

San Mateo County Harbor District Board of Harbor Commissioners Meeting Minutes

May 2, 2012

7:00 p.m.

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

Roll Call

Commissioners

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

Staff

Peter Grenell, General Manager
Genevieve Frederick, Director of Finance
Marietta Harris, Human Resource Manager
Scott A. Grindy, Harbor Master
Robert Lanzone, District Counsel
Debbie Nixon, Deputy Secretary

x-absent

Public Comments/Questions — None.

Staff Recognition - Grenell recognized Pillar Point Deputy Harbor Master Walding. Grenell stated that several days ago he met with and had an inspection with the Regional Water Quality Control Board at Pillar Point Harbor. He stated that there was a question as to whether or not the District would need to obtain a NPDES permit because of the possible water quality implications from industrial users at Pillar Point (fishing activity). Grenell stated that the Regional Board staff concluded that a NPDES permit was not needed based on the site inspection and the presentation and detailed information provided by Walding.

Grenell welcomed Scott Grindy, Harbor Master to the District, who is the Harbor Master for both facilities. Tucker welcomed Grindy on behalf of his colleagues and himself.

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calendar are approved by one motion unless a Commissioner requests at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda.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 *Special* Meeting April 18, 2012**
 REPORT: Draft minutes
 PROPOSED ACTION: Approval

- 2 TITLE: **Minutes of Meeting April 18, 2012**
 REPORT: Draft minutes
 PROPOSED ACTION: Approval

- 3 TITLE: **Minutes of *Special* Meeting April 26, 2012**
 REPORT: Draft minutes
 PROPOSED ACTION: Approval

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

Ayes: 4
Nays: 0
Abstention: 1 (Parravano on items 1 and 2)
Absent: 1 (Holsinger)

URGENCY ITEM

TITLE: **Pillar Point Harbor Pier Street Lighting Replacements**
REPORT: Grenell, Report, Invoice
PROPOSED ACTION: Accept the quote from DeMeo Electric, Inc. to perform urgent replacements of streetlight fixtures on the Johnson Pier in an amount not to exceed \$16,663.80. Authorize the General Manager to execute a contract with DeMeo Electric, Inc. in an amount not to exceed \$16,663.80

Action: Motion by Parravano, second by Padreddii to put the item on the agenda. The motion passed.

Ayes: 4
Nays: 0
Absent: 1 (Holsinger)

Grenell stated that there is an immediate need to replace some street lights on Johnson Pier. He stated they are not safe and very old and need to be replaced. He stated that Grindy will be working on creating an annual maintenance schedule for both facilities.

Action: Motion by Parravano, second by Bernardo to accept the quote from DeMeo Electric, Inc. to perform urgent replacements of streetlight fixtures on the Johnson Pier in an amount not to exceed \$16,663.80 and authorize the General Manager to execute a contract with DeMeo Electric, Inc. in an amount not to exceed \$16,663.80. The motion passed unanimously by a roll call vote.

Ayes: 4
Nays: 0
Absent: 1 (Holsinger)

New Business

- | | | |
|---|------------------|--|
| 4 | TITLE: | Harbor Commission Vacancy: Appointment of New Commissioner to Fill the Vacancy on the Board of Harbor Commissioners |
| | REPORT: | Tucker |
| | PROPOSED ACTION: | Appoint new Harbor Commissioner |

Grenell stated that on Thursday, April 26, 2012 a public meeting was held and the Commission appointed William Holsinger. Tucker asked where he was. Grenell stated that he was out of town and had a previous planned engagement.

Woren stated that there was a Brown Act Violation at the appointment on April 26, 2012 and it is null and void. He stated that it needs to be reagendaized for proper discussion of the vote per Government Code 54953, paragraph c and read "No legislative body shall take action by secret ballot, whether preliminary or final." He stated that the paper vote that was done without the public knowing who each Commissioner voted for is illegal and therefore null and void. He stated that if the item is reagendaized and action is taken properly, then the previous one cannot be held against the Commission as a Brown Act Violation.

Tucker confirmed with Grenell that the meeting on April 26, 2012 was a public meeting. Grenell stated it was. Tucker stated that at that time the vote was taken on a piece of paper that was there for the public to view. He stated that the Freedom of Information Act states that the paper ballot must be kept for 2 years and stated that if anyone would like to look at them would have proper access to them.

