

- Corrected -

**MINUTES**  
**BOATING AND WATERWAYS COMMISSION MEETING**  
**WALNUT CREEK, CALIFORNIA**  
**October 24, 2008**

Pursuant to due and regular notice, the meeting of the Boating and Waterways Commission was called to order by Chairman Rupf, on October 24, 2008, at 8:30 A.M. at the Marriott Hotel, 2655 North Main Street, Walnut Creek, 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  
   Debra DeVerter, Chief, Administration  
   Harold Flood, Manager, Facilities Division  
   Phaedra Bota, Manager, Education Division  
   Vivian Matuk, Associate Governmental Program Analyst  
   Margarita Sanchez, Administrative Assistant

**COVENE**

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

**OPEN SESSION**

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

## **APPROVAL OF MINUTES**

Commissioner Clark pointed out an item in the minutes which needed to be corrected. On Page 11, second line, under “Commissioner Announcements” the minutes should read “...Pacific Inter-Club Yacht Association...”

**MOTION:** It was moved by Commissioner Nagata and seconded by Commissioner Purdon that the Boating and Waterways Commission minutes of the June 12, 2008, meeting be approved with correction. The motion carried unanimously.

## **CHAIRMAN’S REPORT**

Chairman Rupf reported that the mid-term meetings with the Director and Chief Deputy Director seem to be helpful in offering an opportunity to communicate with Department staff on setting a balanced agenda. He indicated he is seeking a dialog with the Secretary of Resources Agency on the Commission’s meetings and how important they are and that certain functions should be maintained even during a budget freeze. Chairman Rupf said the dialog will include having commission meetings, conducting necessary studies and reviews, such as, boat needs assessments and valuation and, where necessary, adjustments of the process that leads to the loan and grant programs.

Chairman Rupf asked that a budget workshop(s) should be held in Sacramento, aside from the regular Commission meetings, where interested parties and principals can have an opportunity to offer insights and input on the process of the Department’s budget. He said discussion and planning should be done on next year’s meeting schedule, so he will email to the Commission members and Department staff a suggested meeting calendar with dates and locations. The tentative meeting schedule will be approved at the next meeting.

## **DIRECTOR’S REPORT**

Mr. Tsuneyoshi reported that according to the National Marine Manufacturers Association, the sales of powered boats that are more than 15 feet long have declined 23 percent in the first eight months of 2008. He added that the Personal Watercraft Industry Association has stated that the sales of personal watercraft could decline from 15 to 20 percent this year. Mr. Tsuneyoshi said that although sales are down, boaters are still boating but they are taking shorter and fewer trips or are using non-motorized vessels.

Mr. Tsuneyoshi stated that the Department’s budget includes no \$85.5 million in expenditures.

Mr. Tsuneyoshi reported the state’s multi-agency task force released a guidebook to help water managers and recreationalists to take part in the fight against invasive Quagga and Zebra mussels. He said the guidebook is available online on the Department’s website.

Mr. Tsuneyoshi noted that there is a bacterium that may help in the eradication of the Quagga mussel, but it is still in the experimental stage.

Mr. Tsuneyoshi said with the boating season over, statistics indicate a lower fatality rate in 2008 versus 2007 and as of October 14, 2007 there have been 41 boating related fatalities. Last year the state had 50 fatalities. He indicated the Wear It California campaign's preliminary results indicate that the wear rate in 2008 increased from 2007. The results will be released later this year and will be made available to the Commission.

Mr. Tsuneyoshi reported that Department staff traveled to Virginia to receive a national award from the States Organization for Boating Access for the Lake Natoma Negro Bar boat launching facility improvement project. Department staff, Nouae Vue received the award.

Mr. Tsuneyoshi stated that he was recently elected Treasurer of the National Association of Boating Law Administrators (NASBLA) at their annual conference which was held in Florida.

Mr. Tsuneyoshi reported on the California Ocean Uses Atlas Project, which is funded by the National Oceanic and Atmospheric Administration (NOAA). He said the project is at the formative stage at the moment but will be something the Department will keep an eye on. The Project's goals are to take a time and place picture of 25 significant human activities along the California coast and present the data in GIS format. The data will then be used for new marine protected areas, ecosystem-based management, marine spatial planning, ocean zoning, and regional ocean governance, as well as any other ocean resource activities that would need data to help make decisions. Commissioner Purdon added that he was asked to sit on the Atlas Project Committee but NOAA rescinded the invitation when it became known he was on the Boating and Waterways Commission. Commissioner Clark added that Recreational Boaters of California is aware of this project and has formed a subcommittee which will send out some communication with questions and she will let the Commission know what transpires.

