

MINUTES
BOATING AND WATERWAYS COMMISSION MEETING
SACRAMENTO, CALIFORNIA
February 27, 2009

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairman Rupf, on February 27, 2009 at 8:30 A.M. at the Sterling Hotel, 1300 H Street, Sacramento, California.

ROLL CALL

Commissioners Present: Warren E. Rupf, Chairman
 Douglas W. Metz, Vice Chairman
 Lenora S. Clark
 Robert Y. Nagata
 H.P. "Sandy" Purdon

Commissioner Absent: Edward C. Reno III

Department of Boating and
Waterways Personnel Present: Raynor Tsuneyoshi, Director
 Lucia Becerra, Chief Deputy Director
 Penny Schulz, Chief Counsel
 Steve Watanabe, Chief, Facilities Division
 Harold Flood, Manager, Facilities Division
 Margarita Sanchez, Administrative Assistant

CONVENE

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 Purdon and seconded by Commissioner Metz that the Boating and Waterways Commission minutes of the December 12, 2008, meeting be approved. The motion carried unanimously.

CHAIRMAN'S REPORT

Chairman Rupf noted that today would be Harold Flood's last official day with the Department and said he appreciated the service and patience he gave to the Commission.

Chairman Rupf reported that the budget workshop given yesterday by Ms. Becerra was very productive.

Chairman Rupf stated he has appointed Commissioners Metz (Chair) and Clark to the Long Range Planning Subcommittee and Commissioners Reno (Chair) and Purdon to the Budget Subcommittee.

DIRECTOR'S REPORT

Mr. Tsuneyoshi welcomed everyone to the first Boating and Waterways Commission meeting of the year.

He stated that on February 20, Governor Arnold Schwarzenegger signed a historic budget package to solve California's \$42 billion deficit. The budget, he said, did not include the merging of Department of Boating and Waterways' services to the Department of Parks and Recreation. The voices, he said, of opposition from boaters, boating associations and organizations, and law enforcement agencies were heard at the State Capitol. Mr. Tsuneyoshi added it is an honor to serve as Director to a Department that is highly admired by its constituents.

Mr. Tsuneyoshi reported on AB 166, Lieu. He said the bill deals with abandoned vessels which are not only an eyesore destroying the beauty of the waterways, but also pose an environmental hazard. Last year, he reported, the same author introduced a similar bill (AB 1950) but it was vetoed.

AB 166 will:

- 1) Define the term "surrendered vessel".
- 2) Establish conditions under which public agencies could accept such vessels from willing owners.
- 3) Increase the minimum fine for abandonment of a vessel from \$500 to \$1,000.
- 4) Allow a public agency to dispose of a surrendered vessel immediately upon acceptance from the surrendering party.

- 5) Prohibit the state from assuming any liability resulting from the processing or disposal of surrendered vessels.

The bill will allow the Department to provide abandoned watercraft abatement fund grants to local agencies for disposal of surrendered vessels, and would require the Department to track the grant program activity between January 1, 2009 and January 1, 2011, and to report the information to legislative committees. This bill would sunset all of the above requirements on January 1, 2012.

Mr. Tsuneyoshi stated the state has produced a Quagga guidebook, established a Western Regional Invasive Species Accord and formed an Invasive Species Council. The guidebook was created to help water managers and boating recreationalists to take part in the fight against invasive Quagga and Zebra mussels. It outlines how aquatic mollusks can devastate waterways and why local governments and water users should encourage all Californians not to move a mussel. In addition to this, the book provides a step by step guideline on how to properly clean and dry boats. He added that a link to the guidebook is available on the Department's Website.

The Western Regional Invasive Species Accord, he said, was formed so that a uniformed protocol system can be developed that will facilitate the movement of boats from state to state. The goal is for all states to distribute the same educational information to boaters.

Mr. Tsuneyoshi reported that the California Invasive Species Council (Council) was formed to prevent and control harmful invasive species infestations throughout the state. The Council will assist in minimizing the negative effect of non-native species on the state's agriculture, lands, natural resources, and waterways in rural and urban environments.

Mr. Tsuneyoshi stated that the terms for Chairman Rupf and Commissioner Reno will come to an end on March 15. He said their contributions and dedication to California's boaters is admirable. He hoped that they will be reappointed.

Mr. Tsuneyoshi reported that staff employees Harold Flood, Manager, Facility Division and Phaedra Bota, Manager, Education Unit, have accepted jobs with other departments and both will be missed.

LEGISLATIVE REPORT

Ms. Becerra 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 Ms. Becerra was available to answer questions from the Commission members.