Lanzone stated the appointment item is on the agenda tonight. He stated that the issue could be cleared up by taking a vote on the item.

Action: Motion by Bernardo, second by Padreddii to appoint Will Holsinger to fill the vacancy on the Board of Harbor Commissioners. The motion passed.

Ayes: 4
Nays: 0
Absent: 1 (Holsinger)

- 5 TITLE: **Proclamation for Harbor Commissioner Sally Campbell**
 REPORT: Grenell, Proclamation
 PROPOSED ACTION: Approve Proclamation

Tucker started by reading the Proclamation. He told a story of when Campbell decided to convert to Catholicism. He stated that she knew that Tucker was Catholic and had gone to the seminary as a youngster and Campbell sought out guidance from Tucker. He remembered when Campbell had called his house and spoke with his wife one time. She called back a few other times to speak with her and he finally asked her what Campbell wanted. His wife stated that she wanted to talk to her about converting to Catholicism. Tucker said to his wife, but you're Jewish. He stated that was the beauty of it, here Campbell was speaking to his Jewish wife about converting and they were working together. He stated that there were many things that he admired about Campbell and could tell many stories.

Parravano stated that he developed a close friendship and relationship with Campbell. He recalled one time when he was the President of the Local Fisherman's Association and there was a time in November when there was a crab strike. Campbell was concerned about the welfare of the fishermen. She asked Parravano to put together a wish list of items that fishermen would like to have for Thanksgiving such as food for their families and clothing. He stated that was one of the outstanding talents Campbell had for the fishermen and the community.

Padreddii stated that he and Campbell got along well and ran for election together and always helped each other out. He stated that he will miss her as everyone will and wished the best for Greg Campbell and his family.

Bernardo stated that he knew Campbell briefly and stated that he always looked at his fellow Commissioners to learn. He stated one of the things he admired about Campbell was her no-nonsense style. He stated he always wanted to be more like that and be more forthright and direct and admired her for that. He stated that is a sign of a good leader and he will always remember that.

Grenell stated he had worked with Campbell for 14 years and one of the things that he has always respected and enjoyed about Campbell was her passion and caring about what she was doing as a Harbor Commissioner and for both Harbors, particularly Pillar Point Harbor. He stated that there had been many intense conversations and confrontations in the past. He stated there was one time they were so angry at each other, they didn't speak for quite some time. Then they both realized that they had a job to do, met for coffee, and sorted everything out and was just fine ever since. He stated that she was invaluable to him in providing a channel of communication to the community and took her connections with her constituents very seriously.

Tucker presented Campbell's son Greg with a Proclamation for Sally Campbell and expressed he was sorry for his loss. Greg stated that it was not just his loss, but everyone's loss. He thanked everyone for presenting the Proclamation for Campbell.

Public Hearing -

- 6 TITLE: **Lease Proposals for Fish Buying and Fish Unloading; Pillar Point Seafood (McHenry), Three Captains Sea Products, Inc. (Fortado), Morningstar 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 notice had been given. Parravano recused himself. Grenell gave a brief update. He stated he spoke with two of the proposers earlier that day in a continued effort to reach a point where the Commission could award three leases. He stated that there are a couple issues that arose at the last meeting, one being Community Fishing Associations (CFA's) and the Board requested Zeke Grader, Director of the Pacific Coast Federation of Fishermen's Associations to provide a brief written submittal on CFA's to help the Commission understand better how CFA's might affect Pillar Point Harbor and the fishing industry; the second item is gathering a list of information regarding fees other harbors are charging for unloading fees and poundage fees for purchased fish; the third item is that at the last Board meeting the Commission continued the public hearing to this meeting and some expressed concern because of the start of Commercial Salmon season on May 1 and some would not be able to attend today's meeting. He stated that everyone would like this process completed as soon as possible and stated that the Commission has a very difficult decision to make. Grenell stated that Tucker will not be at the May 16th meeting and it will be Holsinger's first meeting which is of a concern to him. He recommended continuing the public hearing over to the June 6th meeting.

