

**MINUTES**  
**BOATING AND WATERWAYS COMMISSION MEETING**  
**SAN DIEGO, CALIFORNIA**  
**June 29, 2007**

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairwoman Clark, on June 29, 2007, at 8:30 A.M., at the San Diego Yacht Club, 1011 Anchorage Lane, San Diego, California.

**ROLL CALL**

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

Department of Boating and  
Waterways Personnel Present:    Raynor Tsuneyoshi, Director  
   Joy Fisher, Staff Counsel  
   David Johnson, Deputy Director  
   Steve Watanabe, Chief, Facilities Division  
   Margarita Sanchez, Administrative Assistant

**CLOSED SESSION**

Chairwoman Clark convened the meeting and announced commencement of the closed session. Following completion of the closed session, Chairwoman Clark continued with the public portion of the meeting.

**OPEN SESSION**

Chairwoman Clark stated the following with regards to the Settlement Agreement in the Spud Point case: after much discussion and deliberation in closed session, the Commission decided that it would be beneficial to the boaters of California to approve the terms of the Settlement Agreement. The Commission voted unanimously to approve the settlement by passing a resolution directing the Director of the Department of Boating and Waterways to sign the Settlement Agreement on behalf of the Department and Commission. The Commission has authorized copies of the resolution to be made available to any interested members of the public. Anyone wishing to receive a copy of the resolution may give contact information to

Ms. Margarita Sanchez and copies of the resolution will be made available to them when the settlement becomes available. In addition the Commission releases copies to the attorney, Ms. Jill Golis, and the Commission is hopeful that once the settlement agreement is fully executed, and in effect, then both parties will be able to put this long standing dispute to rest.

## **APPROVAL OF MINUTES**

Commissioner Rupf indicated page six, eighth paragraph, of the minutes should read “Commissioner Rupf said it is a worthwhile project and hopes that none of the engineering and inspection fees are being paid by the grantee agency.”

Commissioner Rupf added what he intended to say was that the grantee should not charge for their inspections and engineering cost. He said he wants to make sure the Commissioners understood that he is aware there are fees but his specific concern is that the grantee agency would bill the Department for their engineering time or their licenses.

**MOTION:** It was moved by Commissioner Rupf and seconded by Commissioner Purdon that the Boating and Waterways Commission minutes of the May 23, 2007, meeting be approved with corrections and adjustments. The motion carried unanimously.

## **CHAIRWOMAN’S REPORT**

Chairwoman Clark reported that she and Commissioner Metz met with the Governor’s new appointment’s secretary, Ricardo Sarmiento. She said one of the comments made by Mr. Sarmiento was he felt that the members of Commissions and Boards that have been appointed by the Governor have the Governor’s legacy to uphold and their terms live long after the Governor’s term in office. Mr. Sarmiento, she said, indicated that if there are issues before the different boards and commissions, and they fail to act upon the issues or the issues are set aside to be revisited at some later point, the word from the Governor is, just do it, and do it now. Mr. Sarmiento, she added, said the Boards and Commissions should make some hard decisions and press forward with the issues that they feel would be good for the people of California. Commissioner Metz added that if the Commissioner’s appointments go beyond the Governor’s term in office, then the Commission should carry forward with the same priorities as before.

Chairwoman Clark stated that for the next Commission meeting there should be an agenda item for the Commission to review the strategic plan that was developed. She said that the Commission could then be in a position to come up with plans that are needed to be pushed forward for the remainder of the year. Chairwoman Clark asked if any of the Commissioners have issues to be discussed they should send them to her prior to the next meeting.

Chairwoman Clark reported that there has been feedback on HR 2550 from the boating community. She said since 1976, recreational boaters have been exempted from the federal ruling in HR 2550, but about a year ago, the 9<sup>th</sup> Federal District Court ruled that the U.S. Environmental Protection Agency (EPA) had overstepped their authority in exempting recreational boaters from the permitting requirements for ballast waters. Chairwoman Clark said the EPA was given until September 2008, to get a permitting process for recreational boaters. She said the EPA is asking for public comments on this issue and the deadline is August 6, 2007.

