

MINUTES
BOATING AND WATERWAYS COMMISSION MEETING
SACRAMENTO, CALIFORNIA
April 25, 2008

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairman Rupf, on April 28, 2008, at 8:30 A.M., at the Hyatt Regency hotel, 1209 L Street, Sacramento, California.

ROLL CALL

Commissioners Present: Lenora S. Clark
 Douglas W. Metz
 Robert Y. Nagata
 Warren E. Rupf

Commissioner Absent: H.P. "Sandy" Purdon
 Edward C. Reno III

Department of Boating and
Waterways Personnel Present: Lucia Becerra, Chief Deputy Director
 Penny Schulz, Chief Counsel
 Steve Watanabe, Chief, Facilities Division
 David Johnson, Division Chief
 Harold Flood, Manager, Facilities Division
 Denise Peterson, Manager, Operations
 Phaedra Bota, Manager, Education Unit
 Renae Anub, Associate Governmental Program Analyst
 Veronica Bryan, Associate Governmental Program Analyst
 Mary Thomas, Associate Governmental Program Analyst
 Margarita Sanchez, Administrative Assistant

COVENE

Chairman Rupf convened the meeting and announced commencement of the Closed Session. Following completion of the Closed Session, Chairman Rupf continued with the public portion of the meeting.

OPEN SESSION

Chairman Rupf welcomed everyone to the meeting. He stated that the Boating and Waterways Commission met in Closed Session and discussed facts that suggest possible litigation pursuant to Government Code Section 11126(e). Chairman Rupf reported no action was taken.

APPROVAL OF MINUTES

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Clark that the Boating and Waterways Commission minutes of the February 21, 2008, meeting be approved. The motion carried unanimously.

CHAIRMAN'S REPORT

Chairman Rupf complimented staff on the quality and informative field trip the day before. He commented on the quality of the Feasibility Report, but would like the tabs added back. Chairman Rupf reported his mid-term meeting with the Director and Chief Deputy Director went well and hoped to continue to meet before every Commission meeting. He also commented on the 2008 Commission meeting schedule and would like it to be available at every meeting. Chairman Rupf indicated that Commissioner Purdon should be attending the next Commission meeting in Napa.

DIRECTOR'S REPORT

Ms. Becerra gave the Director's report. She stated that AB 2110, Mandatory Boating Education bill passed the Assembly Transportation Committee with all "yes" votes; the bill would create a safer recreational experience for the millions of boaters on the waterways.

Ms. Becerra indicated the Department is continuing the work with the multi-agency task force on the Quagga/Zebra mussels. She said additional efforts will be taking place prior to the Memorial Day weekend. Boaters, water districts and local governments will be receiving a letter informing them of the availability of toolkits that will contain specific protocols for the containment of the mussels. The toolkits are available online on the Department of Fish and Game's Website.

The Department, she said, has received many positive results and awards for the Wear it California campaign. The wear rate of lifejackets has increased from 6 to 13 percent.

Ms. Becerra reported that staff attended the International Boating and Water Safety Summit which was held in San Diego. The summit is of interest to anyone involved with boating and water safety. The Director and other boating law enforcement personnel from Arizona, Nevada and Utah received the Western Regional Award for their efforts in the Colorado River Law Enforcement Association.

Ms. Becerra concluded her report by saying the Department's 2008 boating safety campaign will carry the same message as last year's campaign, "If It's Your Boat, It's your Responsibility." She indicated print and radio ads will include testimonials from boating victims. The ads were shared with the Commission via e-mail and have been airing on radio stations.

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 the following bills:

AB 990 (Berg), which would help implement the Spud Point Marina Settlement Agreement between the department and Sonoma County. AB 990 contains an urgency clause and has passed the Assembly with a vote of 70-2. The bill is now in the Senate and will be heard in early June.

SB 1435 (Ducheny), Marinas and harbors: funding. The bill would change the existing private marina loan program administered by the Department, allowing loan funds to be used for planning, design and other similar expenses associated with marina construction.

Commissioner Clark asked if this was a cleanup bill. Mr. Johnson responded yes, the bill would be easier for both the applicant and the Department and it will save money because projects will start sooner and construction cost will be kept down.

