

MINUTES
BOATING AND WATERWAYS COMMISSION MEETING
REDDING, CALIFORNIA
December 7, 2007

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairwoman Clark, on December 7, 2007, at 8:38 A.M., at the Hilton Harbor Island Hotel, 1960 Harbor Island Drive, San Diego, California.

ROLL CALL

Commissioners Present: Lenora S. Clark
 Douglas W. Metz
 Robert Y. Nagata
 H.P. "Sandy" Purdon
 Edward C. Reno III
 Warren E. Rupf

Department of Boating and
Waterways Personnel Present: Raynor Tsuneyoshi, Director
 Lucia Becerra, Chief Deputy Director
 Dr. Reinhard Flick, Oceanographer
 Penny Schulz, Staff Council
 Steve Watanabe, Chief, Facilities Division
 David Johnson, Manager, Legislation
 Harold Flood, Manager, Facilities Division
 Margarita Sanchez, Administrative Assistant
 Gloria Sandoval, Public Information Officer
 Renae Anub, Staff Services Analyst

OPEN SESSION

Chairwoman Clark welcomed the public and thanked them for braving the stormy weather to attend the meeting. She asked for a moment of silence for the troops who are protecting the nation around the globe.

APPROVAL OF MINUTES

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Metz that the Boating and Waterways Commission minutes of the October 3, 2007 meeting be approved. The motion carried unanimously.

CHAIRWOMAN'S REPORT

Chairwoman Clark reported on the meeting she and Commissioner Rupf had with two members of the State Parks and Recreation Commission. As a follow-up to the meeting, she sent a letter to the Chair of the Parks and Recreation Commission to memorialize what was transpired. Chairwoman Clark said she sent the letter on October 31, 2007 to Chairman Shriver thanking him for enabling the initial meeting between the two commissions.

Chairwoman Clark, as president of Recreational Boaters of California (RBOC), said they sponsored AB 1458 the mandatory boater education and certification bill, however, did not move forward this year. She added that there have been meetings with Assemblymember Duvall who will reintroduce a similar bill in 2008 and who is eager to push it forward this year.

Chairwoman Clark stated that she attended the National Advisory Council, sponsored by Boat U.S., in Washington DC. She said California has the only boating advocacy group in the nation and is recognized throughout the United States. The Council, she said, was interested in the mandatory boater education and certification program. Many issues were discussed at the meeting including copper bottom paints and national boater identification.

Chairwoman Clark reported that RBOC has actively participated with the Department on the abandoned vessel task force and will continue to address what they see as inequities in the program.

DIRECTOR'S REPORT

Mr. Tsuneyoshi reported that the Department of Pesticide Regulation (DPR) unveiled its findings to the State Water Resources Control Board on its investigation into water quality and copper antifouling paint used on vessels berthed in marinas. He indicated the study found a significant source of copper in marina waters and copper concentrations in many salt and brackish waters in California that exceeded water quality standards for copper. DPR, he said, will be working with stakeholders and the paint manufacturers to develop a regulatory plan to reduce copper loading. He indicated a representative of DPR will be addressing the commission on this issue at a future meeting.

Mr. Tsuneyoshi said the Wear it California campaign's survey was conducted in the summer of 2006 and it indicated the Delta region had a six percent life jacket wear rate and this year's survey indicated a 100 percent increase in wear rate. Key partners in the campaign were Boat U.S., the National Safe Boating Council and the U.S. Coast Guard. Preparation, he said, is now being done for the 2008 campaign.

Mr. Tsuneyoshi introduced new personnel changes; Lucia Becerra, Chief Deputy Director, and Penny Schulz, Chief Counsel.

Mr. Tsuneyoshi presented the Department's "Distinguished Public Service Award" to Lou Gerlinger. Mr. Gerlinger writes articles for the newspaper *The Log*, which he previously owned.

