in California. He stated that for the last year or so, the association has been working for the establishment of a network of community fishing associations along the coast. The reason for this is to protect access for the local community to the fishing in adjacent waters. He stated that this is a concern because the Federal Fishery Agency has been putting in place individual fishing quotas (IFQ's). He stated that this system looks good on paper, but has had a negative affect by vastly consolidating fishing fleets and at time leaving communities with no vessels in the ports with quota to fish. He stated that in 2006, Congress created Community Fishing Associations which allows local communities to come together and can then work to hold quota to ensure that local communities can maintain their access to fish off shore. He stated that so far there is one on the coast in operation, in San Francisco but they need to be established up and down the coast. He stated that part of the problem is the time it takes to establish the association. He stated that he approached McHenry to see if he was interested in being a part of the Association. Grader requested that the Commission give them an extra 60 days to submit a proposal to include the opportunity to establish the Community Fishing Association with McHenry. Tucker asked Grader if he could develop a proposal in the next 60 days. Grader stated yes.

Larry Collins with the Crab Boat Owners Association and the San Francisco Community Fishing Association spoke regarding the Community Fishing Association (CFA) in San Francisco. He stated that the reason to create these CFA's is because under the Magnuson Act, CFA's can hold quotas in perpetuity for their members. He stated that with the Catch Shares, all three states said that only 175 boats own 90% of the ground fish. He said that these are public resources and this is a system someone created which doesn't make sense, it would be like saying that they own the air or the water. He stated that he went to New Zealand eight years ago to see what the fishing community looked like after 20 years of catch shares. He stated that what ended up happening after 20 years was that six companies owned 80% of the fish in New Zealand. When he returned from New Zealand he knew catch shares would make its way to the community. He stated that the Crab Boat Owners Association is the first CFA on the coast and feels that every harbor on the coast needs one so they can hold quota and every harbor needs an open hoist.

Duncan MacLean with the Half Moon Bay Fishermen's Association spoke regarding catch shares or individual quotas and stated that it is a bad thing. He stated that there are a lot of non-fishing entities that are trying to push catch shares on the fishermen. He stated that when fleets become consolidated and skippers are hired to drive the vessel, there is no incentive for sustainable fishing. He stated that Half Moon Bay is very lucky to be surrounded by seafood loving people who come from 500 miles away to visit the harbor on the weekends and purchase fresh fish right off the boats. He stated that if catch shares are implemented, all of that will go away. He stated that being independent is one reason why some people are fishermen. He stated without these Community Associations there will be an over-impact of resources in certain areas and under-impact in others and the only way to have this work is to allocate the shares. He urged the Commission to write a letter to the Pacific Council (i.e.

Pacific Fisheries Management Council) to let them know the interest Pillar Point Harbor has in forming the CFA's.

MacLean stated that on April 23, 2012 there will be a blessing of the fleet at Pillar Point Harbor at 1:00 p.m. and extended the invitation to all.

Jim Salter is a Commercial Fisherman out of Pillar Point Harbor for the last 37 years. He is relaying his thoughts and observations to the Commission. He stated that there is a good healthy competitive mix of fish wholesalers at Pillar Point now, best it has been in the last 37 years. He stated that times have changed over the years, a great deal over the years for the fishing industry. He spoke regarding tying up, to negotiate a reasonable price for the catch. He stated that it is dominated by the influence of very large west coast buyers. He stated that the open hoist operated by McHenry offers efficient and fast unloading for a fee and they've drawn several large wholesalers from Canada and from Oakland to Pillar Point. He asked the Commission to consider the Pillar Point fishing community and to not make any decisions that might jeopardize the fishermen.

Mark Russo, owner of a 67' crab boat in Half Moon Bay and has been crabbing out of Pillar Point for 46 years. He stated that he is an advocate for McHenry and his hoist he operates. He stated that he would not be able to operate out of Pillar Point if McHenry didn't run his business the way he does. He stated that without McHenry in the harbor and running the business the way he does, he would have to go to San Francisco to unload. He stated that the other two businesses are smaller scale compared to McHenry. He stated that it is his understanding that there are higher offers for the location, however, that cost would fall upon fish buyers. He stated that crab season has been good for the last 2 years and there are signs showing that next year will be good as well. He asked the Commission to consider giving McHenry the lease.

