

San Mateo County Harbor District Board of Harbor Commissioners Minutes

August 15, 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
Pietro Parravano, Commissioner

Staff

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

x- absent

Pillar Point Assistant Harbor Master John Draper was present.

Public Comments/Questions - None

Staff Recognition — Draper stated that Pillar Point received a letter from the City and County of San Francisco Police Department thanking them for the help that Deputy Harbor Masters Cary Smith and Greg Gubser gave during the 2007 major league baseball All-Star game.

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calendar are approved by one motion unless a Commissioner requests at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda.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 August 1, 2007
REPORT: Draft minutes
PROPOSED ACTION: Approval

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

Ayes: 3

Nays: 0

Abstentions: 2 (Lundie, Tucker)

Continued Business

2 TITLE: Selection of Lowest Responsible Bidder for Oyster Point Marina/Park West Basin Dredging Project and Authorize Contract Execution
REPORT: Staff Report
PROPOSED ACTION: To Be Determined

Grenell stated that staff has gathered information regarding change orders, public comments and information from other sources on all three bidders. He reiterated that the State of California Public Contracts Code requires that the agency focus specifically on whether the apparent lowest responsible bidder is responsible and if so, the lowest bidder is to be selected for the project.

Rick Moseley, owner of Salt River Construction, stated that a lot of information was gathered against him on OSHA fines, pollution problems and over dredging. He said this is normal for the industry and that the other two bidders have also had several fines. Moseley passed out a list of jobs he has done in the last three years that shows that Salt River Construction's record has improved. He concluded that Salt River Construction has a very good reputation in the dredging business.

Campbell asked Moseley if he is awarded the contract, is he confident that he can do the job for the \$1,029,000.00 bid with no change orders. Moseley said definitely. Campbell asked Moseley if he is sure he can finish the job by November 30, 2007. Moseley stated yes.

Allison Friedman, Salt River Construction legal counsel, stated that even though her client appears to have a record of being fined, it is normal for this industry. She added that Moseley has been able to explain each and every discrepancy.

Ken Oku, Representative from Operating Engineers Local Union #3, stated that he is speaking on behalf of Bill Nack from the San Mateo County Building Trades Council. He said that Salt River Construction's safety record, lack of a drug policy, work history, trustworthiness and prevailing wage issues are enough evidence to prove that they are not a responsible bidder. Oku recommended that the next lowest bidder be awarded the contract.

B.K. Cooper, Owner of Cooper Crane & Rigging, stated that if the Board decides not to award Salt River Construction the project, he is prepared to the job on time with no change orders. He said that safety is a big concern to him. He added that he has always completed jobs on time.

Tucker asked Grenell for his recommendation.

Grenell mentioned that for the future he would like to issue a Request For Qualifications to potential bidders in order for the District to identify clearly qualified firms to bid on District projects.

Grenell stated that he has gone through all the information that has been gathered on Salt River Construction and spoke with Counsel at length and recommended the project be awarded to Salt River Construction. He added that staff intends to monitor and manage Salt River Construction closely and make sure they adhere to all the requirements as stated in the contract. He concluded that he expects Salt River Construction to finish the job on time and within budget.

Lundie asked if the Board decides to choose Cooper Crane & Rigging would that lead to litigation. Zafferano said that Salt River could protest and if they are not satisfied then they could file a lawsuit in court.

Lundie asked that since this project is time-sensitive, what it would do to the ferry terminal and service if the Board chose to reject all bids and re-advertise.

Grenell said it would be very serious. He said a portion of the dredging will deepen the Marina enough to enable the transfer of vessels from docks 9 and 10 to the newly dredged West Basin area. This will enable the demolition of docks 9 and 10 to allow the ferry terminal service.

Lundie asked Grenell to explain the term “fish window.”

Grenell said that various wildlife agencies have determined a “fish window” for the San Francisco Bay where dredging can only take place from June 1st through November 30th. This is to protect the spawning and movements of salmon and steelhead. Grenell concluded that the fish window is the reason that the project must be completed by November 30th.

Action: Motion by Campbell, second by Tucker to approve Salt River Construction Corporation of California as the lowest responsible bidder for the Oyster Point West Basin Dredge project.

Tucker stated that if Salt River is approved, he will be paying very close attention to their prevailing wages to make sure they follow the requirements. He added that he has no problem with stopping the job if Salt River doesn't pay prevailing wages.

