

MINUTES
BOATING AND WATERWAYS COMMISSION
LONG BEACH, CALIFORNIA
August 25, 2005

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairman Sandy Purdon, on August 25, 2005, at 1:47 P.M., at the Coast Long Beach Hotel, 700 Queensway Drive, Almeria Room, Long Beach, California.

ROLL CALL

Commissioners Present: H.P. "Sandy" Purdon, Chairman
 Jon S. Fleischman, Vice Chairman
 Lenora S. Clark
 Charles P. "Bud" Johnson
 Robert Y. Nagata
 Edward C. Reno III

Department of Boating and
Waterways Personnel Present: Raynor Tsuneyoshi, Director
 Joy Fisher, Staff Counsel
 David Johnson, Acting Deputy Director
 Steve Watanabe, Acting Division Chief
 Debra DeVerter, Chief of Administrative Services
 Dolores Farrell, Chief of Operations
 Harold Flood, Supervisor of Planning, Facilities Division
 Margarita Sanchez, Administrative Assistant
 Greg Pacheco, Boating Facilities Analyst

STRATEGIC PLANNING SESSION

Chairman Purdon opened the meeting by welcoming the public to the Boating and Waterways Commission strategic planning session. He stated how the meeting would proceed and thanked Department staff for responding to his request to have this session. Chairman Purdon then asked the members of the public to introduce themselves.

Introductions were as follows: Mr. David Breninger, Board of Director of Recreational Boaters of California; Mr. Richard Craven, Board of Directors, Recreational Boaters of California and Director of Southern California Yachting Association; Mr. Jack Peveler, Harbormaster of Channel Islands Harbor; Mr. Mick Kronman, Director of California Association of Harbormasters & Port Captains; Mr. John Donaldson, public affairs representative and Mr. Ken Johnson, Concept Marine Associates.

Chairman Purdon stated that it was brought to the Commission's attention that there were some questions and possible misunderstandings about the Boating and Waterways Commission and its functions. He added that this public meeting was established to review the role of the Commission with Department staff and to welcome any comments from the public about the Commission's purpose and operation. Chairman Purdon said that many of the Commissioners are new and have come on board in the past year, so this would be an opportunity for all of them to consider their role as Commissioners and for the public to weigh in on their thoughts about the Commission.

Chairman Purdon read the first agenda item which states "Authority and Jurisdiction of the Boating and Waterways Commission. Recitation of existing law in the Harbors and Navigation Code. Brief overview of Department responsibilities. Comparison to other states."

Ms. Fisher addressed the first two sentences of the first agenda item. She reviewed sections 80.2, 82, and 82.2 of the Harbors and Navigation Code and called attention to the last paragraph of 80.2. It reads: "This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed."

Ms. Fisher stated that the statutory law now provides that the Commission will become inoperative as of July 1, 2006, unless the section is repealed. She added that this section was inserted by the Joint Committee on Boards, Commissions and Consumer Protection (Committee) last year, because this Commission and others were singled out for review. Ms. Fisher said the process for reviewing the boards and commissions is to repeal them first and then review them to see if they should be reinstated. She added that the Boating and Waterways Commission was set for hearing but was then canceled. Ms. Fisher stated that the Committee was going to sponsor an omnibus bill SB 232 to restore all of the commissions that had been deleted last year.

Ms. Fisher said that she spoke to the Chief Consultant of the Committee and he stated that the Legislature will pass the bill, but the Governor has threatened to veto it. She added that if that happens the bill would fail and this section would remain in effect and the Boating and Waterways Commission would become inoperative. Ms. Fisher added that an urgency statute cannot recreate a commission that has been abolished.

Ms. Fisher then read and pointed out section 82 which discusses the specific authority of the Commission. She also pointed out section 80.6 which indicates that Commissioners receive a salary of \$100 for each day up to a maximum of 14 days per year. Ms. Fisher stated that it is clear that the Legislature contemplated that the Commission would be a part-time commission. Ms. Fisher reported that the Department is mandated to submit to the Commission for advice and consent proposals for loans that it makes to public entities and loans to private entities for the constructions of harbor facilities and grants for the construction of boat launch facilities.

Ms. Fisher said that the second authority given to the Commission requires the Department to submit to the Commission any changes in regulations pertaining to boating functions and responsibilities of the Department prior to enactment. She added, the Commission does not have the authority to reject the proposed regulations, but has the authority to review and comment on them before they become final.