Commissioner Metz encouraged communication between the Department staff and the Commission on legislation, especially on bills sponsored by the Department. He added SB 1435 is of concern to Commissioner Purdon who is a private marina owner. Commissioner Metz asked what is the Commission's role on legislation that impacts the Department or impacts policy of the Department. He would also like to know the Commission's role in advising or reviewing legislation that is sponsored by the Department. Mr. Johnson responded that the Commission can independently take position on any bill, but on any Department sponsored bills, it is confidential and cannot be discussed until the Governor's office gives a position. Mr. Johnson stated that he will inform the Commission when approvals are provided by the Governor's office.

Chairman Rupf stated that this issue will be further discussed with the Director and Chief Deputy Director at the mid-term meeting.

AB 2110 (Duvall) Vessel operator cards. The bill would require operators of vessels powered by an engine, unless specifically exempted, to pass an examination-approved by the Department. An implementation schedule would phase in this requirement by age group, starting on January 1, 2012. Mr. Johnson stated that some boating organizations are concerned that other boating programs might suffer if fees in the bill are not sufficient for the Department to

administer the program. The organizations want the application fees to pay for the entire program and if any Harbors and Watercraft Fund money is used to fund the program, it should be paid back into the fund.

Commissioner Metz asked about SB 1635 (Kehoe) Regional comprehensive plan: San Diego County. He said the bill would amend the purposes for which San Diego County's 1% regional sales tax revenues could be used to include beach sand nourishment projects. He asked if the Department is looking for financial assistance in beach sand projects and has noted over the years the Department has been pressured to increase the dollar amounts in the Department's budget. Mr. Johnson responded that in the Department's 08/09 budget there is \$6.5 million for San Diego Area Governments (SANDAG) sand re-nourishment projects in San Diego County. He said SANDAG, by law, has to come up with a local match for state funds and this bill will provide that local match.

CONSIDERATION OF PUBLIC GRANT SCOPE REVISION

Mr. Flood presented to the Commission for approval the following public grant scope revision.

Buckhorn Boat Launching Facility

The U.S. Army Corps of Engineers (USACE) has asked that the Department of Boating and Waterways combine funds from the previously approved Eagle Pass Boat Launching Facility (Eagle Pass BLF) and the Buckhorn Boat Launching Facility (Buckhorn BLF) to complete the Buckhorn BLF project.

Mr. Flood reported that due to staffing changes at the USACE both projects were delayed and cannot be completed for the dollars available. It is recommended that the funds be combined to have one project completed. He stated that the USACE has requested that the Department and Commission approve combining the available funds totaling \$2.317 million to complete one of the two projects-the Buckhorn BLF. The project is anticipating to cost \$1.64 million and the remainder of the funds would be reverted for use on other Department projects. The USACE will consider reapplying in the future for funds to complete the Eagle Pass BLF project.

Mr. Flood indicated the proposed project will include: a new two-lane boat launching ramp with turnarounds; an 8' wide boarding float system; expanding the current parking lot and adding an additional parking lot to accommodate 102 vehicle/trailers plus additional single cars; a pre-cast restroom with septic system; rock slope protection, and ancillary items.

Jonathon Friedman, Senior District Natural Resource Specialist and Theresa Hershey, District Natural Resource Specialist, USACE, were available to answer questions from the Commission.

Commissioner Clark asked what has transpired in the last six years since Commission approval in 2000. Mr. Friedman responded that cost of construction has gone up since the estimate was given to the Department. The scope of the project has been reduced to try to get the project completed, but both projects cannot be completed with the available funding. He indicated this opportunity

will meet everyone's standards and benefit the public. Commissioner Clark stated the original amount requested in 2000 was for \$1.448 million and now \$1.804 million is needed to complete the project. Mr. Friedman responded \$1.804 is needed to complete the Buckhorn BLF. Mr. Flood added that it has been closer to five or six years and not eight years due to the lack of funding to start construction. He said the plans are half done, so the USACE is not too far behind schedule.

Commissioner Nagata asked what will happen to the engineering cost that was used on the Eagle Pass BLF. Mr. Flood responded that the Department will discuss this with USACE; one option is to have them pay the money back.

Mr. Flood indicated staff recommends that the Boating and Waterways Commission consent to the USACE's request to combine funds from the previously approved Eagle Pass BLF and the Buckhorn BLF to complete the Buckhorn BLF project as proposed.

MOTION: It was moved by Commissioner Nagata and seconded by Commissioner Metz that the Commission consent to the USACE's request to combine funds from the previously approved Eagle Pass BLF and the Buckhorn BLF to complete the Buckhorn BLF project as proposed. The motion carried unanimously

CONSIDERATION OF PUBLIC GRANT

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

Ventura Boat Launching Facility

The Ventura Port District as applied to the Department of Boating and Waterways for a public grant for improvements to the Ventura Harbor Boat Launching Facility (Ventura Harbor BLF). This report concerns the Phase I grant funding of \$450,000.