Duncan McIntosh, owner of the Log and Harry Monahan, Southern California Marine Associations, congratulated and said a few words about Mr. Gerlinger's accomplishments. Mr. Gerlinger thanked everyone.

LEGISLATIVE REPORT

David Johnson reviewed the Legislative Report and gave the Commission an update of legislative matters concerning the Department. Copies of the Legislative Report were available to the public and Mr. Johnson was available to answer questions from the Commission members.

Mr. Johnson reported on AB 118, Nunez, which would double the vessel registration fee from \$20 to \$40 collectively every two years. The funds collected, he said, would go into research and technology to reduce carbon emissions. The bill was signed by the Governor on October 14, 2007.

Commissioner Metz asked if the Department will be involved with any research related to vessels and who will get the monies for the research. Mr. Johnson replied that the bill is not clear on how the money will be distributed and the Air Resources Board may be the agency that will do research on engine technology. Chairwoman Clark stated that RBOC was in contact with the author of the bill and they will establish a stakeholder group; a member of RBOC will be on it to look at how the bill will affect boaters.

Mr. Johnson reported that AB 958, Evans, was vetoed by the Governor. AB 958, he said, is the Spud Point Marina bill that was vetoed because it contained two separate subjects. Mr. Johnson stated the Department is currently working with the Administration and Sonoma County and sometime in January the provisions of AB 958 will be placed into AB 990 (Berg).

Mr. Johnson stated that AB 1000, Smyth, would allow state and local entities to adopt a boating ordinance that pertains to immediate threats to public safety and boating. He said the Department is working with the boating community to develop a definition of "unseaworthy", since there are a lot of vessels in the water that are unfit or unsuitable and the problem is to get the boats off the water before they become abandoned. Commissioner Nagata asked for the definition of "unseaworthy." Jack Peveler, Harbormaster, Channel Islands Harbor, replied the definition is being finalized and should be available sometime this week. Chairwoman Clark added that the language is very important and needs to be understandable so it can be enforced by law enforcement.

Mr. Johnson stated AB 1683 (Wolk) would prohibit a person from possessing, importing, shipping, transporting, or placing in any state waterway, Quagga mussels. It would authorize, he said, the Department of Fish and Game to close or restrict access to waterways as necessary to prevent the spread of Quagga mussels and provides that any entity in the state discovering Quagga mussels must report the findings immediately.

Mr. Johnson reported on HR 2550, Taylor, which would redefine the term “pollutant” under the federal Clean Water Act to specifically exempt from regulation engine cooling water, bilge water and other incidental discharges from recreational vessels. He said the bill has not moved in the House and the Department is trying to get a position on the bill from the administration.

Commissioner Metz asked why the Department does not have a position on AB 1227.

Mr. Johnson replied that the Department is working with Lake Tahoe officials and other state agencies on the bill. He said the Department proposes positions on bills to the Resources Agency and the Governor’s office and the position that we received from the Governor’s office was neutral.

Chairman Clark added that HR 2550 has a companion Senate bill that would lead to play the position that recreational boaters have had for 30 years on not having to have a permit for the operations of their vessels. She asked boaters to write their legislators on the bill because Environmental Protective Agency has until September 2008 to act on the bill and Congress has recessed without taking any position on either the House or the Senate. Chairman Clark indicated that Senator Boxer has weighed in on the bill and RBOC will assist the Senator in any way that is needed.

CONSIDERATION OF RECREATIONAL MARINA LOAN

Ms. Anub presented to the Commission for it advice and consent the following request for a Recreational Marina Loan.

Oxnard Marinas

Oxnard Marinas, L.P. has applied to the Department of Boating and Waterways for Recreational Marina loans totaling \$12,131,000 for improvements to the Peninsula and Bahia Marinas (Oxnard Marinas). This concerns the Phase III loan of \$2,287,000.

The Oxnard Marinas are located within Channel Islands Harbor along the coast of southern California. The Peninsula Marina consists of 340 berths and 17 end ties and the Bahia Marina consists of 69 berths and 8 side ties.