Ms. Fisher read section 82.2, which allows the Commission to do studies and surveys on the needs of boating facilities and where boating facilities should be developed in the State of California.

Commissioner Reno asked who interprets the meaning of the statute. Ms. Fisher responded that it could be interpreted through regulation and that it would be the Department that would formulate the regulations and bring them to the Commission for advice and comment. She added that there are no regulations in existence that interpret the sections at the current time but they could be interpreted through legal analysis.

Commissioner Reno asked why there are no regulations in existence and why has it not been deemed necessary. Ms. Fisher responded that there has been no difficult point raised by the Commission or the Department that required an interpretation.

Commissioner Reno asked who would give a legal opinion and where would it emanate from. Ms. Fisher responded that she could give a legal opinion on any of the sections the Commission is interested in.

Commissioner Reno asked if that was her authority or is it the authority of the Legislature, Governor's Office, or of the Legislative Legal Department. Ms. Fisher responded that it would be her authority, but it can also come from the Attorney General's Office, which has an opinion unit devoted to interpreting statutory sections.

Commissioner Reno stated that much of the interpretation as to the amount of involvement the Commission has with the Department is directly correlated to the fourteen day reimbursement structure. Ms. Fisher replied that in looking over the sections, the fourteen days had some relevance to what the Legislature expected the Commission to do. She added, since the Commission meets a few number of days per year, it makes sense to be selective about the topics the Commission would want to review and advise the Department on.

Commissioner Johnson asked if there are other commissions and boards on the list to be eliminated. Ms. Fisher responded that yes, SB 232 includes references to other commissions and boards.

Commissioner Johnson asked if any of the commissions on the list cost the State of California more than the \$10,000 a year. Ms. Fisher responded yes.

Commissioner Fleischman asked for a copy of SB 232.

Mr. Johnson stated that there is an Off Highway Commission and one other commission that is targeted similarly to the Boating and Waterways Commission. He added there are a total of three commissions that are mentioned in SB 232.

PUBLIC COMMENT

Mr. Breninger stated that the public process is very important for the State of California and for an opportunity for a commission such as this to exist. He added it would also be an opportunity for staff to have a way to communicate to the public in a public forum.

Mr. Donaldson agreed with Mr. Breninger. He added that the Commission plays an important role in that it looks into how the dispersing of public funds is being done for the benefit of the public. Mr. Donaldson stated that if the Commission did not exist who would be checking on the Department.

Mr. Kronman stated the California Association of Harbormasters & Port Captains would do whatever it could do to ensure the ongoing existence of the Commission.

Mr. Ken Johnson said he is the Vice President of California Marine Parks and Harbors Association (CMPHA) which was formed in the 1950s. He stated the reason CMPHA was formed was to be the outside legislative support for the Department. Mr. Ken Johnson mentioned that earlier in the year at a CMPHA meeting it was discussed whether or not there should be support for the Commission. It was decided that there needs to be a Boating and Waterways Commission so that there can be public input; and, ultimately CMPHA decided to support the Commission. He stated that in attending the Commission meetings for many years he has seen that the operations of the Department work very well. Mr. Ken Johnson cautioned the Commission to continue to do what it has been doing and not get involve in micromanaging the Department.

Chairman Purdon asked if the Commission is eliminated and the Department is combined with another agency that has a commission; the loans will still be reviewed by a commission. He added that the loans may not have the same attention and focus they now have. Mr. Tsuneyoshi replied that as a member of the National Association of State Boating Law Administrators he has seen in the states where a boating department is combined into a larger agency the effect is that the boaters lose out. He added that money is used for other department's projects; and the move is typically done not for efficiency but for money.

Mr. David Johnson read the Department's mission statement and gave the Commission a brief overview of the Department's programs and the Department's budget process.

Mr. David Johnson stated that the state which is most similar to ours is Oregon. Oregon has a five person board appointed by the Governor and also approves grants for boat launching facilities. He noted the difference is that when Oregon budgets its money for grants, they get a lump sum of money and when projects come in, staff presents them immediately to their commission for approval. Mr. David Johnson stated that California's system is reversed, in that each of our boat launching facility and small craft harbor loans and grants are line itemed in the State's budget. He said the Department is now preparing the 06/07 budget. The proposed budget, he added, will then be submitted to the Resources Agency, Department of Finance and the Governor's Office and then in January 10, 2006, the line item projects will be in the Governor's budget. He stated that the Commission's review is at the tail end of the process and the Department can not change the budget process, which is confidential and institutionalized.