Phoebe Higgins with the Environmental Defense Fund, which is a non-profit organization that aims to find innovative and equitable solutions to society's most urgent environmental problems, spoke in support of the Bettencourt Fisheries lease application by highlighting a few ways it addresses environmental and societal needs. She stated that Bettencourt Fisheries intends to support a variety of important fisheries, including crab, salmon, and ground fish and in particular the ground fish IFQ fishery completed an important transition in January 2011. She stated that the Individual Fishing Quota (IFQ) program for ground fish is an important step toward preserving vibrant and profitable fishing businesses and sustaining working waterfront communities like Half Moon Bay. Higgins stated this program utilizes full accountability and strict by-catch measures that encourage less wasteful fishing and more environmentally friendly harvest of ground fish. She stated that IFQ's make it easier for fishermen and buyers to plan for business each year because they can predict their catch levels more easily. She stated that in order for an IFQ program to succeed fishermen need to have IFQ-compliant off-loading facilities that offer the needed services. She stated that Bettencourt Fisheries is offering those services and would be a critical link in the seafood supply chain. Higgins stated that the IFQ program is working in Morro Bay. She stated by leasing the space to Bettencourt Fisheries it is not only allowing the company to prosper but the community and fishing industry as well.

Dave Mallory stated that he appreciated the earlier speakers briefing the Commission on the IFQ's as he was not sure if they knew much about them. He stated that he is a certified IFQ facility, but the problem is that is far from being a proven success. He stated that IFQ's favor bigger boats. He stated that these boats have an observer on them and that person can also watch you weigh the fish when you off-load. He stated that the price to have someone do that is \$365 which will come out of his pocket.

Lisa Bettencourt responded to a few comments that were made earlier about the open hoist. She stated that having an open hoist is part of their business plan so every boat can unload. She stated that her proposal meets all the requirements and some exceed it. She stated that nothing has changed since the initial proposal.

Geoff Bettencourt stated that they have put a lot of effort into their proposal and feel that it is what is best for the harbor. He stated that after hearing Community Fishing Association stuff, he agrees 100% that they should be formed. He stated that not all pieces of the story are being presented. Bettencourt stated that IFQ's were industry-forced. He stated that if you did not belong to a fishery, then you did not get IFQ.

Lisa Bettencourt clarified that IFQ is a piece of their package but not their whole package and is an additional revenue stream.

Porter McHenry stated that he has been a full-time commercial fisherman for the last ten years. He stated that the open hoist is such an integral piece of Pillar Point Harbor and the fishing community. He stated that he does not have much information about IFQ's and stated that there are only a handful of boats in the harbor that fish from the IFQ's.

Mike McHenry handed out some information to the Commission. He stated he has been fishing out of Pillar Point Harbor for 53 years and has been a lease holder for 30 years. He stated that since he turned in his lease proposal in February, he thought he would have the opportunity to negotiate the lease. He stated after several meetings with Grenell, he feels that he is not completely aware of the importance of the existing tenants. He stated that he would like to meet with at least 3 of the Commissioners as they will determine their fate. He stated that while glancing through the four proposals, he was surprised to see that the top floor was offered to an environmental group and that there is a proposal to have an education center where the freezers are currently located. He stated that he has been approached numerous times over the year by various agencies and groups looking for a "pent-house office" and have always refused them because it goes against the purpose the three fish stations were built for. McHenry stated that his purpose is to service the fleet as quickly and efficiently as possible to get them back out fishing. He stated that there are numerous items that need to be discussed in private with the leasing committee. He stated that the fourth proposal will not bring any new business to the harbor, but will only redistribute existing business. McHenry stated that the last time he addressed the Board, he informed the Board that San Francisco to the north and Moss Landing to the south have monthly fees that are half or less than the proposed fee with no hoisting fee and wanted to know if any of the Commissioners had done any research on that. He stated that if crab season continues the way it has been then the proposed fees are fair, but as it is known, the cycle will go the other way and the elevated rent will bankrupt him. He stated that he could pay the proposed \$3,000 but would like it to be \$2,500. McHenry stated that the new Harbor Master's salary is \$112,000 plus benefits and

stated that he has not met the minimum requirements to serve as the Pillar Point Harbor Master because he is not qualified to operate search and rescue. He stated with the recent tragedies that have occurred, it is imperative to have a capable Harbor Master to operate a search and rescue vessel. McHenry felt that the position should have gone to Assistant Harbor Master Draper as he felt he was the most qualified.

Tucker clarified with McHenry that he is opposed to the increase of cost in the proposed lease. McHenry stated that he is willing to negotiate but would like to do that directly with the Commissioners as he feels that there is lost communication between the General Manager and the Commission. McHenry stated that there is a lot of competition with San Francisco and Moss Landing and they do not have a poundage fee that the District is imposing.