Padreddii expressed concern regarding Salt River Construction's safety history. He stated that he has never seen such a large difference between the lowest bidder and the second lowest bidder. Padreddii added that this is suspicious and he doesn't feel Salt River is responsible. Padreddii stated that the District should go with the next lowest bidder.

Lundie said he feels that Salt River was able to come in at such a low bid because they specialize in dredging and use specialized equipment. He added that safety is a big concern to him. Lundie said that if Salt River is awarded the job that staff pay close attention to prevailing wages. He added that the Board made some tough choices to reduce the budget by \$500,000 and said that here is a chance to affect that savings. Lundie said this is a good chance to show DBAW that the District is serious about paying down their debt.

Campbell asked Moseley if he is awarded the contract will he plan to do random drug testing for his employees. Moseley said yes. Campbell asked if he will drug test his employees before they enter District premises. Moseley said yes.

Ayes: 4

Nays: 1 (Padreddii)

- 3 TITLE: Agreement for Professional Services for Construction Management for Oyster Point Marina/Park West Basin Dredging Project with Moffatt & Nichol Engineers**
- REPORT: Staff Report
- PROPOSED ACTION: Approve Moffatt & Nichol Engineers for Construction Support Services and Authorize General Manager to Execute Professional Services Agreement in an Amount Not to Exceed \$25,000

Johnson informed the Board that Moffatt & Nichol Engineers have completed the bid specifications, permitting, and design and engineering. He said that the original proposal Moffatt & Nichols estimated construction support services at \$25,000 for this project, but due to potential project coordination and unknown variables with the WTA's scope of work proposed for the East Basin Dredging project, staff did not include construction support services in the original scope of work approved by the Board. Johnson recommended amending Moffatt & Nichol's professional services contract to include construction support services.

Action: Motion by Tucker, second by Padreddii to approve Item 3. The motion passed.

Ayes: 5

Nays: 0

- 4 TITLE: Oyster Point Marina/Park Launch Ramp Project**

Amendment 1 to Plans and Technical Specifications
REPORT: Staff Report
PROPOSED ACTION: Approve Amendment 1 to Plans and Technical Specifications

Johnson informed the Board that staff has researched LED technology for the parking lot lighting and discovered that it has the potential for 50% energy savings. He added that staff has the ability to install the light poles and fixtures.

Action: Motion by Padreddii, second by Campbell to approve Item 4. The motion passed.

Ayes: 5

Nays: 0

New Business

5 TITLE: Limited Commercial Activity Permit for Half Moon Bay Brewing Company
REPORT: Memo, Application
PROPOSED ACTION: Approve Limited Commercial Activity Permit for Half Moon Bay Brewing Company for September 13, 2007 Event at Oyster Point Marina/Park

This item was removed from the Agenda.

6 TITLE: Limited Commercial Activity Permit for Coastside Infant Toddler Center at Pillar Point Harbor
REPORT: Application, Draft Permit
PROPOSED ACTION: Approve Limited Commercial Activity Permit for Coastside Infant Toddler Center September 16, 2007 at Pillar Point Harbor

Action: Motion by Parravano, second by Campbell to approve Item 6. The motion passed.

Ayes: 5

Nays: 0

7 TITLE: Commercial Activity Permit for San Francisco Bay Boat Cruises, LLC at Oyster Point Marina
REPORT: Application, Draft Permit
PROPOSED ACTION: Approve Commercial Activity Permit for San Francisco Bay Boat Cruises, LLC at Oyster Point Marina/Park

Grenell stated that this applicant plans to operate boat cruises in the San Francisco Bay. Johnson added that the applicant has operated out of Brisbane and San Francisco. He said that he is confident with the operation.

Campbell said the applicant is requesting to run cruises until potentially 2:00 a.m. and questioned what could be done in order not to disturb Oyster Point tenants.

Grenell said the permit can be amended to include a condition that states the Harbor Master has discretion to curtail operations after 11:30 p.m.

Action: Motion by Lundie, second by Padreddii to approve Item 7. The motion passed.

Ayes: 5

Nays: 0

- 8 TITLE: Presentation of Final Financial Statements and Independent Auditors' Report for the Fiscal Year Ended June 30, 2006**
- REPORT: Schnapp, Financial Statements and Independent Auditors' Report, Resolution 27-07
- PROPOSED ACTION: Accept Final Financial Statements and Independent Auditors' Report for the Fiscal Year Ended June 30, 2006

Schnapp informed the Board that the Recommendations to Management are included in the final report.