The Ventura Harbor BLF is located within the Ventura Harbor approximately 60 miles northwest of Los Angeles.

Mr. Flood indicated the proposed project will consist of: redesigning and re-grading the ramp apron; redesigning, re-grading, and repaving the existing concrete launch ramp; repair toe erosion; provide for adequate vehicle traction; adding a new accessible path; gangway; boarding float; replacing the existing security lighting, and dredging.

Richard Parsons, Project Manager, Ventura Port District, was available to answer questions from the Commission.

Commissioner Metz visited the proposed project site. He indicated there is a need for improvements and recommends approval.

Commissioner Nagata asked why the engineering cost is so expensive for this proposed project. Mr. Flood responded that engineering cost is always 12 % of the project subtotal cost. He added the \$1.2 million is for engineering, permits, inspection and includes 20 % escalation. Mr. Parsons stated the \$450,000 will cover design and permitting. The project, he said, should be underway within three years.

Chairman Rupf asked if Ventura will be charging the cost of permits to the project. Mr. Parsons responded no permits issued by the county will be charged to the Department.

Mr. Flood stated staff recommends that the Boating and Waterways Commission consent to Phase I grant funding of \$450,000 to the Ventura Port District for improvements to the Ventura Harbor Boat Launching Facility.

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Clark that the Commission approve the Phase I grant funding of \$450,000 to the Ventura Port District for improvements to the Ventura Harbor Boat Launching Facility. The motion carried unanimously.

Chairman Rupf asked why the project's timelines are different than the previous project. Mr. Flood responded that in the past the projects were phase funded and grantees would wait until all the funds are in place to begin construction. With the federal government it has to be that way. With the previous project staffing changes pushed back the project. He said the Department is making changes and now pushes the local entity forward.

Chairman Rupf asked that the Buckhorn BLF be used as a case study for the mid-term meeting. Ms. Becerra agreed.

CONSIDERATION OF PUBLIC LOANS

Mr. Flood presented to the Commission for its advice and consent the following requests for public loans.

Santa Barbara Marina

The City of Santa Barbara Waterfront Department has applied to the Department of Boating and Waterways for a public loan in the amount of \$6,700,000 to fund improvements to Marina One in the Santa Barbara Harbor (Harbor). This report concerns Phase I for this project in the amount of \$720,000.

The Harbor is located on the Pacific Ocean in the City of Santa Barbara. Marina One is the largest of the four marinas in the Harbor consisting of 592 slips.

Mr. Flood indicated the proposed project entails replacing the following: Marina One headwalk from the breakwater to the easterly boundary of the project at “P” finger; the gangway and concrete floats; utilities, including electric, sewer, communications (telephone and cable); potable water; and fire suppression water.

Scott Riedman, Waterfront Business Manager, and Karl Treiberg, Facility Manager, Santa Barbara Waterfront Department were available to answer questions from the Commission.

Mr. Flood indicated Commissioner Metz visited the proposed project site.

Commissioner Metz said the marina is very large and compact and is extensively used by boaters. He said the docks are deteriorating and dangerous; He recommends approval.

Commissioner Nagata asked about the low slip fees. Mr. Riedman responded the rates are low because Santa Barbara has other sources of revenue, but if needed the fees can be raised to help pay for the loan.

Mr. Flood indicated staff recommends that the Boating and Waterways Commission consent to Phase I funding of \$720,000 to the City of Santa Barbara Waterfront Department for improvements to Marina One.

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Nagata that the Commission approve the Phase I funding of \$720,000 to the City of Santa Barbara Waterfront Department for improvements to Marina One. The motion carried unanimously.

Chairman Rupf called for a break at 10:25 a.m.; the meeting resumed at 10:37 a.m.

Santa Cruz Marina

The Santa Cruz Port District has applied to the Department of Boating and Waterways for a loan for improvements and rehabilitation to the berthing facilities in the North Harbor of Santa Cruz Harbor. This concerns Phase I initial loan funding of \$1,365,000. Total funding is estimated to be \$9,200,000.

North Harbor facility is located in the Santa Cruz Harbor along the central California coast at the north end of the Monterey Bay in the city of Santa Cruz.

Mr. Flood indicated the proposed project would entail replacing all docks in the North Harbor of Santa Cruz Harbor.

