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Los Angeles County
Caring for Your Coast
Beaches & Harbors

**Stan Wisniewski**
Director

**Kerry Silverstrom**
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **COMMISSION AGENDA – AUGUST 10, 2005**

Enclosed is the August 10, 2005 meeting agenda, together with the minutes from your meetings of May 25, 2005, June 8, 2005 and July 7, 2005. Also enclosed are reports related to Agenda Items 3a, 3b, 5b, 5c, and 6a.

Agenda Item 5a, which is the Contract for Parking Lot Management Services at County-Operated Public Beaches and Marina del Rey, is not available at this time. If we do not provide you the report by early next week, we will calendar the item for consideration on a future agenda.

SW:cec

Enclosures

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us

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# SMALL CRAFT HARBOR COMMISSION

**AGENDA**
**AUGUST 10, 2005**
**9:30 a.m.**

**BURTON W. CHACE PARK COMMUNITY ROOM**
**13650 MINDANAO WAY**
**MARINA DEL REY, CA. 90292**

1. Call to Order, Action on Absences and Pledge of Allegiance

2. Approval of Minutes: Meetings of May 25, 2005, June 8, 2005 and July 7, 2005

3. **REGULAR REPORTS** (DISCUSS REPORTS)

   a. Marina Sheriff
      - Crime Statistics
      - Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance

   b. Marina del Rey and Beach Special Events

   c. Marina del Rey Convention and Visitors Bureau (PRESENTATION BY EXECUTIVE DIRECTOR OF MdR CVB)

4. **OLD BUSINESS**

   a. None

5. **NEW BUSINESS**

   a. Contract for Parking Lot Management Services at County-Operated Public Beaches and Marina del Rey (RECOMMEND TO BOARD)

   b. Approval of Amendment No. 1 to Amended and Restated Lease No. 8106 – Parcel 50T - (Waterside Shopping Center) - Marina del Rey (RECOMMEND TO BOARD)

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c. Approval of Amendment No. 1 to Amended and Restated Lease No. 8042 – Parcel 76 - (TrizecHahn Towers) - Marina del Rey (RECOMMEND TO BOARD)

6. **STAFF REPORTS** (DISCUSS REPORTS)

a. Ongoing Activities

- Board Actions on Items Relating to Marina del Rey
- Design Control Board Minutes
- Response to Public Concerns

7. **COMMUNICATION FROM THE PUBLIC**

8. **ADJOURNMENT**

**PLEASE NOTE:**

1. The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles Code (Ord. 93-0031 § 2 (part), 1993), relating to lobbyists. Any person who seeks support or endorsement from the Small Craft Harbor Commission on any official action must certify that he/she is familiar with the requirements of this ordinance. A copy of the ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.

2. The agenda will be posted on the Internet and displayed at the following locations at least 72 hours preceding the meeting date:

Department of Beaches and Harbors' Website Address: http://beaches.co.la.ca.us

Department of Beaches and Harbors
Administration Building
13837 Fiji Way
Marina del Rey, CA 90292

MdR Visitors & Information Center
4701 Admiralty Way
Marina del Rey, CA 90292

Burton Chace Park Community Room
13650 Mindanao Way
Marina del Rey, CA 90292

Lloyd Taber-Marina del Rey Library
4533 Admiralty Way
Marina del Rey, CA 90292

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9547.

Small Craft Harbor Commission
Special Meeting
May 25, 2005
Minutes

| Commissioners Present | Excused |
|---|---|
| Harley Searcy, Chairman<br>Joe Crail<br>Russ Lesser | Vice-Chairperson Stevens |

| | |
|---|---|
| Department of Beaches & Harbors: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau<br>Julie Carpenter, Planning Division<br>Dusty Crane, Chief, Community Services & Marketing Division |
| Other County Departments: | Thomas Faughnan, Principal Deputy County Counsel<br>Lt. Greg Nelson, Sheriff's Department<br>Deputy Paul Carvalho, Sheriff's Department |

## 1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 2:07 p.m. in the Burton W. Chace Park Community Room, Marina del Rey.

*Commissioner Lesser moved and Commissioner Crail seconded a motion to excuse Vice-Chairperson Stevens from the meeting. The motion was passed unanimously.*

The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

## 2. APPROVAL OF MINUTES

*Commissioner Lesser moved and Commissioner Crail seconded a motion to approve the March 9, 2005 minutes. The motion was passed unanimously.*

Commissioner Lesser was the only Commission member in attendance who also attended the April meeting; however, Mr. Thomas Faughnan said that the Commission could proceed with a motion on the minutes since the April meeting lacked a quorum, didn't have action items and Commissioner Lesser could verify their accuracy.

*Commissioner Lesser moved and Chairman Searcy seconded a motion to approve the April 13, 2005 minutes. The motion was passed unanimously.*

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Mr. Donald Klein, president, Coalition to Save the Marina, referred to page 8 of the April 13 minutes in which Commissioner Lesser explained that the Commission might be prohibited from commenting about the Archstone tenants' allegations because of pending litigation against Archstone and the County. Mr. Klein questioned why the Commission could not comment since the tenants who attended the April meeting are not involved in the lawsuits filed against the County. He believes that the tenants have a right to voice their concerns and receive a response and action.

Mr. Faughnan explained that the Commission was advised not to respond to the Archstone tenants' comments because of pending litigation relating to Archstone in which the County is named as a

defendant. He emphasized that this doesn't mean the Commission didn't listen to the tenants' concerns. The Commission did in fact listen and staff will take appropriate action.

Mr. Klein said that it appears the matter was referred to Archstone for action when it is the duty and responsibility of Beaches and Harbors to address the tenants' concerns. He mentioned that he spoke to tenants who indicated that the Department hadn't responded to their concerns.

Mr. Wisniewski said that those tenants who are concerned about the Department's lack of response should send a letter to him and he would ensure that staff responds.

Ms. Andrus commented that, although she is not an Archstone tenant or member of Coalition to Save the Marina, she is a community member who is concerned that the Department is not addressing Archstone-related issues in a public forum.

Chairman Searcy clarified that the Archstone tenants are welcome to attend the meetings and address the Commission with their comments/concerns; however, the Commission cannot respond to the comments/concerns, but would refer them to staff for further action.

After Ms. Andrus said that she still didn't understand why the Commission could not comment on the tenants' allegations, Chairman Searcy informed her that, in the interest of time, he was proceeding to the next agenda item; however, staff could further discuss the matter with Ms. Andrus after the meeting if needed.

3. **REGULAR REPORTS**

a. Marina Sheriff

– *Crime Statistics*

Lt. Nelson reported a slight decrease in crime in the Marina area. There is continued concern regarding thefts that are occurring on the west side. Recently, Mariners Village has been hit very hard, with 5 or 6 burglaries every weekend. He commented that the crimes are primarily those of opportunity, with laptop computers, cameras, cell phones, etc., being left on car seats and he reminded the meeting attendees to not risk leaving such items in their cars.

Lt. Nelson referred to the flyer he distributed publicizing the MdR Sheriff station's June 4, 2005 open house. He encouraged everyone to attend the event, which is scheduled from 11:00 a.m. – 3:00 p.m.

Commissioner Lesser commented that grand theft stood out in the statistics. He asked whether they are primarily car thefts. Lt. Nelson responded that the thefts are mainly from cars in the sub parking area, primarily at Mariners Village.

Chairman Searcy asked whether grand theft involves items worth $500 or more. Lt. Nelson responded that it depends. He explained that anything taken from a person is considered grand theft, whether its two cents or $1,000. Generally, if it is money, the amount is $400 or above for certain items. The penal code breaks grand theft down to a number of categories.

Lt. Nelson also reported that Beaches and Harbors has worked diligently with the federal government on the shoaling problem at the channel entrance and the Sheriff's Department has deployed more buoys by the north entrance; however, there is still a concern because the shoaling continues. There is talk of locating 185' vessels over to the fuel dock due to redevelopment and he is concerned about these conditions.

– *Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance*

Deputy Carvalho said that, as reported last month, the number of Notices to Comply and citations issued would probably not change for a couple of months.

Deputy Carvalho shared good news that the Board of Supervisors recently approved the master agreement for disposal of the impounded vessels. The Department should be able to begin the disposals in a week or two once all the signatures are obtained on the agreement. Once the Department begins disposing the vessels, the Department will resume its program of randomly inspecting docks for unseaworthy vessels.

– *Pedestrian/Bike/Vehicle Accidents*

Lt. Nelson informed the Commission that the California Highway Patrol (CHP) was scheduled to provide the accident report, however, the representative hadn't arrived.

Since it appeared the CHP would not be able to attend the meeting, Chairman Searcy requested that Lt. Nelson arrange for a representative to attend the June 8 meeting. If a representative is unavailable, Chairman Searcy requested Lt. Nelson to obtain a written report instead. The June report would be considered the first of the quarterly accident reports.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Andrus expressed appreciation to the Commission for including the quarterly accident report on the agenda. Ms. Andrus suggested that the Commission also obtain a traffic count.

Further, Ms. Andrus informed the Commission that she spoke to Mr. Winters, L.A. County's Asst. Deputy Director, Dept. of Public Works' Traffic & Lighting District, and he told Ms. Andrus that his office would contact Beaches and Harbors and the Marina City Club to discuss the installation of a traffic light in the Marina City Club area.

Mr. Wisniewski commented that the Department has not received any information concerning the traffic light installation. Chairman Searcy assured Ms. Andrus that the Commission would share any information it receives on the matter.

Ms. Andrus requested the name of the master agreement that Deputy Carvalho mentioned in his report. She also requested a copy of it. Deputy Carvalho responded that the document is titled, "Master Agreement for the Disposal of Abandoned and Impounded Vessels."

Mr. Faughnan informed Ms. Andrus that the agreement was not developed by Beaches and Harbors and was not presented before the Commission; however, members of the public can obtain it through the Board of Supervisors' Executive Office.

Relative to the Sheriff Department's random inspection of seaworthy vessels, Mr. Klein commented that, according to the new restated leases, as of 2003, the County is supposed to make seaworthy inspections of all vessels in the Marina three times per year. He questioned why this hasn't been done.