Chairwoman Clark added that the EPA will have to find a way to get a permitting process for an estimated 18,000,000 recreational boaters. She said there have been briefs filed on HR 2550 by a number of states that have a large recreational boating population with the exception of California. Chairwoman Clark asked that Mr. Johnson look into why California, as the second largest boating state in the country, had not filed any briefs. Mr. Johnson responded that the Department was not aware of this issue until a few months ago. He said Department's counsel was going to check with the Attorney General's office to find out why California did not submit a brief.

Ms. Fisher stated the problem is that the commercial shipper's ballast are full of water which come from different areas of the world and are brought into waters of the United States, particularly the Great Lakes region. The ballast water, she said, can contain exotic plants and invasive species that take root in local waters and cost taxpayers millions of dollars to try to eradicate them. Ms. Fisher said the Attorney General's office knows about HR 2550 but has not been approached to be part of the collective states, because California is not in the Great Lakes region. She said she is not aware of any attempts by other boating states to file.

Chairwoman Clark stated the information she has received on HR 2550 is not the same as the information Ms. Fisher has. She said HR 2550 has been introduced to Congress and the bill is asking to place in statute the exemption of recreational boaters from the permitting process. Chairwoman Clark said she will provide Ms. Fisher and Mr. Johnson with the information she has on HR 2550.

Chairwoman Clark stated those in favor of AB 1458, the mandatory vessel certification bill, should send letters of support to Assemblymember Duvall, who is going to reintroduce the bill.

## **DIRECTOR'S REPORT**

Mr. Tsuneyoshi reported on the National Small Vessel Security Summit which he attended in Virginia. He said the meeting was attended by representatives from commercial, recreational, industry, interest groups, boating law administrators and marine law enforcement.

Mr. Tsuneyoshi added that top policy makers, such as, Michael Chertoff, Secretary of Homeland Security, Vayl Oxford, Director for Domestic Nuclear Detection Office, and Ralph Basham, Commissioner for U.S. Customs and Border Protection also attended. He said the top policy makers wanted to listen to solutions regarding small boat security.

It was agreed, he said, that recreational vessels could be used for terrorist activities. Mr. Tsuneyoshi said there were discussions at the summit on a national licensing and boat registration, which was opposed by many.

Mr. Tsuneyoshi reported the California boating fatality count to date is at 32 and last year there were 22 fatalities during this time. He added that Florida's boating fatalities is at 43 and last year at this time they were at 31. Mr. Tsuneyoshi said more education is needed on the use of lifejackets.

Mr. Tsuneyoshi said the U.S. Coast Guard selected the Sacramento-San Joaquin Delta as the site for the first-ever pilot campaign designed to effectively measure the impact of intensive marketing on life jacket wear rates and to promote the new stylish and light-weight life jackets. The theme for the campaign, he said, is "Wear It California".

Mr. Tsuneyoshi announced two personnel changes for the Department; Renae Anub, Facilities Division, will be working on public and private marina loans and Gloria Sandoval is the Department's new Public Information Officer. Ms. Sandoval, he said, was in charge of the Department's boat shows and poster contest.

Mr. Tsuneyoshi reported that he was given permission from the Resources Agency to have his name added to the National Association of State Boating Law Administrators' ballot for vice president for the year 2008.

## **LEGISLATIVE REPORT**

Mr. 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 stated that Assembly Bill 118, Nuñez, which would have a direct impact on recreational boaters was recently amended. The bill, he said, would double the existing vessel registration renewal fee from \$20 to \$40, which is collected every two years. Mr. Johnson said the bill would establish the Air Quality Improvement Program to fund air quality mitigation and clean technology incentive programs and establish the Alternative and Renewable Fuel Vehicle Technology, Carbon Reduction, and Clean Air Program to provide grants and revolving loans.

Mr. Johnson gave a summary of Assembly Bill 1335, Strickland, as requested by Chairwoman Clark. He indicated the bill would allow special districts to apply for financial aid from the Department of Boating and Waterways for boating safety and law enforcement programs. Mr. Johnson said under current existing law, the Department provides financial aid (grant) monies to counties to augment their boating safety and law enforcement programs. This bill, he said, would allow counties and special districts, such as water and park districts, to receive monies from boating safety education, and would specify that a new applicant agency must have an "annual boating facilities operating budget" of less than \$10 million. Mr. Johnson added that the Department currently has a grant program with counties with boating law enforcement and

the eligibility requirement is that the county first have to spend 100 percent of the personal property taxes that boat owners pay on boating law enforcement and if this is met, then the county becomes eligible for the Department's grant program. Mr. Johnson stated if the bill is passed, then boaters will be paying twice, one with the personal property tax and one with monies from the Harbors and Watercraft Revolving Fund.