She reported on:

AB 13, Salas, would establish the Sacramento-San Joaquin Delta Conservancy.

AB 39, Huffman, would enact legislation to implement the recommendations in the Final Delta Vision Strategic Plan.

AB 248, Lowenthal, Bonnie, would require person in charge of a vessel carrying ballast water to maintain and send information of the ballast water treatment system on board to the State Lands Commission.

SB 12, Simitian, would enact the Sacramento-San Joaquin River Delta Clean Drinking Water Supply Security, and Environmental Improvement Act of 2009.

SB 21, Simitian, would require the Department of Fish and Game to recommend to the Fish and Game Commission funding sources for a program for the prevention of the loss of fishing gear and for the recovery of derelict fishing gear.

S. 336, Inouye, Department is looking to see if possible funding of the economic stimulus package.

Ms. Becerra reported that the Governor's office has given approval for the Department to seek an author for a bill that would address updating of the Harbors and Navigation Code; Senator Runner has agreed to author the bill.

Commissioner Metz suggested that once the Administration gives the Department approval on a bill, he would like the Commission to play a role in reviewing and commenting on the draft bills.

Commissioner Clark stated that there have been some concerns about the draft language on AB 166 proposed by the State Lands Commission to take over and getting involved in removal of derelict vessels. Commissioner Clark said the Department should follow this bill closely.

Ms. Becerra said a presentation on this bill was given to the Delta Protection Commission, but she has not seen the language in bill form. She added that the current proposal is a no cost bill and the Delta Protection Commission was very positive with the proposal. Commissioner Clark reminded everyone that the Department's Abandon Vessel Task Force has already been working for several years on the issues in this bill. Ms. Becerra added that the Delta Protection Commission has a committee that has also been working on this issue for several years as well. Ms. Becerra indicated that homework has been done on this bill and if the bill goes forward there will be a lot of aggressive support. The Department, she said, will be watching this bill closely.

Commissioner Clark stated she will be in contact with BoatU.S. to get some information on the Corps of Engineer and Coast Guard's role on this issue.

Chairman Rupf called for a break at 9:44 A.M.; meeting resumed at 9:55 A.M.

CONSIDERATION OF PUBLIC GRANTS

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

Sunbeam Lake Boat Launching Facility

The County of Imperial has applied for a Boating and Waterways public grant in the amount of \$130,000 to make improvements to the Sunbeam Lake Boat Launching Facility (BLF). Imperial County (County) is located in Southern California and the BLF is located in the southwest portion of Imperial County and is part of the unincorporated town of Seeley.

Mr. Flood indicated the proposed \$130,000 grant is to identify the appropriate scope, estimated project construction cost and complete plans and specifications.

Jurg Heuberger, Director, Planning and Development Services, Imperial County, was available to answer any questions from the Commission.

Mr. Heuberger indicated Sunbeam Lake County Park was built in the 1950s and has been run down for the past ten years. Two and a half years ago, he said, the board had directed him to rebuild the park.

Mr. Heuberger described current funding for the project and said the County has received a grant from State Parks for about \$1.7 million, the County has added about \$1.8 million, and there was also about \$900,000 in public donations. The most recent donation of \$130,000 was for a children's playground. He said there are four baseball complexes and three soccer fields at the park. There are about 150 to 250 people attending the park during the week and on weekends the park is full.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve the public grant of \$130,000, to the County of Imperial to identify the appropriate scope, estimated project construction cost and complete plans and specifications improvements to the Sunbeam Lake Boat Launching Facility.

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Metz that the Boating and Waterways Commission approve the Department of Boating and Waterways public grant of \$130,000 to the County of Imperial to identify the appropriate scope, estimated project construction cost and complete plans and specifications improvements to the Sunbeam Lake Boat Launching Facility. The motion carried unanimously.

Tahoe Vista Boat Launching Facility

The North Tahoe Public Utility District has applied for a Boating and Waterways public grant in the amount of \$300,000 for engineering, permitting and planning of a parking area at the Tahoe Vista Boat Launching Facility (BLF).

Tahoe Vista BLF is in northern California adjacent to the Nevada border. The project is located in Tahoe Vista on the north end of Lake Tahoe in an unincorporated area of Placer County. The site consists of a 2.7 acre lakeshore property with approximately 800 feet of shoreline and a support parcel of approximately 3.6 acres connected to the lakeside property by the intersections of North Lake Boulevard (Highway 28) and National Avenue.

Mr. Flood indicated the proposed funding grant is to complete plans and specifications and any associated permitting fees for construction of the additional BLF parking lot on the corner of Highway 28 and National Avenue.