## **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.

Ms. Becerra reported on the following bills:

- AB 990 (Berg) Spud Point Marina was chaptered on September 25, 2008.
- AB 1059 (Lieu) Vessels: abandonment: abatement was vetoed on September 27, 2008.
- AB 2110 (Duvall) Vessel operator cards did not make it out of the Assembly Appropriations Committee. She indicated the bill has a lot of support but she did not have any information on who will carry the bill.

Commissioner Metz asked if the Commission can take a position on any bill. Ms. Becerra responded that it is appropriate for the Commission to take a position on areas it has an interest in. Ms. Becerra added the legislative process for the year has started and the Department's legislative proposals are being considered by Agency and the Department of Finance. The

proposals will be sent to the Governor's office where it will be determined which ones will be sponsored by the Administration. She noted there will be very few bills sponsored by the Administration this year.

Commissioner Clark asked if the Commission were to take a position on a piece of legislation would the support or oppose position be forwarded to the Department or Agency. Ms. Becerra responded it would be forwarded to the undersecretary for legislation at Agency.

Commissioner Clark commented that the President of the United States signed the Boaters Bill of Rights for 2008. She said this bill was supported by RBOC, Boat US and Senator Boxer. She added that the bill will not require boater permits to operate a boat.

## **CONSIDERATION OF PUBLIC GRANTS**

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

### **Miller Park Boat Launching Facility**

Marin County Department of Parks and Open Space has applied to the Department of Boating and Waterways for a public grant of \$403,000 for improvements to the Miller Park Boat Launching Facility. The boat launching facility is located on Tomales Bay in Marin County approximately 3 miles north of Marshall and 4 miles southwest of Tomales along Highway 1. The boat launching facility serves boats bound for Tomales Bay and the Pacific Ocean.

Marin County Department of Parks and Open Space staff, Ron Miska, Deputy Director, Steve Petterle, Principal Park Planner, and Nancy Peake, Park Planner, were available to answer questions from the Commission.

Mr. Flood indicated the proposed project will be used to construct a new restroom, fish cleaning station, and a retaining wall adjacent to the restroom.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve the public grant of \$403,000, to Marin County Department of Parks and Open Space for improvements to the Miller Park Boat Launching Facility.

**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 public grant of \$403,000 to the Marin County Department of Parks and Open Space for improvements to the Miller Park Boat Launching Facility. The motion carried unanimously.

### **Black Point Boat Launching Facility**

Marin County Department of Parks and Open Space has applied to the Department of Boating and Waterways for a public grant of \$279,000 for improvements to the Black Point Boat Launching Facility. The Black Point Boat Launching Facility is located on the west bank of the Petaluma River under the Highway 37 Bridge at the Marin-Sonoma County line.

Mr. Flood indicated the proposed project will be used to construct a permanent restroom, fish cleaning station and a vehicle turn-around. He stated a vehicle and trailer turnaround in the “lower” parking area adjacent to the ramp is being included for safety.

Marin County Department of Parks and Open Space staff, Ron Miska, Deputy Director, Steve Petterle, Principal Park Planner, and Nancy Peake, Park Planner, were available to answer questions from the Commission.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve the public grant of \$279,000, to the Marin County Department of Parks and Open Space for improvements to the Black Point Boat Launching Facility.

**MOTION:** It was moved by Commissioner Purdon and seconded by Commissioner Nagata that the Boating and Waterways Commission approve a Department of Boating and Waterways public grant of \$279,000 to the Marin County Department of Parks and Open Space for improvements to the Black Point Boat Launching Facility. The motion carried unanimously.

### **El Dorado Beach Boat Launching Facility**

The City of South Lake Tahoe has applied to the Department of Boating and Waterways for a public grant of \$100,000 for improvements to the El Dorado Beach Boat Launching Facility. The El Dorado Beach Boat Launching Facility is located within the City of South Lake Tahoe at the junction of San Jose Avenue and U.S. Highway 50.

Mr. Flood indicated the proposed project will reconstruct the existing bathroom, placement of safety lighting, and associated pedestrian paths from the existing parking lot to the proposed restroom.

Mr. Stan Hill, Engineering Manager, City of South Lake Tahoe, was available to answer questions from the Commission.

Mr. Flood stated staff recommends that the Boating and Waterways Commission approve a public grant of \$100,000 for improvements to the El Dorado Beach Boat Launching Facility.

Commissioner Clark asked if the Department is phase funding projects. Mr. Flood responded that this project is being phased funded because there were not sufficient Department funds available to cover plans and construction in a single fiscal year. Commissioner Clark indicated she had visited the proposed project and recommends approval.