Mr. David Johnson stated that the only other state that provides loans for marina development is Ohio which is just beginning to make loans to both public and private marinas.

Commissioner Reno stated that it was mentioned that the budget process of California is institutionalized and asked if the line item process was driven by the Department of Finance. Mr. David Johnson replied that he did not know how it was started but he has been with the Department since 1974 and each of the boating facilities projects were line items then. Commissioner Reno asked if it is based on projected revenues. Mr. Flood responded that the line item process is specified in the Harbors and Navigation Code.

Commissioner Reno asked if it is Oregon's sole source of responsibility or do they have other statutory obligations. Mr. David Johnson responded that he did not check into that level of detail of Oregon's responsibility, but would get back to him on that. Mr. Tsuneyoshi added that Oregon does not have the scope of activity that California has and that they have law enforcement ability which California does not.

Commissioner Reno asked if Florida, Michigan, and other larger boating communities, have anything similar to California. Mr. Tsuneyoshi responded that Florida divided responsibility between the inland and coastal waterways in the past, but under the latest reorganization, it was combined into one authority. He added they are still the law enforcement for water and they have nothing to do with marinas.

Commissioner Fleischman asked if there is anything which states legally when the advice comes into play and should the Commission be advising the Governor. He added he would like to know if there are any political or functional reasons why the Commission cannot advise early in the process. Commissioner Fleischman stated that his concern is that the Commission is a consent Commission and not an advice and consent Commission. He said he would like to know if the Commission has the legal authority to advise the Department on projects when it matters most, before the projects are decided behind the scenes in the Governor's Office. Mr. David Johnson responded that item three of the agenda will provide an opportunity to address that question. Mr. Tsuneyoshi added that a past commissioner did not have a problem advising the Department when it came to underground utilities and landscaping.

Commissioner Fleischman stated that the Commission should have a meaningful role in advising Department staff on the proposed projects, so that staff has the Commission's input to consider.

Chairman Purdon read agenda item number two which states, "What areas of DBW operations should the Commission be involved and what areas should the Commission not be involved? What can the Commission do to further the goals of: (1) increasing and maintaining access to California recreational boating, (2) providing and maintaining an ecologically sound/clean environment for recreational boating, and (3) enhancing California recreational boating as a strong economic driver for the state and business community associated with recreational boating?"

Mr. David Johnson addressed agenda item number two. He stated that the Department would like to see the Commission concern itself with the general policy and direction of commission

business and leave day to day details to Department staff. Mr. David Johnson added that the Commission can take a position on legislative bills, but should be selective and cautious on key boating bills.

Mr. David Johnson stated that Department staff would like to begin presentations on different subject areas or programs that the Department deals with. He added a presentation on the Boating Safety Report, for example, would enable the Commission to get involved in a broad policy on what direction the Department is headed related to boating safety. Mr. Tsuneyoshi added that, given a chance to speak in public, Commissioners should know the issues regarding the causes of fatalities. This way, he added, the Commission can carry the message on boating safety to the public.

Chairman Purdon asked how the Commission would be advised on legislative bills if the Commission meets every two months. Mr. David Johnson replied that it is a problem that the Commission meets every other month and bills may not be introduced, or bills may get amended between meetings. However, he added, staff can prepare a draft bill analysis describing the details of the bill, the pros and cons, the fiscal impact, give it to the Commission and based on the staff analysis, the Commission could take a position on the bill when the Commission does meet and revise its opinion as necessary.

Commissioner Fleischman stated that it is already done that way at every Commission meeting, but nothing is done with the information. Mr. David Johnson said he would like to supply the facts of the bills and let the Commission draw the conclusion on what direction it will take. Chairman Purdon stated that 60 days is a long time between meetings.

Commissioner Reno stated that the Commission is the vehicle with which the public is introduced into the process that the Department engages in. He asked how the public's opinion is introduced into the legislative process without the Commission's input. Mr. David Johnson replied that the boating community is very aware of boating bills. He added that there are five boating lobbyists who he talks to on a regular basis throughout the year, so whenever a boating bill comes up, the first thing he does is get a read-out from all the lobbyists and a sense of what the boating community wants.