Curtis Aaron, General Manager, North Tahoe Public Utility District, Kathy Long, Park and Facility Manager, and Wyatt Ogilvy, Ogilvy Consulting, were available to answer any questions from the Commission.

Commissioner Clark visited the site and said it is a beautiful facility and recommended approval.

Mr. Aaron thanked the Commission for considering this request. He brought a letter of support from California Tahoe Conservancy, which has contributed about \$5,000,000 for the project so far.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve the public grant of \$300,000, to the North Tahoe Public Utility District for engineering, permitting and planning of a parking area at the Tahoe Vista Boat Launching Facility.

MOTION: It was moved by Commissioner Clark and seconded by Commissioner Metz that the Boating and Waterways Commission approve the Department of Boating and Waterways public grant of \$300,000 to the North Tahoe Public Utility District for engineering, permitting and planning of a parking area at the Tahoe Vista Boat Launching Facility. The motion carried unanimously.

CONSIDERATION OF PUBLIC LOAN

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

Martinez Marina

The City of Martinez (City) is asking the Boating and Waterways Commission to consider a loan in the amount of \$338,000 for Improvements to the Martinez Marina Waterside Improvement Project. The renegotiation and amendment of an outstanding Department loan from 1959/1960 as well as a long-term lease contract with an independent marina operator are recommended conditions of this loan approval.

Martinez Marina is located along the southern shore of Suisun Bay where it joins with the Carquinez Strait. The Marina is a 70 acre facility located within a large 330 acre regional park.

Philip Vince, City Manager; Mark Ross, City of Martinez Councilmember; Tom Hogan, Pacific Marina Development, Inc., and Joann de Graef Tool, Management Analyst, were available to answer questions from the Commission.

Mr. Ross said the current loans from the Department are being paid back and the City is committed to making good on repayment to the people of California. The proposed project, he said, is feasible.

Mr. Vince stated he has been the city manager for about eight months and the current work on this project has been to work on consolidating the loans and straightening out the portfolio to make it understandable. He envisions boaters coming to the marina and staying for the day to fish, kayak and enjoy a play.

Chairman Rupf said he works, lives and recreates in Martinez and is in support of what the City of Martinez plans to do with the Marina.

Commissioner Nagata asked if the Marina is currently making any money. Mr. Ross responded the Marina is making money now for the first time in decades; it is making about \$200,000 a year.

Ms. Becerra asked Mr. Flood to clarify what is being approved today. Mr. Flood responded the \$338,000 loan is going to be used for breakwater improvements and the City will have to come before the Commission in FY 2010/11 and ask for the remainder of funds necessary to do all of the dredging and channel opening. The Commission, he said, has approved in previous years \$2.973 million for some of the work, but a stipulation was put by the Commission and the funds could not be touched until a long term operator signed a contract and was in place for at least 45 years. Future funding, he said, is not included in the State budget. Mr. Flood added that the City is anticipating coming to the Commission in the future for approval of \$3.037 million.

Ms. Becerra added the money has been encumbered but the additional \$3.037 million that would be required for this project is not included in the current State budget and there is no guaranteed the funding will become available. Mr. Ross responded the project is being phased funded so if the funding is not available from the Department, the City will have made improvements to make it a functioning marina to meet its financial obligation.

Commission Clark asked if approving the \$338,000 loan is based on the condition that the City will restructure the loan. Mr. Flood responded that it can be a condition and added that the City is agreeing to restructure the 1959/1960 loan, but the terms of the loan will not be changed. Mr. Flood indicated this will benefit the Department. Mr. Ross added a fund account of \$350,000 will be established and the Department will have access to it in case payments are not made.

Commissioner Metz asked if the account of \$350,000 is made available for repayment of all the loans or just the \$338,000 loan. Mr. Flood responded the collateral for the loan is the revenue stream coming into the City from the project area and the \$350,000 fund is in addition to the revenues coming in.

Commissioner Metz asked about removing and replacing the marina. Mr. Hogan responded the marina is being built in four phases. Some of the slips, he said, are not able to be occupied and there are dredging problems, but by phasing the project, tenants can be moved around

maximizing the income. Mr. Hogan stated the City has made great improvements in the last ten years and the marina is making money.

Commissioner Nagata asked if interest is accruing on the old loan. Mr. Flood responded the 1959 loan is accruing interest on the unpaid principal and is accruing at about \$25,000 a year; the balance is about \$2.4 million.

Commissioner Clark stated she lives in the Delta and close to the marina and she looks forward to seeing the improvements. She added by approving this loan and restructuring its old loans, the Department will be seeing some of the money being repaid.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve the loan of \$338,000, to the City of Martinez for improvements to the Martinez Marina Waterside Improvement Project conditional on amending the 1959/60 loan contract.