Commissioner Metz asked about the assumptions used in the Economic Analysis section in the Feasibility Report which maybe outdated. He said reference is made of the 2001 California boater survey estimated travel cost per day in California at \$17.89 and the current User Day Value is \$21.58. He asked how current is the data being used and if it will be updated soon. Mr. Flood responded the data was calculated between 2000 and 2002 and is about six to eight years old. A new study, he said, is typically done every five years and it is time to redo the study. Ms. Becerra added that most of our data is old and updating the information is a priority for the Department. Chairman Rupf said having old data is a concern of the Commission.

Commissioner Nagata asked how the capital cost numbers are arrived at. Mr. Flood responded the capital cost includes the proposed grant plus the last grant that was made for facility improvements at this location because the 20-year operation period has not ended.

**MOTION:** It was moved by Commissioner Purdon and seconded by Commissioner Metz that the Boating and Waterways Commission approve a Department of Boating and Waterways public grant of \$100,000 for improvements to the El Dorado Beach Boat Launching Facility. The motion carried unanimously.

Commissioner Purdon asked if it would be possible for staff to provide a cover page with the Feasibility Reports that will illustrate how much money has been loaned out in private and public loans, how much money is available and the current interest rates used. This would be helpful, he said, so the Commission can get an overall picture on what is happening with the loan and grant programs. Mr. Flood responded something can be put together in the future. Commissioner Clark agreed with Commissioner Purdon and added the grants, proposed grants and phases should be included as well. Chairman Rupf said staff can note on the cover page the money that is in the budget this year broken down between grants and loans and the phase amounts that have been anticipated.

Chairman Rupf called for a break at 10:08 a.m.; the meeting resumed at 10:18 a.m.

## **OLD BUSINESS**

### **Department of Boating and Waterways Budget Update**

Ms. Becerra gave the Commission an overview of the Department's Budget and copies were made available. She reported \$85.5 million was approved for the Department of which \$80.1 million is for state support and local assistance and \$5.4 million for capital outlay.

Commissioner Metz asked what the difference is between infrastructure and non-infrastructure. Ms. Becerra replied infrastructure is capital outlay programs such as a facility on state owned property.

Ms. Becerra reported the following expenditure amounts:

- \$50.6 million for Boating Facilities
- \$22.6 million for Boating Operations
- \$6.8 million for Beach Erosion Control
- \$2.4 million for Administration

Funding sources:

- \$58.9 million for Harbors and Watercraft Revolving Fund
- \$500,000 for Abandoned Watercraft Abatement Fund
- \$12.4 million for Federal Trust Fund
- \$1.6 million for Reimbursements
- \$6.5 million for Public Beach Restoration Fund

Ms. Becerra indicated the amount allocated from the Motor Vehicle Fuel Account to recreational boating was about \$47 million of which \$27 million went to State Parks and \$20 million went to Boating and Waterways. The \$27 million does not come from the Harbors and Watercraft Revolving Fund.

After discussion, Commissioner Metz asked if the budget information can be given to the Commission in a different format. Chairman Rupf agreed that it would be very helpful to see where the money comes from and where it goes. Commissioner Nagata said, as done in the past, the budget information can be done as a pie chart. Commissioner Clark added the numbers would be better understood if the information was given ahead of time to be reviewed by the Commissioners.

Chairman Rupf again asked that a meeting be scheduled in Sacramento to better understand the budget numbers.

Commissioner Clark stated that all the discussion on the budget is a moot issue because every time a project is before the Commission, it is already a foregone conclusion that the project will be approved. The projects, she said, have already been submitted and placed in the Governor's budget. This is not giving advice and consent as stated in the statutes, she added. Ms. Becerra responded that Commissioner Clark's comments are correct as to where the Commission is in the process of approving loans and grants. Commissioner Clark strongly stated that the Commission has asked before to have some kind of system where the Commission can know in advance what the needs are going to be from the constituency and as the applications are received, the Commission can review them before they are placed in the Governor's budget and not after. Ms. Becerra responded she is unsure and unclear on what the Legislature's intended on this is, but she will get direction from Agency. Chairman Rupf said he has communicated directly with the Agency's Secretary and he should provide the Commission with direction.

### **Commissioners Role at Public Events**

Chairman Rupf asked that when Commission members' correspondence is received at the Department, the Department should let the members know if a reply is necessary or if the correspondence has or will be addressed by the Department. He added that when invitations to attend public events are forwarded to Commission members they should have a note attached to indicate what are the expectations and any authority for reimbursement. Ms. Becerra replied there will be some coordination and clarification on these issues. She added there will also be announcements to Commission members on DBW events and will let them know if attendance is necessary. Mr. Tsuneyoshi replied that a note or letter will be attached to correspondence and invitations indicating what needs to be done.