Commissioner Reno asked if that advocacy the lobbying community represents meets the expectation of a publicly-oriented Administration. Mr. David Johnson replied that because of the lobbyists and the organized boating associations, the Department is made well aware of all the boating bills and information about legislation is getting out to the boating public.

Commissioner Reno asked if it is a very efficient operation that lobbyists are able to access directly to the Department an open line on positions around legislation, and then have it managed up through the Administration. He added that there is a role for the Commission between the introductory to the result of legislative opinion. Mr. David Johnson replied that the Commission could provide input. He stated that the boating community is not monolithic; there are often serious disagreements on many bills.

Commissioner Reno stated that if he was a member on the other side of the table, then he would be interested in what the process of providing input was, so that in fact the Administration would

be looking for a wide and deep opinion on pending legislation. He added what input the Commission can provide as a catalyst of the public's opinion on the front end of that process. Mr. David Johnson replied that several years ago there was a legislative subcommittee formed on the Commission and draft bill analyses would be sent to the members of that subcommittee and they would, on a timely basis, give input back.

Mr. David Johnson stated that the Department would like the Commission to get involved in advertising for the Department's boat launching facilities grant and small craft harbor loan programs. He added that not everyone knows about the programs and the Department sees the Commission in an advocacy role, an advertisement role to promote the programs. Mr. David Johnson said the Commission could promote the programs when asked to give speeches and can let the cities, counties or local agencies know that the Department has these financial assistance programs.

PUBLIC COMMENT

Mr. Donaldson stated that someone has to support California boaters in the face of federal usurping of California recreational boating management and policy. He said the Director of Boating and Waterways has someone higher he has to report to but that the Commission has an independent voice and may be able to do things that the Department cannot do because they are part of the Administration. As an example, Mr. Donaldson stated that the National Oceanic and Atmospheric Administration (NOAA) is making rules on the Monterey Bay Marine Sanctuary and has not invited staff from the Department to attend a single meeting. He added that NOAA is making regulations for use of recreational waters in the State of California and not advising the state department that has the responsibility, authority and jurisdiction to develop California regulations. Mr. Donaldson said that one of the issues is tow surfing which NOAA wants to regulate under the guise of resource protection by describing a vessel that can be used in tow surfing and then prohibit the use of that vessel in Monterey Bay. He also said that NOAA is looking into regulating fishing activities, recreational and commercial activities within the marine sanctuary.

Mr. Donaldson indicated that the Director has made his position clear to the Administration and that the Commission could take a position on this. He said NOAA is trying to expand their role to the detriment of the United States Coast Guard and other agencies. Mr. Tsuneyoshi added that NOAA's regulations are based on anecdotal and not scientific evidence.

Chairman Purdon thanked Mr. Donaldson and said that it is an interesting subject on how to rein in the federal government when they are encroaching on California issues and jurisdictions.

Commissioner Nagata asked Ms. Fisher if the Commission as a whole has authority and jurisdiction only on those topics mentioned in section 82 and 82.2. Ms. Fisher replied yes, those are the sections that give the Commission its authority, but section 82 is broad and the first provision allows the Commission to advise the Department.

Commissioner Nagata stated that most of the provisions are the Department's responsibility, but the Commission can advise the Department with respect to it, but it is not our job to go out and

directly deal with these items, we can only advise the Department. He added that we are talking about things the Commission does not have the authority to do as a commission except for number one, which would be section 82.2. Ms. Fisher replied that the studies are appropriate for Commissioners to meet with the public and interact with the public.

Commissioner Nagata stated that this is what the Commission meetings are about. Ms. Fisher replied that the Commission can be ambassadors to the public and recipients of information from the public outside of the commission meetings, although that authority is not specifically spelled out in the statutes.

Commissioner Nagata said then the Commission could interact with the public, but the members could not act on their own; the Commission can only act as a group.

Chairman Purdon asked what the Commission can do to move to the next level of solving the problem. Ms. Fisher replied that the Commission can cause studies and surveys to be made and have reports issued of particular issues of interest that are brought up by members of the public. In addition, she said it would be appropriate to take independent positions on legislation. Mr. David Johnson added that from time to time the Commission has prepared letters with staff input on various issues, for example, he said former Commissioner Beatie had concerns about federal dredging and we prepared letters for his signature.