MOTION: It was moved by Commissioner Clark and seconded by Commissioner Purdon that the Boating and Waterways Commission approve the Department of Boating and Waterways loan of \$338,000 to the City of Martinez for improvements to the Martinez Marina Waterside Improvement Project conditional on amending the 1959/60 loan contract. The motion carried unanimously.

Mr. Ross thanked everyone for the approval.

CONSIDERATION OF FEE INCREASE

City of San Diego

The City of San Diego (City) has asked for approval from the Boating and Waterways Commission (Commission) to allow the City to increase fees for launching at its boat launching facilities. The City has received grant funding from the Department to construct or improve boat launching facilities at eight lake locations and on Mission Bay. Per the grant contract, raising fees above \$13 plus inflation (approximately \$16 per launch) at any boat launching facility constructed with Department's funds requires Commission approval.

In August 2001, the Commission approved Department staff's recommendation that the maximum allowable charge for launching/retrieving a boat at a department grant funded boat launch be increased to \$13 (total for all costs) to cover increasing operation cost. Previous to this grantees were allowed under contract to charge approximately \$5.

Jim Fisher, Water Department, City of San Diego was available to answers questions from the Commission.

Mr. Flood reported the City's cost to operate its lakes is about \$2 million per year and even with the proposed fee increases, the City will be losing about \$350,000 per year.

Commissioner Metz asked which of the lakes are drinking water reservoirs. Mr. Fisher responded most of the lakes listed in the feasibility report are drinking water reservoirs.

Commissioner Nagata asked if the increase fee for launching is for cost of the launch or something else. Mr. Fisher responded the cost for operating the recreational program is \$1.9 million and includes multiple recreational types such as passive use like walking, jogging, picnicking and tier 1 which is boating, rowing, fishing and kayaking. Tier 2 is the water contact use. He said the fees collected are for the appropriate different user classes and the cost indicated on the entrance signs will reflect the cost accordingly. Mr. Fisher said cost for launching will be \$7, for fishing \$8 per person, for water contact \$10, etc.

Commission Clark reiterate that the Department has a Harbors and Navigation Code and a policy that the launching fees should not be more than a certain amount and the Department will look into a review of the Department's launching fee policy. Ms. Becerra responded, yes, the Department's policy will be reviewed and recommendations will be made to the Commission.

Commissioner Clark asked if it would do harm to the project if the policy issue was looked at first and then do the approval of this fee increase. Mr. Flood responded the policy right now is that if the grantee proves that their cost for operation and maintenance is higher than the set fee maximum, then they can come back before the Commission and get approval to exceed it. Policy is not being changed today. He said, if approved today, the City can increase their fees and the Department will review the policy to see if any adjustments need to be made.

Chairman Rupf wanted to make sure that the City will reconsider collecting parking fees from all users of the lakes or will the City reabsorb the cost if not collected. Mr. Fisher responded yes, it is currently done that way, and the City does reabsorb the cost.

Commissioner Nagata asked if the Department has reviewed this request and is convinced that the cost of operation and maintenance is higher than the set fee maximum. Mr. Flood replied yes, staff has reviewed the request and agrees.

Mr. Flood indicated that staff recommends that the Boating and Waterways Commission consent to the City of San Diego's request to increase fees for launching, skiing and fishing conditional on the City council reconsidering collecting parking fees from all users of the lakes and reducing the increase in fishing and skiing fees accordingly. In addition, the Department of Boating and Waterways' staff will review the launch fee policy and the Commission will be briefed on the policy and any recommendations.

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Metz that the Boating and Waterways Commission approve the City of San Diego's request to increase fees for launching, skiing and fishing conditional on the City council reconsidering collecting parking fees

from all users of the lakes and reducing the increase in fishing and skiing fees accordingly. In addition, the Department of Boating and Waterways will review the launch fee policy and the Commission will be briefed on the policy and any recommendations. The motion carried unanimously.

Mr. Fisher thanked the Commission for the approval.

PUBLIC COMMENTS

Larry White, Harbormaster, San Francisco stated he is now the official harbormaster of the San Francisco Marina and is looking forward to working with the Department and the Commission. Mr. White thanked Mr. Flood for all his assistance and wished him well on his new job.

Brad Gross, Director, Dana Point Harbor, gave a status on Dana Point Harbor. He said the Department's \$2 million loan for the dredging project is completed and 78,000 cubic yards of dredging material was removed from the harbor; boater focus group meetings and the EIR are continuing.