Ms. Anub indicated the proposed project would entail the replacement of marina berths; gangways; security gates; utilities; improvements to the harbormaster/restroom building, and construction of two small dinghy docks.

Tom Hogan, Principal, Oxnard Marinas, was available to answer any questions from the Commission.

Ms. Anub stated staff recommends that the Boating and Waterways Commission consent to Phase III Recreational Marina loan funding of \$2,287,000 to Oxnard Marinas, L.P. for improvements to the Peninsula and Bahia Marinas.

Commissioner Metz stated he visited the proposed project site and said it is a significant facility for boaters. He noted that the facility is about 40 years old and asked what overall plans there

were for the area and if any public grants will be used. Mr. Hogan replied that the harbor district has an extensive plan on redoing the entire harbor and the harbor requires, as part of the lease extension, for the facilities to be rebuilt. He added that in the next ten years the harbor will be totally rebuilt.

Chairwoman Clark asked if this Recreational Marina loan is phase III of seven or eight of the loan process. Mr. Hogan replied that the project will be done in about six or seven phases and the requirement of the lease indicate it will be done over a period of eight years. Mr. Flood added that it is estimated the project to be done in seven phases and with a total of \$12,131,000. He added if there are any changes in the future, they will come before the Commission for consideration. Mr. Flood stated that each of the loans are set so that it will be first construction of a certain area and if future funding is not available, the loans will still be okay financially.

Commissioner Nagata noted the schedule in the Feasibility Report, page six, has phase three as \$2,827,000 and should it be \$2,287,000? Mr. Flood responded that it is a typo and will be corrected. Commissioner Nagata asked if the proposed project is going to be a \$12 million loan and asked about a first lien on the lease hold of \$2.5 million. Mr. Hogan replied the current loan of \$2.5 million is with Western Bank and there is an outstanding balance of \$25,000.

Commissioner Nagata asked if there is a personal guarantee on the loan. Mr. Hogan replied there is no guarantee on the loan. Mr. Flood added that there is a deed of trust security on the loan that will be upgraded with a first when the purchase loan is repaid.

Commissioner Purdon asked Department staff how many Department loans are in second position. Mr. Flood responded that the department was in second position on most loans; when a borrower comes to the Department, they have a first position loan for purchasing the property. The Department, by law, can subordinate to another loan.

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Nagata that the Commission approve Phase III, Recreational Marina loan funding of \$2,287,000 to Oxnard Marinas, L.P. to make improvements to the Peninsula and Bahia Marinas (Oxnard Marinas). The motion carried unanimously

Mr. Hogan thanked the Commission for the approval of the loan. He made comments with regards to the mandatory education issue. Mr. Hogan said as a sailboat racer, it is required on long distance racing, to take safety and sea seminars, which include subject matter on issues that might occur on the ocean. He said the sail boat racing industry is already putting in process seminars and education on boater safety and education.

CONSIDERATION OF PUBLIC GRANT

Mr. Flood presented to the Commission for its advice and consent the following request for a public grant.

Channel Islands Harbor Boat Launching Facility

The County of Ventura has applied to the Department of Boating and Waterways for a grant for improvements to the Channel Islands Harbor Boat Launching Facility. This concerns Phase I grant funding of \$430,000 of a proposed \$4,940,000 grant.

The boat launching facility is located in Channel Islands Harbor on the southern coast of California in the city of Oxnard, within the County of Ventura.

Mr. Jack Peveler, Harbormaster, Channel Islands, was available to answer questions from the Commission.

Mr. Flood indicated the proposed project includes demolition of the existing six-lane boat launching ramp and construction of a new six-lane boat launching ramp; construction of a turnaround and ready lanes; installation of three new boarding floats; slope protection; reconfiguration/repaving of the south parking area; sidewalks and curbs; storm drainage; demolition of the existing restroom and construction of a new restroom; utilities; lighting; a boat wash down area, and a project sign.