Mr. Wisniewski suggested that Mr. Klein speak to Mr. Moliere about the lease enforcement provision. The Department would coordinate its response with the Sheriff's Department.

b. Marina del Rey and Beach Special Events

Mr. Wisniewski reported that the MdR Water Shuttle would begin May 27 and extend through the month of September 25. The service will operate on a regular schedule, which is Friday through Sunday. However, during the month of June, the shuttle will operate as an on-call taxi service since there hasn't been much ridership in the past during the month of June.

He commented that changing from full-time to an on-call service in June results in cost-savings that will enable the Department to fund the September full-time service. There is no net change in the contract cost and the Department believes it will be a better service for the public.

Mr. Wisniewski encouraged everyone to obtain a copy of the special events report placed on the public information table.

## 4. OLD BUSINESS

a. Marina del Rey Local Coastal Program (LCP) Time and Information Summary

Mr. Wisniewski informed Commission members that, per its request, the summary includes an LCP chronology and list of materials given to California Coastal Commission (CCC) staff

Mr. Wisniewski said that, as he understands it, the CCC staff plans to provide its final report at the June 7, 2005 Coastal Commission hearing in San Pedro. When the report is available, the Department will provide the Small Craft Harbor Commission with copies.

Mr. Wisniewski noted that the date changed for the CCC's final report. He explained that when the CCC staff held its meeting in the Marina, staff indicated that it would hold a public hearing on the periodic review in June and the final report would be scheduled for consideration in the fall 2005. However, when a copy of the draft report was given to Department staff as a courtesy, CCC staff indicated its intent to present its final report at the June hearing. The CCC might also take final action at the June hearing.

Commissioner Lesser asked Mr. Wisniewski to explain what he meant by "final action." Mr. Wisniewski responded that the periodic report has a series of recommendations that must be approved by the CCC. The recommendations will be calendared for consideration on June 7. While the Department's staff has read the recommendations and discussed them with CCC staff, the Department does not know what is contained in the final report.

Chairman Searcy encouraged members of the public, particularly those who have expressed an interest in the Local Coastal Plan and the CCC public workshops, to attend the June 7 hearing, where they will have an opportunity to provide input.

Commissioner Lesser and Chairman Searcy commended staff on the LCP Timeline and Summary and encouraged meeting attendees to obtain a copy at the public information table.

## 5. NEW BUSINESS

a. Marina Beach Strategic Plan

Mr. Wisniewski informed the Commission that the Department hired the urban planning firm of RRM Design to develop a strategic plan for Marina Beach. He introduced Mr. T. Keith Gurnee, urban design consultant, who attended the meeting to discuss the plan.

Mr. Wisniewski said that a number of development projects surround Marina Beach. The beach is identified as one of the two catalytic project areas in the Marina Del Rey Asset Management Strategy,

which was approved by the Board in 1997. The Department has a strong desire to construct a public promenade in the area and enhance public facilities at Marina Beach. This is a wonderful opportunity to ensure that there's a coordinated development effort at Marina Beach as well as the development occurring adjacent to Marina Beach.

Mr. Wisniewski said that Mr. Gurnee was given the scope to conduct stakeholder interviews, which he has done. Mr. Gurnee also is making presentations before the DCB, Beach Commission and at the Small Craft Harbor Commission to make the public aware of the planning effort and to solicit Commission and public input.

Mr. Gurnee, Principal, RRM Design Group, informed the Commission:

> RRM Design Group is a full service planning, landscape architecture, urban design architecture and civil engineering firm that specializes in waterfront urban design and park and recreation facilities. I am the leader of our company's waterfront group for the West Coast. We're very pleased to be here today at the start of this planning effort to come up with a plan of public improvements that will be cohesive and comprehensible to the future users of Marina Beach.
>
> The scope of our work is somewhat limited at the outset. We've been asked to come up with a couple of alternative approaches to making improvements to the public realm. The public realm would include the Marina Beach itself, the waterfront promenade, the facilities that support the user groups that use Marina Beach as well as the pedestrian environment along the road network that serves the area, particularly Admiralty Way and Via Marina. We are in the process of trying to program how to approach two contrasting ideas of how to do that.
>
> One of the other charges is also...to make recommendations to better integrate the development projects with the public improvements rather than turning their back on them or shutting themselves off from them, how can they be integrated to create maximum synergy for what is happening at this beach.
>
> We conducted a battery of key stakeholder interviews. During one set, we met with the lessees of the lease sites that frame Marina Beach. We met with various representatives and staff from the Department of Beaches and Harbors. We met with a variety of user groups as well as Commissioner Lesser...we interviewed a member of the Beach Commission. We interviewed all of the various boating interests that use Marina Beach, Convention and Visitors Bureau, a lot of different and diverse people.
>
> We got a sense of the issues that we're going to have to address in developing the recommendations for these alternatives. At the top of the list of those issues is concern about water quality. We know the Department is working very hard to address this issue. It's just important for everyone to realize that that is a constant refrain on the part of people we interviewed. Another concern is making sure that there is adequate public parking to serve Marina Beach, that it is accessible and that it remains affordable as it does today.
>
> There's a lot of competition for Marina Beach. Many user groups cover a piece of this beach to support their activities. We're meeting with the rowing club, the Fairwind Yacht Club, the kayakers, the Outriggers, all requesting some facilities to better support what they do at Marina Beach, as well as the need for relocating picnic structures, resolving the design of the waterfront promenade, addressing the issue of improving the playground facilities, all of the facilities on Marina Beach.

> There's also a need cited among the people we interviewed to improve the pedestrian environment out on Admiralty Way and provide greater connection between the street to the waterfront promenade and the need to better integrate leasehold development with the promenade.
>
> We're in the process...of programming the two alternative approaches. Our calendar is to try to come back with a couple of alternative concepts for different ways of treating the various features being thought of here. We hope to be able to return to staff and ultimately, the Design Control Board, in late June or early July of this year.

Chairman Searcy thanked Mr. Gurnee for his information and wished him success in his planning efforts.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Andrus expressed her belief that the urbanizing of Marina Beach has not been legitimized. She said that the Marina is supposed to be recreational rather than urban and this should be the prime factor when considering any development plans for Marina Beach.

Ms. Andrus said that Mr. Gurnee didn't mention speaking to bicyclists and other groups during his stakeholder interviews. Also, it's important for buildings to remain at two stories and no higher.

Further, Ms. Andrus said that Casa Escobar has a large noise level and people can always hear the music from outside the restaurant, which is not good for the boating community or area residents.

b. Consent to Assignment of Leasehold Interest and Amendment to Lease - Parcel 33R (Harbor House) – Marina del Rey

Chairman Searcy noted that this item would not be discussed and would be placed on a future agenda.

c. Approval of Second Amendment to Option Agreement and Joint Escrow Instructions for Lease Nos. 6734 and 11140 – Parcels 44U (Pier 44) and 77W (77 Del Rey)

Mr. Moliere reported that several years ago the County received an option to reaquire certain of the property that is adjacent to the current Chace Park boundary. The intent was to provide further facilities and expand the park. The Second Amendment to Option Agreement is the second continuation and second amendment to the first agreement, which extends the time at which the County may exercise its option to pick up the property. The extension is being granted to the County at no additional cost and the price remains the same as in the original agreement. The extension is needed both by the lessee, who is planning the adjacent development, and the County to continue and complete its planning of the expanded Chace Park area.

The amendment is fairly straight forward in that the lessee is granting the County an additional two years to pick up the landside to exercise its option and an additional six months to pick up the waterside. Relative to the waterside, the Department is in consultation and negotiation with the Santa Monica Windjammers Yacht Club and there is some possibility that the area might be suitable for the yacht club to move its facilities thus freeing more space in Chace Park.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Mr. Donald Klein, president, Coalition to Save the Marina, expressed the Coalition's opposition to the Second Amendment to Option Agreement because the agreement is not consistent with the Land Use Plan.

There was discussion as to whether, according to Robert's Rules of Order, it is correct to make a motion prior to hearing public comment. Chairman Searcy and Commissioner Lesser expressed their preference to first hear public comment since it would afford them the opportunity to receive information they might not have previously known or considered.

Mr. Faughnan informed the Commission that he would research the matter and report at the June meeting.

*Commissioner Crail made a motion that was seconded by Commissioner Lesser to endorse the Director's recommendation to approve the second amendment to option agreement and joint escrow instructions for lease nos. 6734 and 11140 – Parcel 44U (Pier44) and 77W (Del Rey) – Marina del Rey. The motion was passed unanimously.*

**6. STAFF REPORTS**

a. Ongoing Activities Report

- Board of Supervisors Actions on Items Relating to Marina del Rey

Mr. Wisniewski reported that on May 17, the Board of Supervisors adopted an ordinance to extend the Small Craft Harbor Commission's sunset review date to December 31, 2009.

He also reported that on May 10, the Board of Supervisors approved the amendment to contract with Pacific Adventure Cruises, which provides the Marina's water shuttle service.

- Design Control Board (DCB) Minutes

Mr. Wisniewski stated that the April 21, 2005 minutes were included in the packets mailed to the Commission.

- Response to Public Inquiries

-- North Jetty Walkway

Mr. Wisniewski reported that this item responds to a member of the public who expressed concern about sand accumulating on the north jetty's asphalt walkway. The member of the public also commented about the jetty's design. Mr. Wisniewski said that, to help mitigate the sand problem, staff extended the sand fence beyond the point where sand accumulates. As for the design, he commented that the jetty is asphalted and surrounded by railing. More information would be needed in order to address the person's design concern.

-- Sunset Review

Mr. Wisniewski informed the Commission that the sunset review item is included in the report in response to a member of the public who requested the information at the April meeting.

Mr. Wisniewski commented that members of the public with concerns about the sunset review process have the opportunity to address the Board of Supervisors when it considers the Audit Committee's recommendation to continue or disband a particular Commission.

He offered to provide additional information, if needed, to the member of the public who addressed the Commission on the matter.