Chairman Purdon encouraged the Department staff to work with Director Tsuneyoshi and see if there is something that can be done to help the situation with Monterey Bay, starting with a letter.

PUBLIC COMMENT

Mr. Breninger said he heard the example given of Monterey Bay and would like to bring to the Commission's attention the Tahoe Regional Planning Agency (TRPA) preclusion of recreational boating. He mentioned that TRPA has no real statutory authority to preclude recreational boaters' access to part of Emerald Bay during certain weekends of the summer or ever dropping anchor and they are trying to segregate and preclude certain actions by recreational boaters. Mr. Breninger stated it would be a good area where the Commission can help and a reason why there should be a commission: to bring the issue to the attention of local boaters or enforcement officials providing the ability to keep an even playing field for everyone.

Mr. Kronman reiterated the fact that should the Governor choose to veto the omnibus bill that is before him, the Harbor Masters and Port Captains Association will stand ready to help in any way it could to ensure the longevity and continuation of the Commission. He added that there is a range of issues involving boaters and access to navigable waterways that go beyond the loan and grant issues and past the standard agenda items the Commission has.

Mr. Ken Johnson said the day the Monterey Bay became a sanctuary, Mr. Brian Foss, General Manager, Santa Cruz Harbor District, telephoned him and said someday they will ban boats in the sanctuary; and, we are on the way there. He added that once they do, the harbors along the coast will someday become places where the boats can go in circles and can't go any further than

that, so this is an issue that deserves some attention from the Commission. Mr. Ken Johnson stated that it clearly is within the jurisdiction of the Department that the Commission can advise the Department of its concerns. He added that these kinds of issues are specifically what the Commission needs to be looking at even more so than trying to get specific about projects and the internal running of the Department. This is where the Commission needs to be effective and can be effective, he said.

Chairman Purdon thanked the speakers for their input.

Mr. David Johnson talked about providing and maintaining an ecologically sound and clean environment for recreational boating. He said the Department has been promoting boating safety and boating access since 1957 and that about two years ago the Department made an agreement with Mr. Peter Douglas, Director, Coastal Commission in that the Department would take over the Coastal Commission's Clean and Green Program. Mr. David Johnson said that during the last two years, in cooperation with the Coastal Commission, the Department has an educational outreach program on environmental information to boaters, the boating community, and marina operators. He added that the Marina Tool Kit was sent to every marina in California and is available on the Department's website. Mr. David Johnson stated that this is the type of issues the Department is getting involved in and staff would like to see the Commission be involved by getting the word out to the public.

Chairman Purdon reported that the Clean Marina program was also developed in San Diego and the department had endorsed it. He said he is getting a lot of calls from people from other areas of California who would like to have someone come and show them how to start a program. Chairman Purdon said the Clean Marina program manual is available on his website and is available for everyone to plagiarize and use. He said there is a need and there should be a state program to oversee this type of program, and maybe interject it with some larger authority and importance. Chairman Purdon said the Department should consider combining the Marina Tool Kit with the Clean Marina program. He asked that staff explore this and come back with a concept on how it may work.

Mr. Flood spoke on enhancing California's recreational boating as a strong economic drive for the state and business community associated with recreational boating. He said every time a dollar gets spent in the State of California, part of it goes into savings and then it can be loaned against by a bank and that it can then be re-spent. So for every dollar that is spent within the economy, it actually turns out that a larger amount in total revenue is produced within the state. In 2001, he said, the Department had a construction budget for local assistance and capital outlay of nearly \$70 million dollars, the Department's total budget now is just a little more than that and the construction budget is close to \$40 million. Mr. Flood stated that there is a \$30 million dollar drop between 2001 and 2005 and most of that money went to another department to cover some General Fund deficiencies. He stated that one of the ways the Commission can get involved, that would help the economy, is to secure the rest of the funds for construction projects. He mentioned that every time one of those dollars is spent, the State actually loses a quarter; that's a loss to California's GSP of 30 million quarters per year.

BREAK: A 5 minute break was taken. Meeting resumed at 3:25 PM.

Chairman Purdon read agenda item number three which states, “What is the boating facility application, review, and budgetary process and timeline? Would it be helpful to have the Commission involved in looking at loans and grants that the department is considering?”