Tucker shared a sense of frustration he had. He stated that the Commission, per the Harbors and Navigations Code, has the authority to negotiate with the four applicants and have done that for some months. He asked Grenell if staff is too close to the fish buyers to negotiate the

lease and perhaps outside Counsel would benefit the District. Grenell stated that it is a possibility and stated that he would like to expedite the process. He stated that if use of outside Counsel would help move the process along, he supported that. Tucker clarified that there are four applicants for three positions, one applicant is on board and has met all requirements and the other three have not met them. Tucker asked hypothetically if there was a need for three fish buyer stations or could there be two fish buyer stations. Grenell stated that three fish buyers be maintained and that they are all different in what they do and who they serve. Tucker asked if all three leases are on a month to month basis since they are expired. Grenell stated yes. Tucker asked if the District is within its rights to issue a 30 day notice. Grenell stated yes, the District has that period of notice but in fact the general lease conditions contain language in all three that provide for up to 60 days for a lessee, at point of termination of the lease, to clear out lessee's own improvements that are moveable. He stated that if lessee x had the lease terminated, they would have up to 60 days to move everything out, so anyone provided with a new lease would not have access for 60 days. Tucker stated that if an agreement can't be made at the June 6th meeting, something will need to be done and this item cannot keep dragging on.

Padreddii stated that in all fairness to those who can't be there, he would like the item to be continued to the June 6th meeting.

Bernardo agreed with everyone's comments and would really like to see a resolution for this item at the June 6th meeting.

Lisa Bettencourt wanted to share some additional information to help the Commission make a decision and stated that if she was a Commissioner, a couple things she would ask would be which three applications not only would generate the most revenue but would present a vision for the future of Pillar Point Harbor, what would the Commission want the lease spaces to look like in 5-10-15 years. She stated that at least one of the applicants had stated on the record that he needs a longer lease to increase the value for a potential sale and have heard similar retirement discussion from other applicants. Bettencourt stated that there have been talks of an open hoist or an independent hoist. She stated that the Commission should question how open is open. Bettencourt Fisheries has stated from day one that they will unload every boat, any affiliation, any fishery which includes fisheries that compete with their own fishing business. She stated that 4 first receiver licenses were issued to the harbor in 2011, one to Fortado, one to Mallory, one to them, and one to another vessel that operated independently. She stated that a Community Fishing Association (CFA) has been included in the Bettencourt Fisheries package from day one. She stated that Grader and Collins have stated that they do not hold quota and Bettencourt stated that they hold quota and that would be in effect immediately.

Tucker stated that Grader was present and the Commission had reviewed the letter he submitted. He asked Grader if there was anything he would like to add. Grader stated that he was present to answer any questions and stated that if anyone had any questions to please submit them in writing and he would address them.

Fortado stated that he and Grenell has been speaking and the only problem he has with the lease is the 1 cent per pound for unloading and stated that it would be another \$10,000 per year to pay and didn't think that was what the Commission had in mind. Tucker asked

Fortado what Monterey charges. Fortado stated he didn't think there was a charge and neither does San Francisco. Tucker stated that San Francisco is a different system. Fortado stated that McHenry submitted a report to them with all the different ports listed on it. He asked Tucker if that was what they were proposing was the \$10,000 - \$15,000 per year on top of the base rent. Tucker asked what the sample lease read. Grenell stated that proposed base rent would be \$3,000. Tucker asked Fortado what if the base rent was lowered a couple hundred dollars to take away some of the pressure. Fortdao stated that was talked about. He stated that the 1 cent per pound would be from the fish he buys, where the guy on the other side doesn't buy anything and he would be charged a penny and the other person wouldn't have to pay. Tucker stated that there is an unloading fee now. Tucker asked Fortado if he felt that there could be two fish buyers instead of three and Fortado stated that there needs to be three and it gets very hectic at the peak of fishing season.