Mr. Johnson responded to the comments made by Mr. Brian Roney at the Commission meeting of May 23, 2007. A copy of his response was made available to the Commission. Chairwoman Clark asked how many districts, which Mr. Roney mentioned, may qualify for the grant and what will the financial impact be to the Department. Mr. Johnson responded that there could be up to 25 districts that would be eligible to apply. He added that Mr. Roney had stated that Los Angeles County (County) was getting money from the Department's subvention program and is not performing any boating law enforcement. Mr. Johnson reported that he contacted the Los Angeles County and learned that the county operates seven boats in and around the Los Angeles County communities; four of the boats are operating 24 hours. The primary function, he said, is rescue and enforcement of the waterways of the County. Mr. Johnson noted that Los Angeles County does provide its County's lifeguards authority to cite a person for misdemeanors and infractions. He said the County is eligible for the Department's program and is doing boating safety and law enforcement. Mr. Johnson said Ventura County is not spending any boater property tax money for boating programs and that is why Mr. Roney's district is not receiving any Department funding. Mr. Johnson noted that the bill is not moving forward at this time.

Mr. Johnson stated AB 695, Karnette, would require new stern drive or inboard vessels with spark ignition engines to display a permanent label indicating compliance with California emissions standards' before they can be registered with the California Department of Motor Vehicles. Current law, he said, allows a buyer of a new vessel with a spark-ignition engine in California to apply for a vessel registration regardless of where the vessel was purchased or whether the vessel meets current California emissions standards. Chairwoman Clark asked when the bill will become effective. Mr. Johnson responded AB 695 would go into effect, if signed by the Governor, in 2008 for any new boats.

Mr. Johnson reported that AB 951, Jones, will set a precedent. He said the bill will prohibit a person, in a non-motorized vessel on certain portions of the Lower American River, from possessing a container with alcohol only during summer and holidays weekends when the Sacramento County Board of Supervisors prohibits alcohol on the landside.

Commissioner Metz asked how AB 990, Berg, comes into play with the Sonoma County issue. Mr. Johnson responded that AB 990 will not be the vehicle for the proposed legislation for Spud Point. He added that the bill has not been heard by any committee and therefore has missed deadlines and unless it gets a bill waiver, it will not move forward.

## **PUBLIC COMMENTS**

There were no public comments.

## COMMISSIONER ANNOUNCEMENTS

Commissioner Metz reported that he met with Mike Chrisman, Secretary for Resources. He thanked Mr. Chrisman for his support on his nomination to the Commission. Commissioner Metz said he brought up the question of the diversion of funds from the revolving fund to State Parks and Mr. Chrisman asked him if the Department has met with State Parks with regards to the funds. Mr. Metz felt in light of the entire conversion with Mr. Chrisman, it would be constructive to schedule a meeting with State Parks to talk not only about the funds, but other issues as well.

Chairwoman Clark asked that Mr. Johnson schedule the meeting with the State Parks Commission.

Chairwoman Clark said when she met with Secretary Chrisman to discuss some concerns that Recreational Boaters of California (RBOC) had with his opposition to AB 1458, it was also discussed that RBOC has been against the redirection of funds from the Department to State Parks for about seven or eight years. She said Mr. Chrisman stated he has been involved with this issue since 1992 and since two previous Governors had continued the redirection of the funds, as well as all the discussions raised with the Legislature this year, he said the transfer of funds will continue. Chairwoman Clark indicated that if the transfer is going to continue, then the Department should meet with State Parks and Mr. Chrisman agreed. He felt it would be a good way to address the issue than to continuing to fight it. She said that Mr. Chrisman suggested to Commissioner Metz two weeks later that the Commission and the Department should meet with State Parks and try to find the best way of utilizing the money and there would be some say on the utilization of the money. Mr. Johnson responded that he would be happy to facilitate the scheduling of the meeting and if only two members from the Commission will meet, then the meeting would not have to be noticed to the public. He added staff from the Department, State Parks and the Department of Finance could also be invited. Commissioner Rupf suggested that the first meeting be made with only two Commissioners from both commissions, so it would be more of a social introduction of the two commissions and ideas and issues could be shared easily. He said if you get too many people in the room, then lines are quickly drawn. Chairwoman Clark stated that Commissioner's Rupf suggestion has validity. Commissioner Nagata suggested that the Chair and Vice Chair should attend the meeting. Commissioner Reno asked for a report back after the meeting and for a timetable. Mr. Johnson responded he will set the meeting within the next 30 days.