Mr. Flood referred to the “DBW Boating Facility Application, Review, and Budgetary Processes” handout which was given to the Commissioners and was made available to the public. Mr. Flood spoke on the application process and noted the last page of the handout which shows a timeline of the budget process.

Mr. Flood explained that in the process a telephone call is received from someone looking for a project and before the application is accepted, staff goes out and looks at the site and talks to the potential applicant about the possibilities and what the Department might do for them. He stated that if the project matches the Department’s guidelines and standards then they are asked to submit an application which would be due before April 1. Mr. Flood stated that if the project appears feasible as presented then it is given to Department engineers for review; afterward a new cost estimate and economic review are done to make sure the project is feasible with any engineering changes. He said that the application is then put in as a line item in a future budget which is reviewed by the Legislature and sometime between June and September it is signed by the Governor. Mr. Flood stated that only then does it come before the Commission.

Commissioner Fleischman stated that by looking at the timeline there are a couple of ways to enhance the advisory part of the Commission’s role. He said one way is to have a couple of members of the Commission serve as a subcommittee who might play a more engaging role interacting with Mr. Flood and his staff to understand what is going on and give advice and input. The members, he added, could rotate every year and it would be more of a function of creating a partnership between the Commission and Department staff with the goal of enhancing the final product to the benefit of the different perspectives. Commissioner Fleischman said that if at some point something is prepared to go to the Governor’s Office, as the advisability of that final document being prepared, it could be shared with the Commission, so that the Commission and members of the public who review the Commission’s agenda can come in and give input on what is being submitted to the Governor’s Office.

Mr. David Johnson stated that the Department of Finance and the Resources Agency have indicated that any correspondence between a department and the Governor cannot be disclosed as stated in Government Code section 6253. He added that this section also applies to both bill analysis and the budgetary process. Mr. David Johnson said recently a Budget Letter was issued from the Department of Finance which states, “Please remember that all information contained in documents used during the development process of the budget is strictly confidential until the release of the Governor’s budget.” He added that Mr. Don Wallace of the Resources Agency has indicated that the Commission cannot view, have input, or be involved in the Department’s proposed budget.

Commissioner Nagata commented that in reading section 82 of the Harbors and Navigation Code, the Commission could not do it, because there are some general rules of instruction and that the specific always controls over the general. The general, he said, cannot be used to expand the specific; that is called the *ejusdem generis*. Commissioner Nagata added that there is a

specific in the code that says the Department, not the Department and Commission; the Department shall submit proposals to the Commission, which is what is being done now. It does not, he said, say that the Commission is supposed to take part in preparing this proposal. Commissioner Nagata stated that the advice as stated at the beginning is very general and that cannot be used to expand the specific. Ms. Fisher replied that she agreed that is the correct legal interpretation of that concept.

Commissioner Reno asked what happens to funds that have already been obligated via the budget process but are not administered because the Commission said no to a project at the last stage of the process. Mr. Flood replied that anything that is not spent after it is put in the budget goes back into the revolving fund for expenditure in future years.

Commissioner Reno asked where in the budget process are other departments taking the Department's funds to reorient for their own projects. Ms. DeVerter replied that the Department is not included in the process and does not know when the funds are taken until the budget is actually printed on January 10.

Commissioner Reno commented that if the Commission is asked to endorse a project at the final stages of that project, and if there were to be a more deliberate review of the project and perhaps a higher threshold, then there would potentially be funds left over that have already been allocated in the budgetary process. He added that there then would be a pool of money that the Department would have for loans but with nowhere to place it; and, other departments could come in to take the funds, this constitutes a whole new opportunity or liability. Mr. Flood responded that the Legislature would not know about those funds for about two to three years when the Department closes the books.

Commissioner Reno stated that it is not something the Department can allocate arbitrarily the following year; it has to be re-budgeted. Mr. Tsuneyoshi added that the Resources Agency has in the past asked departments not to budget any more money than the previous year.

Commissioner Reno stated that with the length from project start to actual fruition, about two years, the Commission should explore where it could engage on a more short-term, more consistent period of time for the calendaring of each of these projects to maintain a pace; because there is a risk of money being allocated elsewhere if projects are rejected.