Mr. Flood said Commissioner Metz visited the proposed project site. Commissioner Metz stated the North Harbor is in need of improvements and recommends approval.

Brian Foss, Port Director and Rick Smith, Business Manager, Santa Cruz Port District were available to answers questions from the Commission.

Mr. Flood stated staff recommends that the Boating and Waterways Commission consent to Phase I funding of \$1,365,000 to the Santa Cruz Port District for improvements to the North Harbor of Santa Cruz Harbor.

Commissioner Nagata commented that the Feasibility Reports are not in a standard format. He asked about the reserve requirement which is not in the report. Mr. Flood responded that there is a 2% minimum reserve account for maintenance requirement on all Department loans and he will make sure it is included on all the Feasibility Reports. He added the reserve requirement is included in all the contracts.

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Clark that the Commission approve the Phase I loan funding of \$1,365,000 to the Santa Cruz Port District for improvements to the North Harbor of Santa Cruz Harbor. The motion carried unanimously.

Dana Point Marina

The County of Orange has applied to the Department of Boating and Waterways for loans to improve the Dana Point Harbor Marina. This concerns Phase II of \$9,000,000 for this project.

Dana Point Harbor 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 Harbor is divided into two marinas, the East Marina and the West Marina. This proposed project concerns the West Marina.

Brad Gross, Director, Dana Point Marina, was available to answer questions from the Commission.

Mr. Flood indicated the proposed project entails demolition of 420 berths; construction of 356 berths; installation of six aluminum gangways; one barrier-free access aluminum gangway; replacement of all dock and landside utilities; repairs to the bulkhead; construction and installation of gates, fencing; a security system, and minor parking reconfiguration.

Commissioner Nagata asked about the variation amounts on the berthing rates. Mr. Gross responded the difference in the rates is because there is a vast array of opportunities to store boats from small dry storage to large side tides. The fee, he said, is dependent on the size of boat.

Commissioner Clark asked for the status of the first phase. Mr. Gross replied that there are eight phases and the project is currently at the environmental phase; it will then go to the Coastal Commission for permits. He said if everything goes well, construction will begin in 2 ½ years.

Mr. Flood stated that staff recommends that the Boating and Waterways Commission consent to Phase II loan funding of \$9,000,000 to the County of Orange for improvements to the Dana Point Harbor Marina.

MOTION: It was moved by Commissioner Metz and seconded by Commissioner Nagata that the Commission approve the Phase II loan funding of \$9,000,000 to the County of Orange for improvements to the Dana Point Harbor Marina. The motion carried unanimously.

NEW BUSINESS

Abandoned Watercraft

Mary Thomas gave a presentation on the Department's abandoned watercraft grant program.

Commissioner Clark asked who has the responsibility of removing the hazards from the water. Ms. Thomas responded the county or jurisdiction where the hazard is responsible for removing hazards. Commissioner Clark stated it could also be the responsibility of the Coast Guard as well. Ms. Thomas replied that the Coast Guard is responsible for commercial vessels and ships, which are not the responsibility of the Department's grant program, under existing law. She added that many agencies have had problems with the lack of response of the Coast Guard.

Commissioner Metz asked who funds the \$500,000 for the program and could funds be contributed from other sources or departments. Ms. Thomas responded the fund comes from the Harbors and Watercraft Revolving Fund and \$500,000 is budgeted for grants each year. Unfortunately, some grant recipients have not used all of their funds. Mr. Johnson responded there was legislative intent to use up to \$1 million, but the money has never been allocated. It is part of the budget proposal and since all of the \$500,000 is not used, the Department can not ask for more money at this time. He added that he is not aware of any other federal or state agencies that do have available funds.

Chairman Rupf stated the Department may want to get input from the Commission when doing the budget planning.

Commissioner Clark stated the local jurisdictions that have money problems find it hard to wait for the reimbursement minus 10% and would it take legislation to have that changed.

Ms. Thomas said the biggest obstacle in the program is that the agencies are not spending the money that is being allocated to them. She said the contract is for a term of 15 months, as an example, she said, an agency is allocated money in FY 05/06 and then they let the Department know in FY 06/07 that they are not able to use the money. The money then is reverted and can not be allocated because the money was encumbered in a different fiscal year. Ms. Thomas said with the proposed regulations the Department is currently working on, this problem will be looked into. Chairman Rupf stated a grant proposal could be written and processed so that the grantee would report on the expenditures and if monies are not used then it goes back into the fund, this would solve the problem of monies not being used. He said this would also bring in more vendors because there would not be any cash flow problems with the agencies.