Mr. Wisniewski mentioned that the Design Control Board is incorporated as a required body into the Local Coastal Plan for Marina del Rey. Since the DCB is required, staff has recommended to the Executive Office that the DCB sunset reviews be discontinued.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Andrus identified herself as the member of the public who addressed the Commission in April regarding the sunset review process. She said that the "sunset review evaluation is a review that evaluates the performance, objectives of all Los Angeles County commissions, committees and task force, as recommended by the L.A. County Citizens' Economy and Efficiency Commission." She requested contact information for the Economy and Efficiency Commission.

Ms. Andrus commented that the sunset review is currently being shortchanged in what it should be able to achieve. She added that its objectives should be very clear; otherwise, everyone is wasting their time and the Department is redirecting the public mandate.

Further, Ms. Andrus said that she is sure that when the Economy and Efficiency Commission recommended the sunset review it had more in mind than just determining whether a commission should continue or be disbanded. The minutes, proper procedures, etc. should be examined. There are issues other than whether or not a commission should exist.

Mr. Wisniewski commented that the Audit Committee considers a fairly involved evaluation before making any recommendations to the Board. Mr. Wisniewski suggested that Ms. Andrus contact Mr. Moliere so that he could provide her the name of the Executive Director for the Economy and Efficiency Commission as well as the name of the Audit Committee coordinator who is responsible for the sunset reviews.

## 7. COMMUNICATION FROM THE PUBLIC

Mr. Jonathan Balfus informed the Commission that he is an attorney for floating home resident Robert Weinmeyer, who is being evicted by the management company, G&K Management. Mr. Balfus said that he spoke briefly to Mr. Faughnan about the circumstances of the eviction, but he also wanted to bring the issue to the Commission's attention since it's foreseeable that there would be future problems of this nature.

Mr. Balfus gave the following testimony:

> There's a fundamental conflict between the County's ordinances regarding floating homes of the sort that Mr. Weinmeyer resides in and the state regulations. I don't know the position of all of the different management companies, but I do know the position of Mr. Weinmeyer's landlord is that the state controls, he will be evicted and he does not have any other recourse.
>
> There are a number of different avenues to address this problem in the courts between Mr. Weinmeyer and his management company, but it's important that the County know about the issue because the foreseeable result of this problem will be a rash of lawsuits, some of which may involve the County as a defendant, some of which may not.
>
> I don't want to threaten anything...I don't want to give ultimatums, but this is a very serious problem. There is no official position yet from the County. Mr. Faughnan has been kind enough to take a look at the issue and has his staff examining it, and

advised that he may be able to give a formal position, but in the absence of one, there isn't any guidance. There's a problem within the state of the law here with respect to the residents. I don't think the County yet has addressed it.

I wanted to bring that issue to reaffirm that the dialogue is open, at least on behalf of Mr. Weinmeyer and other people who are similarly situated to avoid lengthy litigation, which nobody wants. To the extent that the Commission has any particular questions about the discrepancy I'm talking about, what this issue is, I'm happy to do that now.

Mr. Faughnan knows how to get in touch with me and I would be happy to make myself available to help resolve this issue before it blows up into the litigation that is foreseeable.

Mr. Faughnan affirmed that he discussed the issue with Mr. Balfus and relayed the concerns to Department staff, which will review the matter and contact the lessee to determine the best course of action.

Chairman Searcy requested that in addition to following up with Mr. Balfus, Mr. Faughnan should also keep the Commission informed on the matter.

Mr. Balfus offered to prepare a letter on behalf of Mr. Weinmeyer regarding what they believe to be the discrepancy. Mr. Balfus said he would like to do whatever is necessary to advance the cause. Chairman Searcy said that the Commission welcomes his efforts, however, he suggested that Mr. Balfus coordinate with Mr. Faughnan, who will keep the Commission apprised.

Mr. Gerry Purcell, floating homeowner, said:

I have two points that I'd like to see addressed. One is the fact that if the Marina is going to renovate the slips, could the County make provision, because we are really trapped with these floating homes. There is no one in the Marina, in the state, that would take them. They actually have to come apart and be destroyed basically.

Could the County negotiate with the lessees so that they would provide, even though they may not want to, or have it in their plan, a suitable slip so that those dependent floating homes...could reside in that marina and pay the nominal rate that is probably gonna be increased?

The second [point] is, when this ordinance was put together in 1995, it stated there was a10-year period in which the owners who registered their boats at that time would be able to repeatedly sell them to subsequent purchasers. As a broker, I've experienced the difficulty in selling these vessels and the reluctance of the public because they felt that this was a poor investment.

Now, we've got three or four months left until September 5, which was the original date to put in terms of the resale of the vessels. If they were sold after that date, there would be fines and also the possibility that it might have to go if the people couldn't pay the fines. I would like to see that as a dispensation, as a sympathetic consideration because there is nothing that these floating homes can do.

There's 50, 60...of them. I'm not officially speaking for them, but I know that they all would want me to ask you if you could do something in terms of amending this lease to allow these homes to be repeatedly sold without changing any of the regulation other than the first one that I addressed....

> We have no place to go. We all signed this under duress because we had no power. At the time, we didn't have an attorney. We weren't negotiating. It was a Pioneers Skippers Association that was put together with David Baker, he was an attorney. We were all under equipped to negotiate and we had the floating homes. We could not do anything about it. We signed it. We had hoped it would get changed over the last ten years and it hasn't.
>
> This is a very important issue. People are not buying these boats. Some of them have tried donating them. People who are donated to can't get rid of them. Several of them have been crushed. I've witnessed it. I'd like to see the County please address it. County Counsel may be going by just what the law was, but I'm looking for some sympathy here for these people because we've got nothing to lose but our money and that's where we live.
>
> On the issue of the state not allowing the County to mandate this unseaworthiness ordinance, I wish to get some response on that from the County in writing as to why they think they could have put that together in the first place. Again, we were not legally sophisticated and we signed it. Does that remove our legal rights in doing so?

Mr. Faughnan said that Mr. Purcell has raised broader issues regarding the seaworthiness ordinance and floating home ordinance, which were adopted ten years ago and which provided floating homes an exemption from the requirements of the seaworthiness ordinance. After ten years, they will have to comply with the seaworthiness ordinance if they are sold. Mr. Faughnan believes if the floating home remains with the original owner, the owner is exempt from the seaworthiness ordinance.

Mr. Wisniewski said that he was at the Department during the time the ordinance was developed and its intent at the time was to prevent the proliferation of floating homes that would displace recreational boats from boat slips in the Marina. The floating homes are not recreational boats. Years ago there were a large number of floating homes being built and people began occupying them. The Department proceeded with the ordinance in recognition of the fact that approximately 50–60 of the floating homes had already received status in the Marina and it didn't seem reasonable that they be evicted at that time.

Mr. Wisniewski said that the ordinance provided for a grandfathering in and that within ten years a person could sell his/her floating home and be allowed to remain in the Marina assuming the lessee allowed the person to remain as a tenant at the anchorage.

Further, Mr. Wisniewski said that there is no requirement for the lessee to allow the floating homeowner to remain; however, the floating homeowner cannot be evicted for failure to comply with the seaworthy ordinance. After ten years, if there is a change of ownership, the floating home would have to leave Marina del Rey. He said that staff would provide a report on the issue to the Commission.

Chairman Searcy commented that if he was a floating homeowner and he had to relocate because of a dock's redevelopment, he would like to think there was a mechanism in place to allow him to return once the docks are completed. He asked whether the lessees allow tenants to return after a dock is completed.

Mr. Wisniewski responded that the lessees make their best effort to phase the development so that they keep tenants since empty docks aren't profitable. However, the Department would look into the issue of mandating that a lessee keep a floating homeowner during the redevelopment process. Staff would report back to the Commission.

Chairman Searcy noted that one benefit of retaining a floating home tenant is that the tenant can be another set of eyes and ears at the dock and keep theft and other crime down. Also, the lessee could charge higher rates for the liveaboards.

Mr. Wisniewski commented that a tenant could live on a recreational vessel rather than a floating home and provide the same security benefit to the lessee. A floating home has the disadvantage of not being a recreational vessel. That is the reason there was an effort ten years ago to stop the proliferation of floating homes. The Department felt they would displace recreational boaters. He said that this information would be included in the staff report to the Commission.

Commissioner Lesser commented that he doesn't think the floating homes are the greatest thing in the Marina since the Marina is a recreational harbor, however, he doesn't think it's fair to create a major hardship on the floating homeowners. A way of accommodating them through the useful life of their vessels should be explored. Chairman Searcy agreed and commented that something should be done since it's a finite problem that probably won't get bigger.

Commissioner Crail commented that he also was around when the ordinance was developed and he confirmed Mr. Wisniewski's background on the issue. Commissioner Crail pointed out that at the time most of the boaters did not like the floating homes because of their unattractive appearance; allowing them to remain was more or less doing the floating homeowners a favor.

Mr. David Lumian, Fairwinds Yacht Club, invited attendees to the Association of Santa Monica Bay Yacht Clubs' all-day sailing safety seminar on Saturday, July 16 at West Marine on Fiji Way. The seminar was planned in response to accidents that took place several weeks ago in which people fell overboard during a race. He requested the Commission's assistance in publicizing the function.

Mr. Wisniewski asked Mr. Lumian to speak with Mr. Moliere after the meeting so that staff could post the seminar on the Department's website.

Mr. Wisniewski encouraged representatives of boating organizations that are planning similar events to contact the Department so that the events can be included in the Department's Special Events Report, which is seen by the Argonaut and the Dinghy.

Dr. Stuart Hoffman, five-year liveaboard tenant, informed the Commission:

> When I first came on, the company said, 'we're going to be building new slips and we want to facilitate your move, so here's the list, get on it...' Then a new management company came in and said, 'That list doesn't matter anymore. Do the best you can. We have a committee that will process your application.'
>
> I call every marina every Friday that's on the list. There are no slips available. I've called Ventura, Oxnard, Long Beach, San Pedro and I don't really know what to do. I don't have anywhere to go. I am a recreational boater. I do go boating. I do have a dinghy that I use and my boat's not ugly, so that's what's happening with me. I don't know what to do.
>
> The only recourse is...legal. That's painful to me as doing anything else. Just a week ago, the dockmaster came on...my boat and said, 'you have one hour to move your cars or I'm gonna seize your boat unless you come down and pay $70.00 a day to stay here.'
>
> They evicted me from the spot and then they said, 'you can stay here anyway if you pay us' this extortion of $2100 a month. There are threats all the time...I pay my rent on time, not only that, before time, it's always early. I don't have any loud parties and I'm a very, very good tenant. I've saved the dock actually twice when trash cans got

> caught underneath it and I happened to be there cause I live there and I removed them, otherwise it would have thrown the dock off the hooks that they're on.