Tucker asked McHenry to speak on staff's recommendation to pay for unloading of wet fish. McHenry stated the proposed lease is asking \$10 per ton. He stated that to unload wet fish, squid, sardine and anchovies at Moss Landing costs \$25 per ton. If the District wants \$10 of that, it is 40% of their earnings.

Tucker asked McHenry to speak about Community Fishing Associations (CFA). McHenry stated that CFA's are a new thing and Larry Collins and Zeke are just getting this underway. He stated that if it is implemented at Pillar Point Harbor, he feels that it would affect most of the boats under his hoist. He stated that most of the boats that are under his hoist are some of the largest producers on the west coast. He stated that he has no intention in taking any business away from Fortado or Mallory and stated that they are an important part of the harbor. He stated that he would not be able to predict the outcome of a CFA.

Padreddii clarified with McHenry that he is willing to negotiate the terms of the lease. McHenry stated absolutely and that information has been lost during communications from the General Manager to the Commission. He wanted the Commission to be aware of the situations the fish buyers encounter.

Tucker stated that he was given some flexibility with addressing the Board with respect to his tenure but his concerns regarding the new Harbor Master are a separate issue. He stated he is more concerned with his thoughts and comments on the fish buyers lease. Tucker stated that Grenell does the negotiating for the Board. Tucker stated that he has met with Mr and Mrs. McHenry and listened to his concerns and they are the same as what Grenell has informed the Commission about.

Fortado, owner of Three Captains Sea Food Products stated he is an IFQ certificate holder. He stated that he has been negotiating with Grenell and feels they are not too far away from settling on lease terms. He is concerned with the unloading fee and feels it is too high. Tucker stated that Fortado asked for a second hoist in his negotiation and asked him to speak about that request. Fortado stated that he is the only one who has to go through the building to get to the hoist and needs a place to unload crab pots and feels that he is at a disadvantage being in the middle. Tucker asked Fortado about the freezer boxes that are at the end of the pier. Fortado stated that in the past Salmon was their biggest thing and he had the ice boxes for freezing bait and salmon. He stated that he has agreed to clean up the area where the freezer boxes are located. Tucker asked him if it was all his equipment. Fortado stated that the freezer boxes are his and the pallets are the fishermen's.

Bernardo asked Fortado to speak about his feelings on the proposed poundage fee. Fortado stated that the proposal is half a cent for \$10 per ton, which like McHenry said, if they unload someone, he can only charge a cent and a half at the most. He stated that during crab season if he were to unload 600,000 pounds of crab it would be almost \$4,000. He stated that during salmon season he used to unload 300,000 - 400,000 pounds of salmon a year that would be a lot of money.

Tucker asked Fortado about the length of the lease. Fortado stated that he thought it was pretty fair.

Tucker said that he received a call from McHenry and have met with Mr. and Mrs McHenry at their request to listen to their concerns about the lease process. He stated that he also received a call from Geoff Bettencourt and met with him and his sister Lisa along the same lines. He stated those are the only two meetings he has had and asked his fellow Commissioners if they have met with anyone. No other Commissioner has met with any of the fish buyer proposers.

Tucker stated that one new thing that was heard tonight was in reference to the Community Fishing Associations and the request for a 60 day extension for a future plan that may be submitted. He stated that he understands the concept of CFA's but is not that familiar with it and would like to give some time to see if a plan is submitted. He stated that a decision will not be made that evening and suggested putting the item over to the May 2, 2012 meeting. He asked his fellow Commissioners for their thoughts and comments.

Bernardo stated that he agreed with Tucker and stated that there was a lot of new information tonight and would like to add 60 days to ensure that everything is thought out fully and that they have a complete understanding of everything.

Padreddii stated that he thought this was going to be an easy negotiation. He concurred with the President and stated that there was a lot of new information disclosed tonight and would like time to see what is proposed.

Tucker stated that with the passing of Commissioner Campbell and not having her and her knowledge for these negotiations and Parravano's conflict of interest puts the decision on Bernardo, Padreddii and himself and he would like to take the necessary time to ensure they have all of the information.

MacLean stated that he isn't sure if 60 days is enough time. He stated that the CFA Council process is going to take more than 60 days. Tucker stated that their hope was to have these leases finalized by May 1, 2012, the opening of salmon season, but that is not going to work out. Tucker informed Grader that the Commission is interested in seeing his proposal. Grader stated that he felt confident he would be able to provide the Commission with more detail by May 1, 2012.