Geoff Bettencourt wanted to clarify the poundage fee and unloading fee. He stated his understanding is 1 cent when it is unloaded and 1 cent when it comes off the dock to equal 2 transactions, one cent each that total two cents for every pound of fish that comes off the boat. Grenell clarified that the Commission was looking for, in addition to base rent, two sources of additional income, one if the lessee buys fish and then if a lessee is unloading. He stated that there are fish buyers who are not lessees and who are buying fish direct from fishermen and there are two problems with that. The first one is that they are in violation of the District Ordinance Code because they are doing business in the Harbor which requires them to have a permit. He stated the second thing is that there is no revenue coming to the Harbor District. He stated that at the previous meeting the Commission did approve a new requirement for anyone who is a non-lessee fish buyer to have a Commercial Activity Permit. Grenell explained the permit process and stated that there is a standard \$250 permit fee along with a charge on the fish bought by the permit holder at a proposed 1 cent per pound and would be monitored through Fish and Game tags. Bettencourt asked if it was unreasonable to ask if a lease could be granted to them and then the other three lease negotiations could continue. Tucker stated that the decision needs to be made all at once and understands Bettencourt's position and thanked him for his patience.

Action: Motion by Bernardo, second by Padreddii to continue the item to June 6, 2012. The motion passed unanimously.

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

mats to ensure the tenants get necessary mats to help protect our harbors. She stated that the District has received its second large installment of property taxes and that will be reflected in the next copy of the budget.

Grenell stated that staff recommends adoption of the preliminary budget as it currently stands to begin the statutory public review and comment process. Tucker asked if he needed to close the public testimony or continue the item. Grenell stated he believed he needed to close the public testimony and seek a motion to adopt the resolution. Lanzone stated that the resolution approves the preliminary operating budget, and authorizes issuance of the public notice for public review and comment and then at a future meeting the budget would be brought back and those comments would be reviewed and changes would be made.

Action: Motion by Parravano, second by Bernardo to close the public testimony. The motion passed unanimously.

Action: Motion by Parravano, second by Padreddii to adopt Resolution 06-12 to adopt the Preliminary Operating Budget for FY12/13. The motion passed unanimously by a roll call vote.

Ayes: 4
Nays: 0
Absent: 1 (Holsinger)

- 9 TITLE: **District Rates and Fees Schedule for FY2012-2013 for Oyster Point Marina**
REPORT: Frederick, Rates and Fees Schedule
PROPOSED ACTION: To be determined

Frederick stated that there have been changes to the clarify the Rates and Fees Schedule but only one fee change, which was transient rates for those who stay at the harbor for 4 hours or longer. Tucker asked if the rates are the same as Pillar Point. Frederick stated beside the correction to the A-C docks fees, everything else is the same.

Grenell stated that the item needs to be adopted by resolution and that will be on the May 16 agenda.

- 10 TITLE: **District Rates and Fees Schedule for FY2012-2013 for Pillar Point Harbor**
REPORT: Frederick, Rates and Fees Schedule
PROPOSED ACTION: To be determined

Grenell requested clarification from the Commission regarding towing charges. He stated the item says towing charges, \$200 per hour. Frederick stated that if the District needed to move

Board of Harbor Commissioners

20 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.

Bernardo thanked Grenell for his report regarding the United States Army Corps of Engineers

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

Closed Session

- 21 TITLE: **Conference with Labor Negotiator pursuant to Government Code §54957.6: Operating Engineers Local Union No. 3**
- REPORT: Harris
- PROPOSED ACTION: To Be Determined

Action: Motion by Bernardo, second by Parravano to adjourn to open session. The motion passed unanimously at 8:34 p.m.

Open Session, Continued

Reported out from closed session – Bernardo moved to approve amendments to the MOU

- 22 TITLE: **Amendments to Memorandum of Understanding (MOU) with Operating Engineers Local Union No. 3**
- REPORT: Grenell, Memo
- PROPOSED ACTION: Approve amendments to MOU

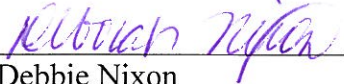
Action: Motion by Parravano, second by Bernardo to approve the amendments to the MOU. The motion passed by a roll call vote.

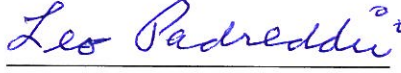
Ayes: 4
Nays: 0
Absent: 1 (Holsinger)

Action: Motion by Parravano, second by Bernardo to adjourn the meeting. The motion passed unanimously at 8:35 p.m.

Adjournment

The next scheduled meeting will be held on May 16, 2012 at the Municipal Services Building, 33 Arroyo Drive, South San Francisco at 7:00 p.m.


Debbie Nixon
Deputy Secretary


Leo Padreddi
Acting President