Commissioner Metz indicated he would like to see on the next meeting's agenda the topic of interest rates. He said he would like a report on the trends and past practices of the Department with regards to interest rates, and would like to know what other agencies are doing with interest rates on loans. Mr. Johnson responded that the information could be available at the next Commission meeting.

Commissioner Purdon announced that there now has been 16 more marinas that have been certified by the California Clean Marinas Program. He said the Coastal Commission and members of an interagency group have taken the California Clean Marinas Program (CCMP) manual and made some recommendations and updates, of which some of the recommendations

were incorporated into the manual. The manual, he said, will be available to view on the internet on July 1, 2007.

Chairwoman Clark stated that Commissioner Purdon's program has received national recognition and RBOC has asked that the program partner with Ms. Vivian Matuk and the Clean Boating Network to try to provide some background and alternatives to the harbormaster and Marina operators in the Lake Tahoe area.

Commissioner Purdon asked if the Department could come up with some program like the Coastal Commission's Tool Kit which relates to the boaters and their boats. He said some of the suggestions the Coastal Commission wanted in the CCMP manual had to do with boating and boating activities and his program only relates to the marinas. Chairwoman Clark said boaters do need information from the Department or from whatever source to keep educating boaters on the rules of the road and how to boat safely as well as information on invasive species.

Commissioner Nagata made the announcement that Ms. Fisher will be retiring on August 6. He thanked her for all her advice and expertise and said she has been a great asset to the Department and the Commission. Mr. Nagata wished her well and said she will be missed. Everyone agreed with his statement.

Chairwoman Clark reported that Commissioner Nagata has asked to be replaced temporarily on the Spud Point Committee and that she has asked Commissioner Metz to replace Commissioner Nagata. Commissioner Metz agreed to be on the committee.

Commissioner Rupf stated that the Commission should have a budget briefing in anticipation of the budget going to the Governor's office or at least be briefed on some of the line item groups. Commissioner Rupf also said the letters that were sent out on the Quagga mussel could have been included in the Department of Motor Vehicles (DMV) mailings and not cost the Department about \$70,000. He said every trailer gets a document from the DMV and every vessel owner receives a personal property tax bill from the County of residence and the Quagga mussel letters could have been added to their mailings to keep some of the cost down. Commissioner Rupf asked to have a copy of the letter that was sent to the boaters on the Quagga mussel. He stated he would also like to have on the next agenda an item on Commission meeting dates and locations for 2008.

Chairwoman Clark said the next Commission meeting is scheduled for August 10 in San Diego and she understands a 50<sup>th</sup> anniversary event for the Department is being held on August 16 in Sacramento. Mr. Johnson responded that there is an event scheduled for August 16 at 6:00 p.m. at the State Fair. He said the Department will pay for travel for the Commissioners who wish to attend.

Mr. Johnson said the director will not be able to attend the Commission meeting on August 10, but he can attend if the meeting is scheduled before August 6 or after August 16.

Commissioner Metz indicated he would like to see some water safety operations included in next year's meetings. He would like to see where the subvention funds are being directed and would like to talk with the people who are patrolling to get a feel for their situation.

After discussion, it was decided that the next Commission meeting be scheduled for August 17, 2007, in San Francisco and the 50<sup>th</sup> anniversary event for August 16, 2007 in Sacramento.

## **ADJOURN**

Chairwoman Clark adjourned the meeting at 1:40 p.m.

*Original signed by:*

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Raynor Tsuneyoshi, Secretary