Commissioner Clark stated there is a need for this program but it does not appear the money is available. She asked if with the new bill, where one can surrender a boat before it becomes abandoned, will the monies be taken from the fund. Mr. Johnson replied it would come out of the Harbors and Watercraft Fund. Chairman Rupf stated that unless policy changes, the monies would come out of the fund and this is another reason the Commission should be involved in development of the budget. He said there is room for restructuring the process and the program. Ms. Thomas agreed.

Commissioner Metz asked that this item be placed on the agenda for any updates on the program.

Ms. Peterson stated the 10% match is not a regulation but is law and if elimination is to be considered, it will need to be done by legislation.

Public Comment

Mark Sandoval, Long Beach Marina, stated they do not have a problem with the 10% match or fronting the 90% and then asking for reimbursement, but the problem is on estimating how much money will be used in the 15 months and identifying the boats you think you will be asking for reimbursement. The program should be simplified, so one is not trying to estimate how much will be needed or which boat will be sinking or abandoned, then more agencies will apply and participate for the funds.

Mr. Gross said his agency is applying for the funds today in the amount of \$34,000. He said his staff will have to survey the entire facility on the boats that may sink or be abandoned. A grant will be easier, where the money is accountable and can be reverted back to the fund if not used.

Mr. Johnson replied that a consultant has been hired by the Department to look at this issue to develop regulations for the program.

Chairman Rupf called for a break at 11:21 a.m.; the meeting resumed at 11:27 a.m.

Wear It California Campaign

Phaedra Bota, Manager, Boating and Safety Unit, gave a Power Point presentation on the Wear It California Campaign. The campaign kick-off will be in Stockton on May 17, and the schedule of events is posted on the Department's website.

Commissioner Metz asked how the message will be delivered to the anglers. Ms. Bota responded the Department will be at the angler's tournaments and vessels will display the "Wear It California" emblem. In addition there will be PSAs and radio interviews done by the Director.

Chairman Rupf suggested that marinas that help in the campaign be listed as sponsors. Ms. Bota responded that she will have them listed as sponsors.

Commissioner Clark asked that the Commission be involved in the campaign and would like to know what other events the Department is participating in. Ms. Becerra responded that this can be discussed at the mid-term meeting.

PUBLIC COMMENTS

Mr. Johnson mentioned that Brian Foss, Santa Cruz Harbormaster, is retiring. He stated Mr. Foss has done an excellent job in the development and operation of the Santa Cruz Harbor and has supported the Department and the boating community.

COMMISSIONER ANNOUNCEMENTS

Commissioner Clark stated that RBOC is partnering with BoatUS in producing an internet video on invasive species, specifically the Quagga mussel. She said print media and other information will be produced to try to educate boaters on the prevention of the spread of the mussel.

Commissioner Metz said he had requested, at a previous meeting, with regards to media, how the matching needs are done for a specific region, such as San Diego. He said he would like this information so that he could be a more effective spokesman in his area. Ms. Becerra responded that she will follow up and get back to him.

Commissioner Metz also mentioned that in past minutes a "Wish list" was mentioned and he would like the status of the needed projects from harbormasters. He believed Mr. Gross was going to provide this. He would hope for a strategic planning session on this.

Commissioner Metz asked that on every Commission agenda an item "Old Business" be included so that status is provided to the Commission on items, questions, concerns, pending items, etc. that they have requested.

Commissioner Metz would like a public workshop instead of a field trip or at least a half of day meeting so that the Commission can address long range concerns and funding projections for funding because of money diversions. He would like to invite the public to address these issues.

Ms. Becerra responded that in the short term, there is not enough staffing or time to look at all the fiscal policy issues.

Commission Clark added these types of questions may come up before the Senate confirmation hearings. Ms. Becerra responded it is important to have a discussion on what information you may need for the confirmation hearing.

Commissioner Clark asked about the Department of Pesticide Regulation (DPR) study on copper anti-fouling paint and if there will be an update. Mr. Johnson responded that at the Commission meeting in San Diego there will be a representative from DPR and the regional water board who will give a presentation.

Chairman Rupf announced the next Commission meeting will be in Napa on June 12 with a field trip on June 11.

ADJOURN

Chairman Rupf adjourned the meeting at 11:54 a.m.

Original signed by:

Raynor Tsuneyoshi, Secretary