Action: Motion by Campbell, second by Parravano to approve Item 8. The motion passed.

Ayes: 5

Nays: 0

URGENCY ITEM

Action: Motion by Parravano, second by Lundie to move Item 8A to the Agenda. The motion passed unanimously.

- 8A TITLE: Senate Bill 619 (Migden)**
- REPORT: Memo
- PROPOSED ACTION: Adopt Oppose Position on Senate Bill 619 and Authorize General Manager to Send Position Letter to Legislative Representatives

Action: Motion by Padreddii, second by Campbell to approve Item 8A. The motion passed.

Ayes: 5

Nays: 0

Public Hearing –

- 9 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, Resolution 24-07
 - C. Staff Report and Recommendation: Adopt Resolution 24-07 to Approve Amendment to Ordinance Code Section 3.2 to Provide for Event Permits
 - D. Public Testimony:
 - E. Commission Questions:
 - F. Close Public Testimony: President James Tucker
 - G. Commission Deliberation:
 - H. Recommended Commission Action: Adopt Resolution 24-07 to Approve Amendment to Ordinance Code Section 3.2 to Provide for Event Permits

Campbell stated that in the staff report on page two it states the proposed fees for the non-commercial activity event permit and on page six it states that “after the event the actual fees will be determined and the balance refunded, if any.” Campbell said this is contradictory and asked for clarification.

Wilkerson said that the phrase on page six refers to supplemental fees such as portable bathrooms, extra supplies and extra workers. Campbell said that is not made clear in the draft and should be revised. Wilkerson said she will make revisions.

Action: This item was moved to the September 5th Agenda.

- 10 TITLE: Negative Declaration for the Oyster Point Marina/Park Breakwater Reconfiguration Project as Required by the California Environmental Quality Act (CEQA)**
- A. Declare Meeting Open: President James Tucker
 - B. Report of Notice Given: Grenell
 - C. Staff Report and Recommendation: Accept Public Comment on Proposed Negative Declaration
 - D. Public Testimony:
 - E. Commission Questions:
 - F. Close Public Testimony: President James Tucker
 - G. Commission Deliberation:
 - H. Recommended Commission Action: Accept Public Comment on Proposed Negative Declaration

Operations

15 Oyster Point Marina/Park - Johnson

Johnson informed the Board that the fuel dock was shut down this evening due to a corroded supply line. He said gas is no longer being pumped until further notice.

16 Pillar Point Harbor – Temko

No report written.

Board of Harbor Commissioners

- 17 A. Committee Reports - None
- B. Commission Statements and Requests

No requests were made by the Board.

- 18 TITLE: **Identify Real Property Negotiator Pursuant to Government Code §54956.8**
REPORT: Zafferano
PROPOSED ACTION: Identify Real Property Negotiators Sally Campbell and Pietro Parravano

Tucker identified Grenell as Real Property Negotiator.

Action: Motion by Lundie, second by Parravano to move to closed session. The motion passed.

Ayes: 5
Nays: 0

Closed Session

- 19 TITLE: **Conference with Real Property Negotiator: Ketch Joanne Restaurant and Harbor Bar, Parcel 3, One Johnson Pier, Lessees Building, APN 047-083-060, Pillar Point Harbor, El Granada, San Mateo County Regarding Lease, Price, and Terms and Conditions Pursuant to Government Code Section §54956.8**
REPORT: Campbell and Parravano

PROPOSED ACTION: To Be Determined

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

Action: Motion by Lundie, second by Campbell to adjourn to Open Session. The motion passed unanimously at 9:04 p.m.

Open Session, Continued

There was no reportable action from Closed Session.

- 21** TITLE: **Discussion Item: Ketch Joanne Restaurant and Harbor Bar Lease**
REPORT: Campbell
PROPOSED ACTION: To Be Determined

This item was removed from the Agenda.

- 22** TITLE: **General Manager's Compensation**
REPORT: None
PROPOSED ACTION: To Be Determined

Action: Motion by Tucker, second by Lundie to extend General Manager's contract by thirty (30) days.

Items 20 and 22 will be continued to the September 5th Agenda.

Adjournment

Action: Motion by Lundie, second by Parravano to adjourn the meeting. The motion passed unanimously at 9:06 p.m.

APPROVED BY:

James Tucker

James Tucker
President

ATTESTED BY:

Theresa N. Hayes

Theresa N. Hayes
Deputy Secretary