Mr. Wisniewski requested that Dr. Hoffman provide his comments in writing and staff would give the lessee a copy.

Dr. Hoffman informed the Commission and staff that Mr. David Naftalin has already detailed Dr. Hoffman's plight in a letter that was sent to Mr. Wisniewski and the Commission.

Mr. Wisniewski commented that staff probably referred the letter to the lessee and a copy of the response would be provided to the Commission at the June meeting.

Ms. Andrus commented that the Commission should keep in mind that yachts are not recreational boats, but it appears that accommodations are being made for them.

Ms. Andrus read her letter [Attachment A] addressed to the Commission concerning conditional permits for development of low and moderate-income housing.

In response to Ms. Andrus, Mr. Moliere explained that the Mello Act mandates that there be affordable housing but does not mandate a certain percentage in new housing located in the coastal zone. In response to the act, the County adopted an affordable housing policy several years ago mandating that in new construction a certain percentage of units must be low income as defined by the state statute. There's also a provision that allows there to be a showing of infeasibility and, if that is shown, the units would not be built because the return would not justify their construction. In such cases, there is an alternative in-lieu fee that could be paid to the Community Development Commission, which can use the funds to construct low-income housing in other venues where it is a lot easier to construct.

Further, Mr. Moliere said that Parcel 20's application pre-dated the adoption of the County's formal affordable housing policy and the parcel's low-income housing requirement was satisfied by its permit that was issued by the Regional Planning Commission. Parcel 20 has allocated 10% of its units for senior citizen affordable housing and Parcel 20's low-income requirement is satisfied by this allocation. Mr. Moliere said that he would verify this information since he hasn't reviewed the material for some time.

Mr. David Naftalin said:

> I outlined in my letter why the liveaboards are a particularly vulnerable group. I think the timeline is important here because Mr. Hoffman, for example, is looking at his present period expiring this Friday.
>
> If Mr. Hoffman is evicted, he cannot wait until next fall or next spring to find out if he's going to be admitted to get a slip. He will, in the meantime, just lose his boat because it doesn't have any value except to him really under the circumstances. If he had a lot longer to sell it, he can find someway to do it but as it is, the County is really counting on saying...an inverse condemnation when he loses his property by being evicted.
>
> There's a real precedent here in the other apartments. I'm very encouraged by some of the things I've heard from you folks and I really hope that there would be some analysis by the Department and by Mr. Faughnan to find out if, in fact, the County is going to support the lessees, the particular anchorages that just want to say we need the complete free right to deal. We've got liveaboards. If they can wait six months, they can come back in, otherwise, they're just out.

As you said, it is a finite group.

Commissioner Lesser asked whether Mr. Naftalin was referring to liveaboards or floating homes. Mr. Naftalin responded that he meant legal liveaboards under the County ordinance. The question of floating homes under the County act vs. floating homes under the state law is something he is not getting into.

Mr. Naftalin clarified that he is referring to the finite discreet group of people who live in the Marina and have chosen this lifestyle, such as Dr. Hoffman.

Mr. Naftalin continued his testimony:

> I think that there should be a moratorium on evictions informally suggested by your Commission prior to the next meeting...I think it would foreshorten a lot of unhappy floundering and scrambling by these poor people. I'm trying to express, and I think Dr. Hoffman was trying to express the radical change of lifestyle that's required when they say, 'you've been a floating home tenant, yes, a legal liveaboard, but no more.'
>
> It's not like a landside tenant where they say, 'yeah, I gotta get a new apartment.' It's much worse than that...what I'm hoping is that you guys look into this and also in the meantime...I would propose that you guys adopt a resolution urging the various anchorages that are displacing liveaboards to not do so pending the results of your analysis of the situation.

Mr. Darrell Steffey, floating homeowner, gave the following testimony:

> I understand that when the ordinance was adopted there was a concern about the whole Marina turning into a floating home community. I think, on the other hand, if I may use the word audacity, to suggest after 10 years that the floating homeowners have written off their investment and therefore if they sell it, it has to be taken out, well obviously it's pretty hard to sell it if the new owner has to take it out and has no place to put it.
>
> These aren't cracker box type things. If any of you gentlemen want to see what floating homes look like, I invite you over to see mine. They're like little condos on the water. They are recreational...vessels. They are (at least the one I own, I actually own two, I'm trying to sell one now) is actually built to Coast Guard specifications.
>
> They are recreational. They are registered as houseboats with the DMV. Most of the people live on them, including myself, have other boats that we cruise around the Marina...and go out sailing or motor boating. We do enjoy the Marina.
>
> They're like little condos on the water. They're not cracker boxes. I guess ugliness is into the eye of the beholder. I don't consider it ugly. Some people may. These things are valued at $150,000-$300,000 probably on the market, at least today. If this ordinance holds true, the value of them will probably go to zero.
>
> The sale of my...other one, if I don't sell it by the fall, supposedly it has to be taken out of the Marina and the funds from that are targeted for basically a lot of my retirement. I feel somewhat ostracized by that situation.
>
> There ought to be some sort of a fair and equitable solution where everybody wins. I can understand that nobody wants anymore floating homes in the Marina maybe, but the ones that are here ought to be able to stay as long as their vessels are up-to-

snuff and meet all of the specifications.... I would urge everyone to look at coming up with a reasonable solution to the problem because it's my understanding that this ordinance that was passed...was actually against state law and therefore may be invalid anyway.

I think we all want to cooperate with the County to come up with a reasonable solution.

Ms. Patricia Raye recounted a recent incident that led to Mr. Jose Mata, Chace Park manager, taking a restraining order against Ms. Raye's friend, Johnny Lucero. Ms. Raye opposes the restraining order and she expressed her belief that Mr. Mata unfairly treats some of the transient dock/park visitors.

Mr. Wisniewski expressed his support of Mr. Mata and commented that Mr. Mata is a staff member who has distinguished himself by the services he has provided to Los Angeles County citizens.

**8. ADJOURNMENT**

Chairman Searcy adjourned the meeting at 3:35 p.m.

Respectfully submitted,

Toni Minor
Commission Secretary

To: Small Craft Harbor Commission. May, 25 05
From: Carla Andrus
Subject: Conditional permits for development low, moderate income housing.

In the early part of May, a few of the tenants asked if I knew when construction would be finished at Parcel 20. They had become construction weary as you might imagine. The dust and the dirt coving their boats and no explanation for construction delays or signage for a new completion date. The old sign indicated Nov 04 as the finish and its now a half a year later. It is important to up date the tenants on construction delays; this should be part of the process and requirements of building permits for all developments.

Another tenant asked about the low, moderate-income housing. I recall it was State mandated that 10% of development be set aside for low- moderate income. Parcel 20, the new 99 units has a conditional permit for development and agreed to these conditions.

As it happened I saw Mr. Sherman Gardner, driving down Panay Way, close to his opening day. I flagged him down, and asked if those interested in the section eight housing should be refereed to his office in Culver City. He said that Mr. Horia would be the person to contact. So I went to the leasing office, Mr. Horia was not the proper reference, but Rhonda Harvey, the leasing consultant who over heard my inquirers volunteered that the developer had no intention of renting to low moderate income. She replied that it was highly doubtful. These units can be rented for 2,100 upward to 4,400 a month. She further told me that at, most two units would be available She had no application for such arrangements and told me, in an honest way that I was wasting my time. Mrs. Harvey gave me an application, at my request.

Since then I called Sam Day at Regional Planning. Mr. Day said that it was the policy of the BOS and Coastal commission that

mandated low-moderate income units. He also suggested that these promised or mandated units could be farmed out.

This is so completely disenguinious and outrageous. As I recall it Mr. Lesser thought it was unfair to impose this subsidy onto the developer. But I would argue one, they are given car trips for this arrangement has an incentive. Two it was limited to 20 years. And the most outrageous thing is that it is indeed the public that is subsidizing the developers.

First off this was voted to be a Small Craft Harbor, and recreation for the benefit of the public Not a prime real-estate deal for the county. No where is this land use intended to be entitlement to the wealthy because it's on the coast. If the county insist on overdeveloping and urbanizing this 400 acres it should do so by serving the demographics of the county. Which by the way has a great shortage of affordable housing. If you represent the needs of the county the market value would not be for the entitled. But the county wants it both ways and is enforcing its agenda with an illegal Asset Management Plan that redirects public mandate for the revenue that they smell. All at a great loss to the public benefit and value. Its just away to bring in extra tax dollars, to a county so dysfunctional with money that they can not even keep hospitals open, let alone the other functions of government and serves' they are charged with. In fact if we could grade the county on it fiscal responsibity It would be a fat F. ~~[illegible]~~

Carla Andrus
5-25-05

Department of Beaches and Harbors
MAY 25 '05
Info Act
Director
Chief Deputy Director
Deputy Director
Executive Assistant
Admin. Services
Asset Management
Facilities Property Mtce
Community Services
Planning

Small Craft Harbor Commission
June 8, 2005
Minutes

| Commissioners Present | Excused |
|---|---|
| Harley Searcy, Chairman<br>Russ Lesser | Vice-Chairperson Carole Stevens<br>Joe Crail |

| | |
|---|---|
| Department of Beaches & Harbors: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau<br>Julie Carpenter, Planning Division<br>Dusty Crane, Chief, Community Services & Marketing Division |
| Other County Departments: | Thomas Faughnan, Principal Deputy County Counsel<br>Lt. Greg Nelson, Sheriff's Department<br>Deputy Paul Carvalho, Sheriff's Department |
| Also Present: | Beverly Moore, Executive Director, MdR Convention & Visitors Bureau |

## 1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:50 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

Since the Commission lacked a quorum, no action was taken on absences.