Commissioner Metz, who visited the proposed project site and recommends approval, reported that there is a safety factor there because the launching ramp is deteriorating. He stated that trailers have slid the last ten feet of the ramp because the concrete is smooth. He also stated that the direction of the ramp needs to be realigned because if you lose power as you launch a boat you could hit the marina directly behind the ramp.

Commissioner Nagata asked why the restroom is so expensive. Mr. Flood said restrooms are very expensive and have to be made out of concrete and be virtually indestructible. He added that the amount listed in the report is average cost.

Chairwoman Clark stated the diagram on page 11 in the Feasibility Report shows docks where the parking lot and boarding floats are. Mr. Peveler responded it is a small boat marina. He said the launch ramp has to be realigned because when there are prevailing winds, it blows boats right into the marina. Mr. Flood added that the docks shown were being taken out.

Mr. Flood stated staff recommends that the Boating and Waterways Commission consent to Phase I grant funding of \$430,000, to the County of Ventura for improvements to the Channel Islands Harbor Boat Launching Facility.

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Purdon that the Commission approve Phase I grant funding of \$430,000 to the County of Ventura for improvements to the Channel Islands Harbor Boat Launching Facility. The motion carried unanimously.

Mr. Peveler thanked the Commission for their approval and apologized for Lyn Krieger, Harbor Director, who could not attend the meeting because she had to meet with Coastal staff to finalize the waterside amendment.

CONSIDERATION OF PUBLIC LOAN

Mr. Flood presented to the Commission for its advice and consent the following request for a public loan.

Dana Point Harbor Marina

The County of Orange has applied to the Department of Boating and Waterways for a loan to make improvements to the Dana Point Harbor Marina. This concerns Phase IV loan funding of \$4,800,000 for Loan A. The total project cost is anticipated to be \$85,000,000.

The Marina is located in the City of Dana Point along the southern shoreline of Orange County between the City of Oceanside to the south and the City of Newport Beach to the north. The marina is divided into two areas, the East Marina, and the West Marina.

Mr. Flood indicated the proposed project will include demolition and reconstruction of 240 berths in the East Marina; demolition and reconstruction of 500 berths in the West Marina; installation of gangways in both marinas; replacement of dock utilities; fortification of the bulkhead; installation of temporary berths, and a project credit sign.

Commissioner Metz, who visited the proposed project site, reported that there is a significant need for improvement and recommends approval.

Brad Gross, Director, Dana Point Harbor Department, was available to answer any questions from the Commission. He introduced his staff; Phoebe Siemion, Budget Officer and David Rocha, Engineering Manager.

Mr. Flood stated staff recommends that the Boating and Waterways Commission consent to Phase IV loan funding of \$4,800,000 for Loan A to the County of Orange for improvements to the Dana Point Harbor Marina.

Commissioner Metz asked what efforts are being made, during the demolition phase, to make it environmental friendly, such as, recycling or minimizing landfill requirements. Mr. Gross

responded that there is little consideration for recycling of the material as it exists for reuse in another facility, but he will consider recycling materials, such as the metals in the docks.

Chairwoman Clark stated at the Commission meeting in Orange County there was considerable concern from boaters about the project and asked how the situation has proceeded. Mr. Gross responded there have been extensive boater meetings in the past two months since he has been at the harbor and everything has been proceeding well. He indicated that the environment review of the project is being considered at the moment and not the issue of the slip mix. Mr. Gross indicated more meetings will be held such as, town hall meetings and he will keep the Commission informed.

Commissioner Nagata asked that the collateral and the lease back from the county to the Department be explained. Mr. Flood responded that the collateral is the revenue streams from the berths and other revenues from the commercial businesses inside the project area; by leasing the marina up front and then leasing it back to the county, the Department would get all of the revenues immediately if they default on their loan and then the Department can redistribute the funds as fitting. Commissioner Nagata asked if the Department will own the property or be leasing it. Mr. Flood responded the Department will be leasing the property.