Mr. Gross gave the Commission an article written on the beneficial use of pilings in the Dana Point Harbor. The article states that 1,200 pilings will be used to build an artificial reef in the ocean to provide habitat for fish and other sea creatures. He said this will be a considerable savings to the harbor.

Mr. Gross said as a member of the California Harbormasters and Port Captains, he would like to thank Commissioner Rupf for his service and hopes he will be reappointed. He thanked Ms. Bota and said everyone has benefited from her programs especially the life jacket exchange program. Mr. Gross said he has been working with Mr. Flood for over 11 years and will miss his humor and wished him the best of luck.

Commissioner Clark said the Department and Commission have been discussing sand replenishing issues and she recalled that in San Francisco there was a dredging project where the sand was reused. Mr. Gross responded that there was a sand mining contract where the contractor would reuse the sand to be used for construction projects. He added that in Dana Point about 30,000 cubic yards of sand was pumped about a mile and a half to another beach in Orange County. Mr. Gross said this was less expensive than moving the sand to an offshore deposit sites.

Commissioner Metz said he appreciates the Dana Point Harbor updates.

NEW BUSINESS

Election of Officers

Chairman Rupf stated that at the December's Commission meeting it was discussed and approved to make the term for officers to a two-year term. It was later advised by counsel that this could not be done and election of officers would have to be approved to a one-year term.

MOTION: It was moved by Commissioner Purdon and seconded by Commissioner Clark that the Chair and Vice Chair for 2009 will be held by Commissioners Rupf and Metz respectfully. The motion carried unanimously.

Application Review Process

Mr. Flood stated the Commission has been concerned that they are not able to get involved in the budget and loan/grant process. He gave the Commission a Loan/Grant Process handout and explained the process. Mr. Flood said the Commission can be involved once the application is received by the Department and can be part of the ranking process.

After discussion, Chairman Rupf asked that this item be put on the next Commission's agenda so that the Commissioners can review the handout.

OLD BUSINESS

Budget Update

Ms. Becerra said there was an Administration proposal to move the Department to State Parks and Recreation. She said when the bills and trailer bills were passed, the proposal was not included. Ms. Becerra noted that there is always a possibility that the proposal could come back in another form.

Ms. Becerra indicated the Department was hit with a total of \$12.9 million and there was a hit to the private and public loan program of \$11 million. This, she said, will decrease the amount of money available for FY09/10. Ms. Becerra added that the Capital Outlay program was also decreased by \$1.3 million. She said \$1.5 million was added to the Department's budget for the Beach Restoration Fund which is earmarked for the Robert Crown Memorial Beach in Alameda.

Ms. Becerra reported that there was a 2008/09 proposal for a general fund loan from the Harbors and Watercraft Revolving Fund (HWRF) to the State General Fund which was included in the Governor's budget package. The loan will be repaid no later than June 30, 2013. She said the \$29 million loan from the HWRF will have the Department into a deficit by 2010/11 and will remain in deficit until the full amount of the loan is repaid. This will affect many departments that receive HWRF money.

Ms. Becerra stated that a proposal to establish an annual transfer of \$7.5 million from the HWRF to the Water Development Fund in the Department of Water Resources was not passed.

COMMISSIONER ANNOUNCEMENTS

Commissioner Clark said she would like to echo everyone's sentiments about Mr. Flood and asked that everyone stand and give him a hand.

Commissioner Clark reminded staff that she would like a list and status of Department's loans to be added to the agenda under Old Business.

Commissioner Metz stated, as mentioned in the previous minutes, an update on the Boating Needs Assessment Report should be added under Old Business. Ms. Becerra responded it was an oversight and it will be added to the next agenda. Commissioner Metz asked that there be a workshop on the legislative process for the next commission meeting. Ms. Becerra responded a whole day would be needed and will have one scheduled as soon as feasible, but, she added, the legislative process will be in full swing by April's Commission meeting.

After discussion, the Commission decided to keep the scheduled dates of April 27 and 28 for the next Commission meeting, but will be held in Orange County. A meeting in Sacramento will be considered if there are budget constraints.

Commissioner Metz recommended that the Commission and Department take the initiative and leadership by having a workshop on abandoned vessels. He also suggested a future agenda item under New Business dealing with communications program to promote mission awareness of the Department.

Chairman Rupf asked that the legislative workshop be done as soon as possible and before the next Commission meeting. Ms. Becerra responded that she will try to make the arrangements.

ADJOURN

Chairman Rupf adjourned the meeting at 11:45 A.M.

Original signed by:

Raynor Tsuneyoshi, Secretary