Commissioner Fleischman stated that one avenue to pursue would be more sharing with the Commission of things that are in the pipeline, making the Commission aware of projects, what applications have been accepted, maybe give a staff presentation on what the projects are and how they look. He added that since Department staff makes site visits very early on in the process to look at possible projects maybe a Commissioner could accompany staff on those early site visits. This, he added, would be a way to articulate relevance to what the Commission is doing to the Administration. Mr. Tsuneyoshi responded there is a need for a Commission and if the Commission gets more involved with the process the only fear he would have is that it would add to the bureaucracy of the process and the Department has a record of being quick in terms of getting projects moving.

Mr. Flood stated it would be possible to get the Commission involved at the front end of a project and visit sites before an application is accepted which would give the Commission a chance to get out there to meet with the potential applicants to discuss the potential project.

Chairman Purdon asked if a deal sheet could be done and shared with the Commissioners at the front end. He explained that a deal sheet would include price terms, income that is expected, cost of the loan and what the revenues will be. Mr. Flood said it would not be possible until after the project has been received as an application and Department engineers had looked at it to verify costs; that would be about the same time that the budget would be submitted.

Mr. Flood stated that another opportunity for Commission involvement early in the application process could be found in the Executive Summary of the Statewide Boating Needs Assessment which is available on the Department's website. He said the study lists all of the facilities that are needed in the different regions of the State. This list could guide the Commissioners involved in a pre-application meeting; the study gives information the Commission needs to go out and suggest different alternatives.

Commissioner Nagata asked if the Administration ever pressed the Department to put through a project. Mr. Tsuneyoshi responded that Spud Point was pushed by the Legislature and Mr. David Johnson added that there was Pier 11A, which cost \$8 million and was a non-recreational boating project by Senator Peace in San Diego.

Commissioner Johnson asked if the Department ever receives proposals without having a Department staff contact. Mr. Flood answered that he has, but he always rejects them until someone from the Department actually visits the site. He added the first part of the Department's application process states that step one is to contact the Department and get a representative from Boating and Waterways out to the site to go over the proposed project. Mr. Flood stated that last year he went out and reviewed between 12-15 sites and did not turn down any, but he only received six applications.

Commissioner Johnson asked if there is an opportunity for the Commission to go out to the sites with Department staff at that time. Mr. Flood responded, yes.

Chairman Purdon asked if the members approve that concept. All Commission members responded, yes.

Chairman Purdon asked that Department staff send the information needed for site visits to the Commission and whoever is available and would like to see the project can go.

Commissioner Clark asked if a Commissioner goes out to see the project, the only information available about the project would be that they are interested in making an application. Mr. Flood responded, yes. Typically, he said, there would be a telephone call saying they need a new restroom at this launch ramp, or a new boarding float, or need a wider launch ramp, etc., and that is all the information we would have.

Commissioner Fleischman stated that the Commission could assist the Department by letting the Chairman go through the process as to who will make the site visits. Chairman Purdon

responded that the Department may have 12 projects to review and when the projects have to be reviewed by the Commission a year and a half later, and then it would be seeing those projects again, so the site visits may triple. He added that the Commission can experiment with this and see how it works out over the next year.

In response to a question from Commissioner Nagata about boater money provided to another department without Commission consent, Mr. Tsuneyoshi replied that the problem is that the money does not come into the Harbors and Watercraft Revolving Fund; it is taken at the source and the Department has no control over it.

Commissioner Clark pointed out that several years ago funds were taken out of the Harbors and Watercraft Revolving Fund but a lawsuit was filed and a previous Administration was told to pay it back with interest; funds are now being taken before being transferred to the Revolving Fund.

Chairman Purdon read agenda item number four which states, “Should staff and the Commission work together to focus on being ‘proactive’ on getting facilities/loans in areas where they are needed for the public’s benefit?”

Mr. Tsuneyoshi stated that the Commission should look at the Needs Assessment Study because it gives an idea of where the needs are.

Commissioner Fleischman stated that at the next Commission meeting Department staff could give a presentation on the Needs Assessment Study. Mr. Tsuneyoshi responded that staff will have a compact disk made of the study and send it to the Commissioners.

Commissioner Clark asked if there is any prohibition for any Commission member soliciting the areas that they know has a need. Mr. Tsuneyoshi replied that the Department encourages it.