MOTION: It was moved by Commissioner Nagata and seconded by Commissioner Purdon that the Commission approve Phase IV loan funding of \$4,800,000 to the County of Orange for improvements to the Dana Point Harbor Marina. The motion carried unanimously.

Mr. Gross thanked the Commission and Department for its approval.

OLD BUSINESS

Invasive Species, Copper Paint, and Boater Outreach Research Activities

Dr. Reinhard Flick introduced Scripps Institution of Oceanography researchers, Dr. Carlos Neira, Scientist; Lisa Levin, Professor, and Miriam Goldstein, Graduate Student. He also introduced Leigh Taylor Johnson, Scripps' Marine Advisor, who gave a presentation on invasive species issues for boats in salt water.

Dr. Flick gave an update on the benthic effects of copper in the Shelter Island Yacht Basin and on the Total Maximum Daily Load (TMDL) for Copper guidelines of the San Diego Regional Water Quality Control Board. He indicated the compliance schedule is as follows:

- Orientation period – No reductions, 2-years
- Compliance –Three-stage phased reductions, 15-years
 - 10%-Years 2-7

- 40%-Years 7-12
- 76%-Years 12-17

After discussion, Dr. Flick ended his presentation.

Balancing Water Quality and Invasive Species Issues for Boats in Salt Water

Ms. Leigh Taylor Johnson gave a PowerPoint presentation on the copper bottom paint and invasive species for boats in saltwater. She had related hand-outs which were made available to the public.

Ms. Johnson stated she has researched copper based paints since 1999 and the invasive species issue since 2004 and has held many workshops/seminars on the subjects. She went over the TMDL for copper and indicated it will require that the copper emission be cut by 76% over 15 years.

Ms. Johnson indicated that invasive species issue cause many problems such as clogging of intake pipes for drinking and irrigation water systems, as being done by the quagga mussel. She said marine invasive species, such as a relative of the pill bug, are drilling holes on the shoreline of the San Francisco Bay. This has caused the bay shoreline to erode by a few yards. Marine invasive species arrive along the coast by cargo ship. When a boat is in port, there is opportunity for the species to latch on and be carried someplace else. Ms. Johnson stated that scientist have found certain invasive species that tolerate copper better than native species; these can cause native species to become nonexistent. She suggested boat owners have their vessel hulls cleaned before going to other regions, when at major ports and when returning home.

Chairwoman Clark called for a break at 10:30 p.m.; the meeting resumed at 10:49 p.m. Commissioner Rupf entered the meeting and apologized for being late; his plane was redirected to because of the storm and he drove to the meeting instead.

After discussion on type of paints used on boat hulls, Ms. Johnson ended her presentation.

Commissioner Purdon indicated there is public confusion on the State Water Quality Control Board's rules on the issue of the TMDL and asked that the Director invite Dr. Lillian Busse or someone from the Water Quality Control Board to address the actual compliance requirements. Mr. Flick responded that Dr. Busse is in charge of implementing the TMDL at the San Diego Regional Quality Control Board and would be the right person to have address the issue. Mr. Tsuneyoshi responded he will invite someone from the Board to address the issue at a future Commission meeting.

Chairwoman Clark stated that there was discussion at the National Advisory Council in Washington DC on the Wallop Breaux Fund and how the money is being used throughout the country. She said the issue is boaters are getting an inequitable share of the fund that is divided between the sports fishing fund and boating fund. The states will be asked how the Wallop Breaux funds are being utilized. Mr. Tsuneyoshi stated the fund is now called the Sports Fishing Restoration and Boating Safety Fund and the portion of the fund being discussed is the 2 ½ cents

of the gasoline sales tax estimated to be about \$110 million a year, currently set aside for the national debt restoration. When the money is used for sports fishing restoration it is one part state money and three parts federal money, but when it is on the boating side, it is not the same. California, because of its boating programs does not have any problems spending the money allocated, but there are many other states that cannot spend their money and the surplus gets redistributed to states that overspend. This year he said, California received an additional \$2.5 million from the fund.