Fortado questioned what the CFA has to do with their lease negotiations. Bettencourt stated that his impression was the proposals were from individuals not CFA's and if something has changed he would like to know as he would then be rearrange his proposal.

Public Hearing, Continued

- 6 TITLE: **Draft Preliminary Operating and Capital Budget for Fiscal Year 2012/13 and Rates & Fees**
- A. Declare Hearing Open: President Tucker
- B. Report of Notice Given: Grenell
- C. Staff Report and Recommendation: Frederick, Draft Preliminary Budget FY 2012/13 And Rates & Fees
- D. Public Testimony:
- E. Harbor Commission Questions:
- F. Close Public Testimony: President Tucker
- G. Commission Deliberation:
- H. Recommended Commission Action: To be determined

Tucker declared the hearing open. Grenell stated notice has been given. Tucker asked where Frederick was. Grenell stated she has a minor family emergency.

Grenell stated that he can alert the Commission to the few changes made to the budget. He stated that the budget includes some anticipated computer software purchases; second, the wage number for Harbor Commission reflects the loss of Commissioner Campbell; third, the classifications under Fund Balance have been updated per the Board's prior direction; fourth, the numbers included in the budget have been updated using actual numbers through March 31, 2012.

Action: Motion by Padreddii, second by Bernardo to continue the public hearing to the May 2, 2012 meeting. The motion passed.

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

New Business, Continued

- 7 TITLE: **Amendment to Rates and Fees Schedule for FY2011/12: Salmon Season Rates for Commercial Fishermen at "C" Lot**
- REPORT: Frederick, Resolution 04-12
- PROPOSED ACTION: Approve Resolution 04-12

Grenell stated that this item is only for the remaining short period for the current fiscal year. He stated that since there is going to be a salmon season, the appropriate rates need to be added to the Rates and Fees.

Action: Motion by Padreddii, second by Bernardo to approve the amendment to the Rates and Fees Schedule for FY2011/12. The motion passed unanimously by a roll call vote.

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

- 8 TITLE: **Commercial Activity Permit for Don Haga dba Whirligig Man to sell Folk Art at Pillar Point Harbor**
REPORT: Grenell, Memo
PROPOSED ACTION: Do not approve a Commercial Activity Permit for Don Haga dba Whirligig Man

Grenell stated the applicant would like to sell folk art at Pillar Point Harbor. He stated that this is an example of an activity that staff feels is not appropriate for the harbor.

Action: Motion by Bernardo, second by Padreddii to deny the request for a Commercial Activity Permit. The motion passed.

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

- 9 TITLE: **Bills and Claims in the Amount of \$224,670.60**
REPORT: Bills and Claims Detailed Summary
PROPOSED ACTION: Approval of Bills and Claims for payment and a transfer in the amount of \$224,670.60 to cover payment of Bills and Claims

Bernardo stated that he reviewed the bills and claims and found them in order. He recommended approval.

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

Ayes: 3
Nays: 0
Absent: 1 (Parravano)

Reports for Possible Discussion/Action Administration and Finance

10 General Manager - Grenell

Grenell stated that there is a correction to the time of the Blessing of the Fishing Fleet which will be on April 23, 2012. It will begin at 1:00 p.m.

11 Finance Report - Frederick

Nothing further to add to written report.

12 Human Resources Manager – Harris

Harris stated that she and Grenell have met with Operating Engineers Local 3 and have finalized details of the contract. She stated that an item will be put on the next meeting Agenda for approval.

Harris stated that the new Harbor Master will begin work on Monday, April 23, 2012 and will be attending the blessing of the fishing fleet.

Tucker asked Harris if the Harbor Master had his search and rescue license.

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

None.

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.

Action: Motion by Padreddii, second by Bernardo to adjourn to closed session. The motion passed unanimously at 8:29 p.m.

Closed Session

- 16 TITLE: **Conference With Legal Counsel: Anticipated Litigation Pursuant to Government Code §54956.9(b), One Case**
REPORT: Grenell, Frederick, Memo
PROPOSED ACTION: To be determined

Action: Motion by Padreddii, second by Bernardo to adjourn to open session. The motion passed unanimously at 8:45 p.m.

There was no reportable action from closed session.

Action: Motion by Bernardo, second by Padreddii to adjourn the meeting. The motion passed unanimously at 8:46 p.m.

Adjournment

The next scheduled meeting will be held on May 2, 2012 at the Comfort Inn, 2930 Cabrillo Highway, Half Moon Bay at 7:00 p.m.

Debbie Nixon
Deputy Secretary

James Tucker
President