PUBLIC COMMENT

Mr. Breninger stated that recreational boating and types of boating changes and being proactive with a few studies and being on the cutting edge as to what is occurring in the country that might be coming to California is something the Department and Commission can look into. He added that the Department is being proactive in good science and a good example of where the Department and Commission could take an important step forward in matters of importance to recreational boaters is water quality. Mr. Breninger gave an example of the Shelter Island Cove in San Diego Bay where it is said that copper bottom antifouling paint on recreational boats in certain areas is causing toxicity problems. He stated that there is no science to prove this. Mr. Breninger suggested that this would be an important area where it would be ideal for the Commission to do studies.

Commissioner Purdon asked if there is any money available for studies and how could it be obtained. Mr. Tsuneyoshi replied there is from time to time money available. He added that if there is an issue that needs resolution then the Department can allocate the funds for a study.

Mr. Tsuneyoshi stated that the problem in San Diego is in trying to find some study that will tell us whether or not all the copper deposits at the bottom of Mission Bay are toxic to the organisms at the bottom of Mission Bay.

Chairman Purdon asked if, for example, there is a group that have banded together and put in their money to try and evaluate an issue, could the Department assist them with funds. He added that a Shelter Island group has come together over this issue. Mr. Tsuneyoshi replied that it could be done. He said Dr. Flick, the Department's Oceanographer, is looking for someone with credentials to do a meaningful study of this issue. Chairman Purdon responded that the Shelter Island group has found a qualified scientist. Mr. Tsuneyoshi said he would talk to Chairman Purdon later on this issue.

Commissioner Clark asked if the Commission undertook recommending that the Department conduct a study or survey on the copper bottom antifouling paint issue, it would have statewide ramification because the regional water quality control boards up and down the state are having discussions on this issue. Mr. Tsuneyoshi added that there is no scientific study about what is going to happen when one starts to use some of these substitute paints. Commissioner Clark added that the short-term effect is that one can transport invasive species from one area to another by not having the antifouling paint.

Commissioner Reno stated he would like to invite a Monterey Sanctuary representative to come and meet with the Commission and advise everyone as to their opinion and ideas. Mr. Johnson responded that inviting NOAA, especially Mr. William Douros, would be appropriate since NOAA will be issuing regulations in the next two or three months on what Mr. Donaldson was talking about.

Commissioner Clark asked that, if NOAA is to be invited, a white paper on the issues should be done by Department staff and given to the Commission before the next meeting.

PUBLIC COMMENT

Mr. Donaldson stated that there are other entities that have similar concerns about NOAA's approach; Mr. Steve Scheiblaue of the City of Monterey is very vocal on this issue and so are other entities in state government. He added that the State of Hawaii has adopted regulations on some of these activities for state waters in Hawaii, but have not been confronted with NOAA yet.

Mr. Kronman reported that the issues are not only at the Monterey Sanctuary, there are issues at the Channel Islands National Marine Sanctuary which is considering boundaries expansion and there are marine protected area issues and regulations on fishing that are both state and federal issues.

Commissioner Fleischman asked if any rules were being violated by the Commission in discussing this issue since it was not on the agenda. Ms. Fisher responded, no, but added that the matter would need to be put on a future agenda for discussion if the Commission wanted to take any action.

Chairman Purdon asked if there is a need to discuss agenda item number five. Commissioner Fleischman stated that all the agenda items have been discussed. Mr. David Johnson added that a summary of the minutes will be done and then the Department will get back to the Commission. Mr. Tsuneyoshi said the Chairman can look for any action items he would like to have on the next agenda.

Commissioner Fleischman asked that an interest sheet, listing all the functions of the Department, be circulated to the Commissioners and they could rate them from 1 to 5 on their comfort level of understanding so the Department would have an idea for future presentations to make before the Commission.

Chairman Purdon agreed and asked that the minutes be distilled and that Department staff make recommendations.

Ms. Farrell invited the Commission to the life jacket turn-in at the Mission Bay Aquatic Center which will be held on Labor Day. She also invited them to a meeting in Laughlin in January. Ms. Farrell indicated that the meeting will be with the Colorado River agencies of Arizona, Nevada, Utah and California to discuss different issues that occur along the Colorado River.

ADJOURNMENT

The Chair adjourned the meeting at 4:30 P.M.

Raynor Tsuneyoshi, Secretary

Attachment