## 2. APPROVAL OF MINUTES

Due to lack of a quorum, the Commission did not take action on the May 25, 2005 minutes and Chairman Searcy proceeded to Agenda Item 3.

## 3. REGULAR REPORTS

a. Marina Sheriff

-- *Crime Statistics*

Lt. Greg Nelson reported a continued upsurge of vehicle burglaries at apartments on the Marina's west side. The Department has made a few arrests and hopes to resolve the problem soon.

Lt. Nelson also reported that a few boats anchored at the Marina's south entrance went aground at Dockweiler Beach. The Sheriff's Department is increasing its enforcement to ensure that boaters are lawfully anchored and possess the appropriate license.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Carla Andrus referenced, and submitted for the record, a letter she received from the Department of Public Works (DPW), which indicates that DPW's study of the intersection of the Marina City Club's main driveway and Admiralty Way revealed that traffic circulation could be enhanced by the installation of a traffic signal. The letter also states that DPW staff would share its findings with the Department of Beaches and Harbors. Chairman Searcy requested staff to report to the Commission after this information is received.

Ms. Andrus also reiterated her request from the May meeting that the Commission request a traffic count on a regular basis. Chairman Searcy responded that before it requests a traffic count, the Commission needs to receive information pertaining to DPW's Marina City Club area traffic study.

– *Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance*

Deputy Paul Carvalho reported that there were no new Notices to Comply, warnings or citations for unseaworthy vessels or liveaboard permits issued during the month of May. He also reported that the master agreement that will create funds for disposal of the impounded vessels should be finalized next week. The Department will then proceed with the boats' disposal.

– *Pedestrian/Bike/Vehicle Accidents*

Lt. Nelson informed the Commission that arrangements were made for a California Highway Patrol (CHP) officer to attend the meeting; however, the report is unavailable.

Although Lt. Nelson did not have the official accident report, he shared some information on bicycle accidents occurring in the Marina within the last three years. There were seven bicycle collisions in 2002, six bicycle collisions in 2003 and eight bicycle collisions in 2004.

The Commission requested that future accident reports include the number of bicyclists, pedestrians and vehicle accidents occurring on the roadways in the Marina that are within CHP jurisdiction. The report should also include the street location of the accidents and preferably month/year (or season/year if CHP doesn't have monthly data) that the accidents occurred. This information would help the Commission to discern whether there is a trend or problematic locations.

Commissioner Lesser suggested that Lt. Nelson request the information from the CHP and provide the report himself if a CHP officer is unable to attend the July meeting. The report at the July meeting would be considered the first of the quarterly reports.

b. Marina del Rey and Beach Special Events

Mr. Stan Wisniewski reported that the Special Events Report includes the Fourth of July fireworks, which the Department will sponsor. The report also includes information on the opening program of the MdR Summer Concert Series, the Fisherman's Village Weekend Concert Series and an upcoming event at Venice Beach.

c. Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore reported an increase in tourism, with hotel occupancy at approximately 72% and room rates at approximately $161. The bureau is looking forward to a very strong summer.

Further, Ms. Moore reported that a new public relations firm, Ann Flower Communications, located in Venice, was hired. The new agency is expected to bring fresh ideas and bold new approaches to the bureau's media outreach efforts, which have already been very successful within the last three years. The press release efforts have doubled, with five new press releases sent in the past two months alone. The bureau looks for every opportunity to do all it can to promote the community, including pitches to the media about boating safety week during the month of May, upcoming Father's Day, the arrival of summer in the Marina and reminders about special events that occur.

The bureau continues to make monthly improvements to its website, VisitMarina.com. In the past month, the hotel booking page was redesigned, the Calendar of Events page was reengineered and a very detailed boat slip map was added to the website's boating section. The bureau is in the process of developing a sophisticated interactive map, which would go on line at the end of the summer.

Lastly, the bureau has brokered a new relationship between hotel properties in the Marina and hotels in the LAX area. Hotels in both areas have now agreed to share hotel crime and fraud alert information, on practically a real time basis, which has proven to be a very valuable collaboration, which will hopefully result in a decrease in hospitality crime in the area.

**4. OLD BUSINESS**

a. None

**5. NEW BUSINESS**

a. Ballona Creek Trash and Debris Control

Mr. Moliere informed the Commission that since there's been an interest in efforts to control trash and debris in the Ballona Creek watershed, staff invited Mr. Jim Daley, Principal Engineer, Department of Public Works' Watershed Management Division, to provide information on the subject.

Mr. Daley referenced a map of the watershed area that drains into Ballona Creek and informed the Commission that he manages the Imperial Yard, which is a maintenance organization that takes care of the south area of the County. His staff is responsible for cleaning and maintaining trash in the channels.

Mr. Daley discussed the methods used to collect the trash:

> Right now, we're about three years along in the 10-year program to eliminate all trash coming into the storm drains and the creeks. Most of that is going to be done by putting catch basin inserts for what we call our CDS units, which are large structures we put in the storm drains that separate the trash out and allow the water to pass, thereby keeping the storm drain working but hopefully getting all the trash out.
>
> We also have other methods we're using. What we're trying to do, we have what we call our trash free contract. We have hired a contractor to go along the creek in the concrete area, they go into the creek beds...they go along the channel sides and pick up and collect the trash.
>
> We're also working with the Corps to try and get them to be included in the contract, there's a portion of Ballona Creek that the Corps maintains. We're trying to get them to also include their area in the same type of contract.
>
> As many of you may know, we also have a net that goes across Ballona Creek...every now and then it breaks and the trash comes down and gets into the Marina down at the outlet. With that trash net, one of the reasons it breaks...is a fuse...and after a storm of about a half-inch of rain, there isn't enough water and trash comes through that this will break.
>
> One of the reasons for that is that if we don't have the fuse on there the net itself starts tearing apart. We're looking at getting a new net that will hopefully be a little stronger and will break less often. We're hoping to have that in by the end of this summer so that the next rainy season will have a stronger net in there.
>
> We also, downstream of the net, make use of the Probation crews.... They typically take about 20 cubic yards of material, two large trucks of trash, out of the area every weekend. As much as we can we're going to continue to do that.

Mr. Daley referenced lines on the map that show storm drains that feed into the creek. He continued:

We're responsible for about 800 of those catch basins in the unincorporated County. We have protection on, probably almost half of them now, and we have contracts out to do more. The City of Los Angeles, Culver City and the other cities in the area also have responsibility to do the same thing on theirs. Culver City has put a CDS unit on one their lines, but I don't have the numbers on how many catch basins that protects.

What we're trying to do is collect it at the source by having property owners do things when new development comes in, collect it at the catch basins, collect in the drains and then clean it up in the channel when it does get there.

Chairman Searcy asked whether DPW is beginning to get ahead of the problem or is the problem increasing. Mr. Daly responded that the amount of trash hopefully is decreasing and the Department has made great trash collection efforts. DPW has noticed a reduction of trash in the L.A. River and San Gabriel River, but the difficult part is that the trash does not all go into the catch basins and is washing into the drains. People throw trash directly into the channel and the Department will always have to fight this battle. There are upcoming contracts to install more catch basin inserts and CDS units, which are like large manholes. Some of them are already designed, but the Department is waiting for funding to become available.

Commissioner Lesser questioned how often DPW cleans the catch basins. Mr. Daley responded that sometimes they're cleaned after complaints; however, the Department checks them after major storms. Every catch basin is inspected after each storm season and the CDS units are cleaned after major storms. Some of the catch basins are also inspected annually. Some units have baskets and some have gates that open automatically when the unit becomes plugged. There are also units that need to be opened manually.

Commissioner Lesser asked whether the decrease in trash could be attributed to people's recycling efforts and less trash in the landfills. Mr. Daley responded that he hopes that these are the reasons. In addition to collecting the trash before it travels into the ocean, the Department also makes an effort to educate people.

b. Assignment of Leasehold Interest for Parcel 33 (Harbor House Restaurant) – Lease No. 10665 - Marina del Rey

Chairman Searcy noted that since the Commission lacked a quorum, it could not take action on the Parcel 33 assignment. Mr. Wisniewski said that he discussed the matter with Mr. Faughnan and was advised that the Commission could receive testimony and express its position. The Board letter would indicate both that the Commission lacked a quorum and the feelings of the two Commissioners who were present at the meeting.

Mr. Moliere informed the Commission that the assignment transfers Parcel 33 (Harbor House Restaurant and Edie's Diner) from Marina Investment Company to Waterfront-Marina del Rey, LLC, which is owned by Edward Czuker. The assignment meets the criteria that the Department uses to judge assignments. The price, although higher than the Department's assessment, is within range and extra steps were taken to ensure there are enough cash assets to take care of long-standing maintenance deficiencies and future rent obligations.

Mr. Moliere said that the new owner has adequately capitalized the entity and has added another $956,000 in cash assets. The restaurant will be managed by one of the lessee's sub companies and run by an experienced restaurateur, Mr. John Wong, who has an interest in a number of restaurants in Los Angeles and has served as Chairman of the County Tax Assessment Review Board. The Department believes that the Waterfront-MdR has strong management and finances and staff is recommending approval of the transfer to new ownership.

Chairman Searcy asked whether the assignment would also involve a changed use. Mr.Wisniewski responded that the assignee proposes redeveloping the property into a rather extensive mixed-use.

Mr. Wisniewski mentioned that the Lessees Association sent the Commission a letter expressing its opposition to Parcel 33's development project. He noted that the assignee was the successful competitor for which the Board authorized exclusive negotiations for a development project and the Design Control Board has given preliminary concept approval for the project.

Further, Mr. Wisniewski said that the staff report indicates the lessee is paying more than the market rate. The Department believes that with the provisions, as described in the Board letter, appropriate precaution has been taken to ensure the County receives its fair value from the leasehold in the event that the lessee subsequently receives approval for a long-term lease extension. Mr. Wisniewski said that staff, along with the economic and legal consultants, have done a good job ensuring that the County receives the appropriate participation and proceeds in the event there is a refinancing or sale of the leasehold at a later time.