### **Department's Partners/Stakeholders/Clients**

Chairman Rupf asked that staff prepare/compile a list of Department's partners and stakeholders. He stated this will help him to see if the Department can partner or reach out to other individuals or entities. After discussion, Ms. Becerra responded partners are individuals or organizations that help and assist to promote the Department's programs. This is different, she said, to partnering on a particular event or policy issue. Mr. Tsuneyoshi added that CMANC is both a partner and stakeholder because some of their constituents have a stake in Department funds that are distributed to projects. He named a few other individuals and entities who are partners and stakeholders of the Department. Chairman Rupf made a reference to a press release which mentions a meeting of partners held in Redding on the Quagga issue. He said the release stated the meeting was attended by the Department of State Parks, Recreation District of the City of Oroville, Department of Fish and Game and Wild Life Service, but there was no mention of DBW. Ms. Becerra said a list of Department partners will be sent to the Commissioners.

Commissioner Purdon appealed to staff to include more press releases of items that occur in southern California. He would like staff to become aware of news items that occur in southern California and not just in northern California.

### **Boating Clean and Green Update**

Ms. Matuk gave a PowerPoint presentation on an overview of the Boating Clean & Green Program. The Boating Clean & Green Program educates boaters about environmentally sound boating practices both directly and by assisting local boater education efforts. The program provides technical assistance to marinas and local governments to increase availability of environmental services for boaters.

Commissioner Purdon asked where the funding for the hazardous waste material comes from and who maintains or takes care of it. Ms. Matuk responded she partners with two different groups, the Delta Program, led by Contra Costa County and the Santa Monica Bay Restoration Foundation. The Delta Program receives funding from the State Board which uses matching funds from their local used oil collection and grant monies from California Integrated Waste Management Board. She added that her program assist them to implement their programs.

Commissioner Purdon asked what if any events are scheduled for the San Diego area. Ms. Matuk responded that she will be having boater education information and Dockwalkers boater kits distributed in the San Diego area.

Ms. Bota presented to Ms. Vivian a *2008 Environmental Leadership Commendation* award from the BoatUS Foundation.

## **PUBLIC COMMENTS**

Larry White, Acting Marina Manager of Operations, San Francisco Marina, gave a brief status report on this loan documents. He said the loan documents were presenting to the San Francisco Board of Supervisors for consideration and the Recreational and Park Commission approved the 37% fee increased and will be before the San Francisco Board of Supervisors for consideration.

Jim Haussener, Executive Director, California Marine Affairs and Navigation Conference (CMANC) gave a brief history on federal funded dredging. He said CMANC is going to various California commissions asking for support on funding requests for dredging projects. Mr. Haussener stated \$188 million is needed to dredge various channels in California which are used by small crafts. He is asking for a letter by March 2009 in support of funding to be sent to the Appropriations Committee in Congress. He said the money is available and has been approved by Congress.

Mr. Haussener said he would be happy to give a presentation on this topic at a future Boating and Waterways Commission meeting. Chairman Rupf suggested Mr. Haussener send the Commission a written brief on this matter.

Commissioner Purdon asked how the federal government is collecting the revenue from California. Mr. Haussener responded it is collected by the Customs Service and is a value based fee. He added the money is not used just for commercial ports, but can be used for any infrastructures related to commercial vessels.

Brad Gross, Director, Dana Point Harbor, stated his harbor has a \$2.5 million dredging project that is being paid for by Dana Point Harbor because repeated requests for the appropriation funds Mr. Haussener spoke on have been denied.

Mr. Gross gave a status on his Department loan and said the EIR is still in process and may be ready in draft form in three to four months. He added the boater focus groups have been going well and two alternatives on the slip mix have been agreed upon.

Chairman Rupf asked that the "Public Comment" be put on the agenda at an earlier time so that more comments can be heard.

## COMMISSIONER ANNOUNCEMENTS

Commissioner Metz stated he would like to have the topic of abandoned watercrafts put on a future Commission meeting for discussion. He was impressed by the role of the different counties and how well they worked together on this issue.

Commissioner Clark congratulated Mr. Tsuneyoshi on his assignment as treasurer for NASBLA. She also congratulated Commissioner Metz on his senate confirmation to the Commission. Commissioner Clark made available to the public the Recreational Boaters of California's *Boater Brief*. The booklet she said is produced quarterly and available on the RBOC's website. Commissioner Clark commented there is an article on Russ Robinson's *2008 Environmental Leadership Award* from the BoatU.S. Foundation. Mr. Robinson will be retiring from Recreational Boaters of California at the end of year.

## ADJOURN

Chairman Rupf adjourned the meeting at 12:20 p.m.

---

Raynor Tsuneyoshi, Secretary