NEW BUSINESS

Commission Statutory Duties

Mr. Johnson spoke on the duties and role of the Commission with regards to Harbors and Watercraft, Section 82. Commissioner Metz had asked if it were possible to have a two person subcommittee that would be able to look at the Department's proposed budget prior to the Governor's release on January 10. Mr. Johnson responded that Resources Agency advised against the subcommittee.

At the previous Commission meeting, Chairwoman Clark asked what Department presentations have been made to the Commission. Mr. Johnson listed the presentations given to date as; the Clean and Green boating program; Boating Accident Reporting program and boat launching facility grants and private and public loans. He added that at every Commission meeting there will be a Department program presented for informational purposes.

Commissioner Metz asked for the status on the bad loan protocol, which Commissioner Rupf offered to work with Department staff on, and the continued dialog on the interest rate issue of Department loans. Mr. Johnson replied the department needed additional time to make an adequate presentation to the Commission.

Commissioner Reno said he has heard of budgets cuts of 20% for every department and wants to know what impact if any it will have on the Department's loans and grants program; he would like to have the Commission notified of any cuts. Mr. Johnson responded the request for any budget reductions would be for General Fund departments and agencies and Boating and Waterways has not been asked to reduce personnel years or budget at this time. He added he will let the Commission know if cuts will be made to the Department.

Election of Officers

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Nagata to nominate Commissioner Rupf as Chairperson and Commissioner Metz as Vice Chair of the Boating and Waterways Commission for the year 2008. The motion carried unanimously.

PUBLIC COMMENTS

Mark Sandoval, Manager, City of Long Beach Marinas and Beaches, said he wanted to comment on the lack of money and the need for the public loan program which was discussed in the October Commission meeting. He said the City of Long Beach is closing bids on rebuilding the Alamitos Bay Marina and anticipates that the projected cost for the project will be about \$80,000,000. He stated there is a need for funds. For example, the City of Long Beach has requested \$64,000,000 in loans to date and the Commission has approved \$21,000,000 of that because of budget cuts and if the Department had \$43,000,000 available, he could use it now.

Jack Peveler, Channel Island Harbormaster and President of the California Harbor Masters and Port Captains Association, agreed with Mr. Sandoval and stated part of his agenda for 2008 is to discuss boating facility construction projects with the Department.

Brad Gross, Director, Dana Point Harbor Department, said just like the City of Long Beach projects, the City of Dana Point is looking for an additional \$45,000,000 to fund projects over the next few years. There is a need for money for projects; and, if the money was available there would not be a need to come before the Commission to obtain the money in increments. This, he said, would eliminate the projects from being done in phases of 5, 7 or 10 years.

COMMISSIONER ANNOUNCEMENTS

Meeting Schedule for 2008

Chairwoman Clark read the proposed meeting schedule for 2008. Commissioner Rupf requested that in every Commission meeting the schedule with any amendments be included in their packets. He said he would take a few weeks to make changes on the current meeting schedule and will have it ready for the next meeting.

After discussion it was decided that the next Commission meeting will be held February 20 and 21 in San Francisco and the meeting schedule for 2008 will be adjusted by Commissioner Rupf and ready for the next Commission meeting.

Commissioner Rupf asked that Commissioners submit to him any specific agenda items, issues, presentations, and discussion items they would like to have at future Commission meetings.

Commissioner Purdon congratulated Chairwoman Clark on a job well done as chair of the Commission.

ADJOURN

Chairwoman Clark adjourned the meeting at 11:53 a.m.

Original signed by:

Raynor Tsuneyoshi, Secretary