Mr. Moliere emphasized that the item before the Commission is not for the approval of a new development project, but for an assignment of the leasehold and the intent is to continue the restaurant operation for the time being. However, if the development project is approved, the plan is for it to be mixed-use, which would include a number of restaurants and other businesses.

Mr. Wisniewski reiterated that today's item is an assignment of leasehold interest from the current lessee, Marina Investment Company, to the assignee, The Waterfront-MdR, LLC, which also has a development project under negotiations.

Chairman Searcy asked whether the development project that's under negotiations would be submitted for Commission approval. Mr. Wisniewski responded that the lease would be submitted to the Commission, the Design Control Board, Regional Planning Commission, California Coastal Commission (since there is a water element) and the Board of Supervisors.

Chairman Searcy asked whether the development project has received approval from any of the regulatory bodies. Mr. Wisniewski responded that the project has received conceptual approval by the Design Control Board. From a concept standpoint, the Board of Supervisors has authorized the Department to enter into negotiations with the assignee and return with a long-term lease extension to facilitate the development.

Commissioner Lesser commented that the Lessees Association's letter really got his attention, particularly the part about "the proposal to build an eight-story, 85-ft high building on the water, which is double the permitted height and which will block the views of all the surrounding parcels." He disapproves of such a height. Commissioner Lesser also noted that the Coastal Commission's LCP Review indicates that the Department should encourage visitor-serving facilities, not additional residential properties. As he understands it, the assignee proposes to build a substantial residential development and he asked whether this development would require an amendment to accommodate the proposed building height. Mr. Wisniewski responded that an amendment would be required.

Mr. Moliere offered to provide the Commission with the assignee's response letter to the Lessees Association's concerns since the letter would provide valuable information about the proposed development of Parcels 33 and NR. [Copies of the letter were obtained and distributed to the Commission.]

Additionally, Mr. Moliere said that the proposed development project is exactly what the Coastal Commission is asking for, which is a mixed-used project with shops and restaurants that improve the promenade area. The residential component above the street-level shops would provide customers an enlivening atmosphere for the entire area.

Chairman Searcy asked Mr. Faughnan what would happen if the assignee obtained approval of the assignment, agreed to the purchase price and then the assignee was required, after going through negotiations and the regulatory process, to make substantial changes to the project. Mr. Faughnan

responded that the assignor and assignee are proceeding at their own risk and their deal is not contingent upon possible County approval of a future project or lease extension.

Commissioner Lesser stressed the need to ensure the assignee is aware that if the Commission approves the assignment there is no guarantee that the Commission would also approve the development project.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Mr. David Levine, president, MdR Lessees Association, speaking on behalf of the association, said that he wanted to make clear that the Lessees Association has no objection at all to the change of assignment as long as the change of assignment is not contingent upon execution of a development plan.

Mr. Levine also informed the Commission that since sending the letter the assignee has requested a meeting with the Lessees Association to discuss development plans and the association looks forward to the meeting.

Mr. Donald Klein, president, Coalition to Save the Marina, expressed his agreement with Commissioner Lesser's comments. Mr. Klein said that the assignment is premature and the Commission should not consider recommending it for Board approval. The coalition hasn't seen any development plans for Parcel 33 and the organization is concerned about issues pertaining to building height, density, etc.

Chairman Searcy clarified that the matter before the Commission is an assignment of Parcel 33. The Commission is not considering development plans at today's meeting and the assignee understands that he is proceeding at his own risk.

Mr. Klein commented that he understands the item before the Commission is an assignment of lease, but history has shown that most lease transfers usually involve a 20-year extension. He expressed his opposition to the Commission making recommendations without a quorum and approving the Parcel 33 assignment while the MdR Local Coastal Program Review hasn't been completed. Mr. Klein said that the coalition is categorically opposed to the development project.

Ms. Carla Andrus agreed with Mr. Klein that the Commission should not recommend the assignment without a quorum. She suggested that the developers give a presentation to the Commission so that laypeople have an opportunity to hear the proposed plan for Parcel 33. Ms. Andrus also requested copies of the Lessees Association's letter pertaining to the development project and the assignee's response to the letter.

Mr. Wisniewski suggested that Ms. Andrus obtain copies of the letters from Mr. Moliere after the meeting.

Ms. Patricia Younis, representing Pacific Ocean Management (POM), owners of The Admiralty Apartments (located at the intersection of Admiralty Way and Palawan Way), informed the Commission that Admiralty Apartments is kitty corner from the proposed new project. She expressed POM's opposition to the lease assignment because it is their understanding that the Parcel 33 lease assignment is core to the implementation of a development project that would be detrimental to POM's project. The Admiralty Apartment's project has taken over five years to negotiate and cost many millions of dollars. The proposed Parcel 33 project is not in conformance with the Local Coastal Plan and its construction would impede the Admiralty Apartment project's future value. Pacific Ocean Management has no problem with the assignment, providing that it is not in any way contingent on Parcel 33's development project.

Mr. Geoffrey Mitchell, attorney with Brown, Winfield and Canzoneri, Inc., speaking on behalf of the assignee, Mr. Edward Czuker, thanked the Commission for taking the appropriate approach by separating the issues of project approvals from the assignment.

On behalf of Mr. Czuker, Mr. Mitchell acknowledged that Mr. Czuker understands that the Commission's approval does not have anything to do with Parcel 33's proposed development project and that it is a separate matter. He also noted that Mr. Czuker has offered to meet with the Lessees Association to discuss its concerns, hear its ideas and work to see if concerns can be addressed as part of the planning and entitlement process, as well as any other parties that have concerns.

Commissioner Lesser asked Mr. Mitchell, given the amount of money being invested, whether the assignee would reconsider acquiring the parcel if he could not proceed with his development plans. He asked whether the project would be killed if the Commission approved of certain aspects of the project, but, for example, did not like the proposed building height.

Mr. Mitchell responded that the assignee understands the planning and entitlement process not only could result in changes to the project, but almost certainly will. The assignee understands that the plans may not be the same at the end of the process as what was proposed at the beginning. The assignee is prepared to examine the issues and work with Beaches and Harbors' staff, Regional Planning, the California Coastal Commission as well as gather public input to try to create a project that would benefit the entire community.

Chairman Searcy asked Mr. Faughnan to clarify how the Commission should proceed with voting on the Parcel 33 item, given there isn't a quorum.

Mr. Faughnan explained that, since there isn't a quorum, the Commission cannot take a formal action, but can express its personal vote on the matter. The Board letter would reflect the Commissioners' personal vote on the matter, along with the fact that there isn't a quorum at the meeting.

*Chairman Searcy and Commissioner Lesser expressed approval of the assignment of leasehold interest for Parcel 33 (Harbor House) – Marina del Rey, with the clear understanding "this is no way an approval on the project. The project would have to come back and we look forward to seeing it after it goes through its various iterations."*

For clarification purposes, Mr. Faughnan emphasized that the preceding act was not a formal action of the Commission.

c. <u>Joint Recommendation with the Chief Administrative Officer to Enter into Exclusive Negotiations for an Option and Long-Term Lease for Development of Parcels 52R and GG (Dock 52 Public Parking) – Marina del Rey</u>

Mr. Wisniewski requested that the item be tabled since the evaluation committee report was not finalized in time for the meeting. He anticipates that the item would be placed on the Commission's July agenda. In the interim, staff intends to meet with California Coastal Commission staff on the recommended project. The Department's staff would then return to the Small Craft Harbor Commission with a recommendation.

Chairman Searcy asked Mr. Faughnan whether it would be appropriate to take public comment and advise the public who wished to speak that the Commission has not received any material on Parcels 52/GG and would not take any action. Mr. Faughnan responded that it is the Commission's choice whether or not to hear public comment; however, opening the floor to the public would provide the opportunity for people to speak who might not be able to attend the July meeting.

Before receiving public comment, Chairman Searcy advised those wishing to speak that the Commission hadn't received any material on the subject.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Carla Andrus commented that she would like to see a full presentation on Parcel 52R and GG for the public's benefit.

Mr. Wisniewski informed the Commission that the Department anticipates presenting the Parcel 52R and GG item at the July meeting.

d. Consent to Assignment of Leasehold Interest and Amendment to Lease – Parcel 103 (Oakwood Garden Apartments)

Chairman Searcy noted that this item would not be discussed since documentation on the subject has not been completed. The item would be placed on the July agenda.

**6. STAFF REPORTS**

a. Ongoing Activities Report

- Board of Supervisors Actions on Items Relating to Marina del Rey

Mr. Wisniewski reported that on May 24, 2005, the Board of Supervisors held a de novo hearing on Fantasea Yachts and Yacht Club's Conditional use Permit to authorize the continued use of an existing banquet facility with the sale of a full line of alcoholic beverages for on-site consumption. The staff report identifies the Board's action on the matter, including instructing County Counsel to prepare findings and conditions for final approval.

- Design Control Board (DCB) Minutes

Mr. Wisniewski reported that the May 25, 2005 Design Control Board minutes weren't finalized and weren't available for the meeting.

- MdR Local Coastal Program Periodic (LCP) Review

Mr. Wisniewski reported that the California Coastal Commission (CCC) held a public hearing on its staff recommendations regarding the MdR LCP Review in San Pedro, which Beaches and Harbors' staff attended. Several members of the public gave testimony. The County, through its representative, indicated that it would take the time between now and the next hearing, which is anticipated in November, to work with CCC staff on the LCP recommendations. The Department received the report on the LCP Review rather late and staff hasn't had the time to fully analyze it. The Department will be prepared to respond to the draft LCP recommendations at the November California Coastal Commission meeting.

Mr. Wisniewski informed members of the public that copies of the report are available at the Department's administration building on Fiji Way, the MdR Public Library, the MdR Visitors and Information Center. Copies are also placed on the public information table.

- Response to Public Concerns

Mr. Wisniewski reported that there were a number of concerns raised at the May 25, 2005 meeting relating to floating homes. The Department is investigating the issue and anticipates submitting a report to the Commission at a future meeting.

**CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Carla Andrus informed the Commission that a number of public concerns were omitted from the "Response to Public Concerns" section of the staff report, including Parcel 20's non-compliance with the affordable housing policy (which she inquired about at the May meeting) and development projects that do not serve the full range of the County demographics.

Ms. Andrus said that the Marina is not an entitlement for the wealthy. Hotels and housing should accommodate lower income citizens. She also suggested that the Commission review the Asset Management Strategy for its legality since various development projects are permitted without going through the bidding process.

Ms. Andrus said that Mr. Naftalin's suggestion at a previous Commission meeting for a moratorium on liveaboards was omitted from the staff report and the fact that there are pending lawsuits is no excuse for the Department to not address the matter. As she understands it, the Commission's role is to protect the small craft harbor and the liveaboards are a part of it. There is no protection for them and they are in a very vulnerable place. At Panay Way, people are being evicted because of the redevelopment.

Ms. Andrus said that another problem is the Conditional Use Permit. Goldrich and Kest said that they would be careful with boaters to ensure that the transition would be even-handed and construction would be one dock at a time. However, people are being evicted with no place to go. A friend of Ms. Andrus went to Parcel 20's management to inquire about affordable housing and was told they hadn't decided. Ms. Andrus said that there should be no pending decision to make since affordable housing is required per the Conditional Use Permit. Further, Parcel 18 was supposed to be a Board and Care facility, but it's being turned into active senior use. She requested a response to these issues.

Chairman Searcy asked whether Ms. Andrus meant that she wanted a response from the California Coastal Commission (CCC). Ms. Andrus responded that she already spoke to the CCC on the affordable housing issue and the CCC has expressed that the County is responsible for enforcing the affordable housing policy.

Chairman Searcy commented that, if Ms. Andrus has received any written response on the matter from the CCC, the Small Craft Harbor Commission would like to receive a copy. Ms. Andrus said that she also would like to receive a written response, however, it probably won't happen because the CCC has already told her that the County is responsible for enforcement.

Ms. Andrus asked whether the Commission could request the Department to investigate the issues that she mentioned. Chairman Searcy responded that the Department has already indicated its intent to follow up on certain matters. For example, staff is investigating the floating home issue in response to concerns that were expressed at the Commission meeting.

b. <u>County Counsel Investigation of Robert's Rules of Order Regarding Timing Motions by the Commission</u>

Mr. Thomas Faughnan reported that at the May 25, 2005 meeting, the Commission asked whether, according to Robert's Rules of Order, the correct order for introducing a motion is before or after receiving public comment. Mr. Faughnan researched the matter and found that Robert's Rules of Order does not address the order of public comment relative to a motion; however, the Commission's Rules, Section 11, addresses the order and states:

1) The general public is invited to comment upon agenda items after introduction of the item by a member of Commission or Department;

2) Individual speakers may be limited to specific time-periods of not less than three minutes, and are requested to present information not already provided. Speakers will be recognized only once on a given time; and

3) At the conclusion of public comments, the Commission will consider the item without any further comment or debate from the floor.

Chairman Searcy commented that the Commission already follows this sequence. He thanked Mr. Faughnan for his investigation of the matter.

c. Status of Marina del Rey Dredging

Mr. Wisniewski reported that the Corps of Engineers last dredged the Marina del Rey channel and its entrances in 2000. The Corps has continued annual soundings and has advised that approximately 800,000 cubic yards of material needs to be removed from the Marina's main channel at the north and south entrances and is prepared to do a project in March 2006, assuming that $7.99 million in federal funding is provided.

The Department has worked with the County's lobbyist in Washington, D.C., as well as the Board of Supervisors and Chief Administrative Officer. Unfortunately, the House of Representative's Energy and Water Appropriation bill did not include funding for the dredging. The Department hopes to get it in on the Senate side so that it would ultimately be provided when the bill is negotiated in the conference committee between the two chambers. Supervisor Knabe has sent a letter to Senator Diane Feinstein making sure that she was aware of the matter and requesting her assistance in obtaining funding for the MdR dredging project.

## 7. COMMUNICATION FROM THE PUBLIC

Mr. Eric Huff, Panay Way boat tenant since 2001, said that he received notification in March that there would be construction at his parcel. He spoke to the dockmaster and was told he would possibly be accommodated as far as relocation of the slip and that the previous notification was not an eviction notice. In May 2005, Mr. Huff received a 30-day Notice to Quit [he distributed a copy to the Commission]. He again went to the dockmaster to find out his relocation options and was told that there were no slips available and he would have to find one himself. Mr. Huff was also informed that at the end of the construction period he would be allowed to return but would have to reapply.

Mr. Huff said that he has tried to find a slip to accommodate his 42' foot boat, but has been unable to find either a temporary or permanent slip in the Marina. He believes there might be slips in the L.A. Harbor, but he would prefer not to relocate his boat.

Mr. Huff distributed an article regarding the Long Beach Marina Expansion, which mentions that boat tenants are accommodated at the visitor docks during construction. He said that one solution to the Marina's problem might be to temporarily relocate boat tenants to the Chace Park transient docks.

Chairman Searcy and Commissioner Lesser requested staff to obtain information and report back on how the Long Beach Marina is addressing the boat tenant relocation issue.

Mr. Donald Klein informed the Commission that the Marina Master Lease has a covenant pertaining to active public use that requires slips, once they become open to the public, to remain open. He said that he spoke to Peter Douglas, the California Coastal Commission Executive Director, regarding this issue and requested Mr. Douglas' definition of this provision in the lease. Mr. Klein said that Mr. Douglas informed him that slips are supposed to remain open in perpetuity.

Further, Mr. Klein said that he recently met with Coastal Commission staff and the issue of phasing dock construction was discussed. He said that dock construction should be phased and there are

efforts now to specify what the phasing would entail and whether it would include relocating tenants, etc.

Relative to the Goldrich and Kest senior citizen project, Mr. Klein informed the Commission that over a year ago he made a complaint to the Regional Planning Department's enforcement division pertaining to allegations about residents who are under 55 years of age. That Department was never able to obtain documentation to verify the residents' age.

Mr. Klein also suggested that it would be very helpful if the Department constructed a 3D table model of the Marina development projects and make it available for public viewing at the MdR library or Chace Park. This way, members of the public could gain a better understanding of the plans.

Mr. Jonathan Balfus informed the Commission that he wanted to focus in on a couple of issues regarding floating homes:

> I appeared at the Special Meeting on May 25 to discuss this and there was some discussion by the public and committee [Commission] afterward and it occurred to me that some of the issues aren't clear and I'd like to take this opportunity to focus on that.
>
> The issue is not simply that there's a conflict in the definition of floating homeowner between the state and County rules. That was one of the things that was discussed. The County Counsel is already looking at that issue and Mr. Faughnan has been kind enough to keep me updated as to that progress.
>
> There's a more important, fundamental discrepancy between the way that the lessees of the docks are administering their leases with the tenants. The point is that in the discussion, distinctions were being made between floating homes and liveaboards and people were talking as though the problem is only floating homes, 'there's a finite number of those,' 'how are they gonna be accommodated,' 'why can't they be considered liveaboards?'
>
> G&K, which is the management company of Panay Way Marina, has taken the written position that neither a liveaboard or a floating home is going to be permitted after these renovations. That was something that wasn't clear at the last meeting. It was an issue that people thought, 'well, maybe they are floating homes, maybe they're liveaboards.' The position of the lessee is that nobody is going to be accommodated. All the comments of the Committee [Commission] were very encouraging, 'these evictions would cause major hardships,' 'they're inequitable,' 'this is a finite problem,' 'nobody is looking to expand,' 'there should be a way to accommodate these people.'
>
> We appreciate that the Committee [Commission] is investigating what can be done to accommodate these people. That won't happen before the next meeting. There are people who are scheduled to be evicted in the next few days. The position taken by the lessee in writing is no one will accommodated. It doesn't matter if you're a liveaboard. It doesn't matter if you're living on a navigable boat. It doesn't matter if you're living in a permanent floating home that has no where else to go.

Commissioner Lesser asked Mr. Balfus whether he had a copy of the G&K letter available. Mr. Balfus responded that he previously provided Mr. Faughnan with a copy.

Mr. Balfus read the letter's sentence referring to floating homes:

> Once the reconstruction is complete, the Panay Way Marina will not be suitable for floating homes or liveaboards and therefore the option to temporarily locate them and them come back is not a possibility.

Mr. Balfus commented that the lessee has taken a very strong position while the County investigates the matter.

Mr. Balfus referred to page 10 of the May 25, 2005 minutes in which Mr. Wisniewski states, "The Department would look into the issue of mandating that a lessee keep a floating homeowner during the redevelopment process." Mr. Balfus said that this is a step in the right direction, but unless there is an interim measure while the County takes a position on how it will administer the leases, half of the tenants will be evicted without any recourse. Their boats will be impounded according to the lien holder's law.

Ms. Andrus commented that she also lives on Panay Way and might have to pack her bags soon. She said that the situation is depressing. Ms. Andrus expressed how much freedom she felt after becoming a liveaboard in the Marina, which is so different from the crime-ridden community in which she previously lived.

Ms. Andrus said that the lessees control the Marina and the Department doesn't have policies to protect the public or the boaters. The Department talks about valuing its liveaboards, but it doesn't behave like it does since it allows the lessees to run the show. Ms. Andrus strongly encouraged the Commission and the Department to take action to help the boaters.

Mr. Etter referred to his appeal [which the Board of Supervisors denied] of the Fantasea Yacht Club's Conditional Use Permit and informed the Commission that although the permit was denied:

> There was plenty of evidence from different government agencies, including the fact that he was indicted last year, December 17, for leaving welding on his boat. You would think that since the appeal was coming he would be concerned about not doing anything similar like that on his vessel prior to appeal to risk his 20-year Conditional Use Permit.
>
> Between the 9th and the 12th, I complained several times to the Sheriff's Department and I videotaped them doing, again as usual, his reconstruction and remodeling of his vessel. This vessel is called, 'Admiral,' and it's located right across from the Sheriff's station. It's not hidden. It's in plain view of everybody who really cares about what's going on here.
>
> The Sheriff's Department went out...and told him to stop doing his remodeling. This is an 80' vessel and...his worker had grinded off the whole side of the boat, which, again, is in violation of the County ordinance. He should have taken his boat into the boatyard like everybody else.
>
> This was going on, even on the day, as predicted, his permit got approved. I called the sheriffs. They came out and subsequently a couple of days later when he was in the process of finishing off the vessel, I called again. They came out. I spoke to the deputy, I'm not going to mention his name. He went on the dock and he noticed the green in the water. When he back I asked him were they gonna ticket him. He said that he first had to speak to the harbormaster.
>
> I just wonder why, when it comes to a corporate polluter and slumlord, the deputy has to speak to the harbormaster? But when it comes to everybody else in this Marina, you get ticketed if you sneeze in the wrong direction?

