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5th District Commissioner
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Dennis Hunter, Commission Chair
Humboldt Bay Harbor District
601 Startare Drive, Woodley Island
Eureka, CA 95501

July 15, 2008

Re: Commission Agenda, Goldman Sachs Agreement Professional Advice and Budget Process Error

Dear Dennis,

This letter is to confirm my understanding of agreements made at the last Humboldt Bay Harbor, Recreation and Conservation District Commission regarding changes in our agenda and our engagement of professional marine contract advice to assist in our negotiation with Goldman Sachs. By having a more organized agenda, I think we can save redundancy in discussions and likely reduce the length of meetings. In addition, I think we made a procedural error on the 2008-09 Budget approval and may want to re-open that discussion at the next meeting to allow public comment as a result. I am sending this by Certified U.S. Mail as well as via email since my previous email comments and requests were somehow taken as informal and not official requests for action.

Agenda: My understanding is that we will now calendar the Draft Redwood Marine Terminal Business Plan on future agendas, at least as long as the public comment period is open. I now realize that your precedent was to put only action items in the Unfinished Business portion of the agenda. I think we agreed that will be remedied by having subsections for Action and Discussion under that header. I believe my request that our Commission learn more about bond financing for the multipurpose terminal through a presentation (study session) at our July 24 from our Treasurer Mark Wetzel or some other appropriate expert was also favorably considered.

I requested, and believe I received confirmation, that the Goldman Sachs agreement would be similarly put on the agenda in the same section (Unfinished Business/Discussion) so that progress can be reported and elements of the potential agreement can be discussed. For example, I expect that my request for professional marine contract service assistance for our negotiating team will be authorized between now and the next meeting and our engagement of such services could be reported.

Professional Marine Contract Advice for Goldman Sachs Agreement: Dave Hull's statements at the last meeting indicated that we would be engaging maritime attorney Lawrence G. Mellon, who we have on retainer, to assist with drafting and review of the Goldman Sachs agreement. I was very disappointed to have to raise this issue several times before acknowledgement and appropriate action. As stated in my TranSystems Business Plan comments, we need this advice to meet our fiduciary responsibilities as Commission members. Goldman Sachs has an inherent conflict of interest as our sales agent and they are experts in marine trade. Given that their commission comes from acquiring capital, their interests are served by an agreement with few restrictions, while ours may not be.

I request that the entire Commission be given a briefing by Lawrence G. Mellon to answer questions. Optimally this would be at the meeting where the Goldman Sachs agreement is discussed. The very least that would satisfy me is to have Mr. Mellon available via conference call in closed session, if necessary.

Procedural Error in Passage of Budget: We closed discussion on the 2008-09 Budget without allowing public comment, which is not legal for any item that is on our agenda. I have consulted Roberts Rules of Order with regard to calling the question, and you were in error when you said that you had no choice to put the budget to a vote once Commissioner Curliss requested that action. A "call of the question" cannot be debated but it must be put to a vote, with 2/3 majority necessary to end debate. In the case of our Commission, a 3-2 vote would only constitute 60% and would not close off debate. Even if 2/3 majority approved the call for a vote, it should not have occurred until after we have heard from the public.

I would recommend that we re-open 2008-09 Budget discussions and hear from the public to correct this error. Please inform me at your earliest possible convenience if any of what I take to be our agreed upon course of action described above is in error. With regard to whether we re-open discussion of the 2008-09 Budget to correct our procedural error, please let me know whether or not you favorably consider my suggestion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Higgins', with a stylized flourish at the end.

Patrick Higgins

CC Hard Copy: David Hull

CC Electronic: David Hull, Mike Wilson, Rhonda Pelligrini, Mark Wetzel