> Also, with Pier 52, when those boats come in after they been out partying, since we can't trust the Sheriff's Department checking for drunk drivers at night when people leave those party vessels, I suggest that you ask the Highway Patrol to start enforcing sobriety tests on Pier 52 for the different party vessels. You're risking your life every night when you come home, there's drunk drivers and they're letting out maybe 100-150 people every time. They've been partying all night long...that just shows my argument and another side of the vessel...as usual the Sheriff's Department doesn't do anything and Beaches and Harbors is no where to be seen.
>
> This morning when I came in, I went by the Sheriff's station. The Coast Guard cutter has a little flotation device sitting next to their boat. There's a Coast Guard standing...with a grinder grinding off the side of the boat and this is right next to the Sheriff's station. The County ordinance means squash, absolutely squash.

Chairman Searcy requested a response from the Sheriff's Department and he commented that enforcement is not an easy task; however, firm and equitable enforcement is necessary.

Lt. Nelson agreed with Chairman Searcy and informed the Commission that when a matter is brought to the Department's attention and the officers check into it and see a violation of the County ordinance, the officers issue a citation. He said that a citation was issued when the welding was brought to the Department's attention.

Lt. Nelson also said that he is unaware of the grinding situation that Mr. Etter mentioned, but Lt. Nelson will look into the matter and, if there is a violation, a citation will be issued. He will also discuss the matter with the Coast Guard's commanding officer.

Chairman Searcy said that water is precious and it doesn't matter who the polluter is or whether or not he/she has a $2 or $2 million dollar boat. He stressed the need for fairness when issuing citations irrespective of who is committing the violation.

## 8. ADJOURNMENT

Chairman Searcy adjourned the meeting at 11:15 a.m.

Respectfully submitted,

Toni Minor
Commission Secretary

Small Craft Harbor Commission
Special Meeting
July 7, 2005
Minutes

| Commissioners Present | Excused |
|---|---|
| Carole Stevens, Vice-Chairperson<br>Joe Crail<br>Russ Lesser | Harley Searcy, Chairman |

| | |
|---|---|
| Department of Beaches & Harbors: | Kerry Silverstrom, Chief Deputy Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau<br>Julie Carpenter, Planning Division<br>Dusty Crane, Chief, Community Services & Marketing Division |
| Other County Departments: | Lt. Greg Nelson, Sheriff's Department<br>Deputy Paul Carvalho, Sheriff's Department |
| Also Present: | Beverly Moore, Executive Director, MdR Convention & Visitors Bureau<br>Richard Volpert, Munger, Tolles & Olsen<br>Officer Blase Austin, California Highway Patrol |

## 1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Vice-Chairperson Stevens called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:35 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

*Commissioner Lesser moved and Vice-Chairperson Stevens seconded a motion to excuse Chairman Searcy from today's meeting. The motion passed unanimously.*

## 2. APPROVAL OF MINUTES

Vice-Chairperson Stevens postponed action on the May 25, 2005 and June 8, 2005 minutes since there wasn't a quorum of Commissioners present who attended those meetings.

## 3. REGULAR REPORTS

### a. Marina Sheriff

### -- *Crime Statistics*

Lt. Greg Nelson reported a continued upsurge of vehicle burglaries at apartments on the Marina's west side. He commented that there is usually higher incidence of crime when the weather gets warmer. The Department collared five or six grand theft auto suspects in stolen cars. The cars weren't stolen in the Marina, but the criminals were coming into the Marina and were caught. One of them was casing vehicles in the Tahiti Way area and had in his stolen car goods stolen from vehicles in Venice and the city of Santa Monica. The Department is trying to stop the crime spree in its tracks and is experiencing success.

Lt. Greg Nelson said that the Department followed up on concerns expressed by Hans Etter at a prior meeting pertaining to incidents involving "The Admiral" vessel and the Coast Guard. Mr. Etter gave the Sheriff's Department a DVD with footage of the alleged incidents. The Department investigated the area where Mr. Etter claimed workers were reconstructing and remodeling "The Admiral" and found that the site had been cleaned. There was no debris in the water and the deputies didn't find

any violations. The deputies provided copies of the pertinent ordinances to the workers on the boat. The Department viewed the DVD and saw that the workers working on the vessel were taking all necessary steps to prevent any sanding from falling into the water. The workers also did a complete cleanup after their work was done and no violation was captured on video.

As for the Coast Guard vessel, Lt. Nelson reported that the L.A. County District Attorney's environmental enforcement group and State Water Control Board investigated the area and the vessel and issued a notice of violation to the Coast Guard. Lt. Nelson said that there is a question as to whether or not the County has jurisdiction to issue a citation to the Coast Guard since it is a federal agency. However, Lt. Nelson spoke to the commanding officer, Lt. Chris Johns. The Coast Guards are good neighbors and have regulations regarding boat maintenance and vessels. They are very concerned about environmental pollution and are taking necessary steps to ensure they are in compliance and do not pollute the water.

Relative to the recent bombing of subway trains and a bus in London, Lt. Nelson reported that the Sheriff's Department is taking the terrorist threat very seriously and has activated its emergency operations center. Deputies are being placed on all the trains throughout the County today. The Department is also having a dialogue with some of the commercial transport outfits in the Marina to ensure that their security procedures are in place.

### -- *Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance*

Deputy Carvalho reported that no new Notices to Comply or citations were issued for unseaworthy vessels. The Department is continuing its efforts to conduct random inspections and identify unseaworthy vessels. The owners will be issued Notices to Comply.

Further, Deputy Carvalho reported that the vendors signed the "Master Agreement for the Disposal of Abandoned and Impounded Vessels" and the Department is in the process of turning the vessels over to the vendors for disposal.

### -- *Pedestrian/Bike/Vehicle Accidents*

Office Blase Austin, California Highway Patrol (CHP), West Los Angeles office, apologized for not attending the June meeting and explained that at the time he was caught in traffic en route from Palmdale. He distributed an MdR collision profile for January 2005 to June 2005, which provided a breakdown of traffic collisions, their causes, location and time. There were only two bicycle collisions within the last six months, one of which was due to a bicyclist falling off his bike and the other involved a bicyclist and vehicle. The bicyclist was at fault for riding the wrong way.

Officer Austin reported that between January 2005 to June 2005, the West Los Angeles office handled 2,500 traffic collisions, 46 of which occurred in the unincorporated area of the Marina. This accounts for 2% of the area's total collisions. There were at least 46 collisions, 12 involving injuries and 34 involving property damage only.

Officer Austin explained that the current report identifies the streets where the collisions occurred; however, he would provide detailed locations in the next quarterly report. The statistics reveal that as far as traffic collisions are concerned, the Marina is one of the safest communities.

Commissioner Lesser commented that the statistics show there was only one accident involving a pedestrian or bicyclist and there doesn't appear to be a problem with unsafe areas. There only appears to be a problem with people speeding in a couple of locations, but there doesn't seem to be any real problem areas that need to be addressed. Officer Austin confirmed that Commissioner Lesser is correct.

**VICE-CHAIRPERSON STEVENS OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Carla Andrus commented that, given the small size of the Marina, there appears to be a substantial number of collisions and there are locations that are more dangerous than others. She mentioned that Vice-Chairperson Stevens, as well as many Marina City Club residents, have expressed concerns about the traffic safety in the Marina City Club area.

Ms. Andrus expressed her condolences for the Department Director Stan Wisniewski's recent loss of his wife, Dinny.

## b. Marina del Rey and Beach Special Events

Ms. Silverstrom expressed apologies to meeting attendees who were unable to find a parking space. She explained that the very first concert in the Chace Park summer series is beginning tonight and, as typical, several parking spaces were reserved for the disabled patrons who attend the concert. Ms. Silverstrom said that next time a public meeting and concert are scheduled simultaneously the parking spaces won't be reserved until later in the day.

Ms. Silverstrom reported that the first concert begins this evening with Spanish dancers Miguel Bernal and Batista. Also featured in the concert series are nights of classical, country and jazz music.

In conclusion, Ms. Silverstrom noted that the report includes the Fisherman's Village concerts, Venice Centennial, Surfer's Walk of Fame and International Surf Festival.

## c. Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore reported that the bureau just returned from a trade show in San Jose that targeted Northern California meeting planners that do business in Southern California. Staff met one-on-one with over 175 meeting planners. She commented that the bureau has to meticulously describe the Marina's geographic location to most people since many of them continue to believe that it is in San Diego or Orange County.

Ms. Moore said that hiring the new public relations agency has begun to pay off, with recent coverage about Marina del Rey in "Meetings West" magazine, which is targeted to group planners in the Western United States. Also, in mid-June, a television broadcast was aired three times on KCAL/KCBS just the week before Father's Day about dads and children taking fishing trips out of MdR as a way to celebrate the holiday.

In late July, another television feature is expected that focuses on the Catalina Island Marina del Rey Flyer service that leaves from Fisherman's Village. Ms. Moore further reported that the bureau's recent web work is also supporting tourism. As mentioned in the last month's report, the bureau redesigned the hotel-booking page in May and in June over $21,000 in room reservations was booked. This compares to the prior month's $7,900 in hotel room reservations. Since the implementation of on line booking through VisitMarina.com, approximately 700 hotel room nights have been reserved, worth over $95,000.

## 4. OLD BUSINESS

a. None

## 5. NEW BUSINESS

### a. Joint Recommendation with the Chief Administrative Officer to Enter into Exclusive Negotiations with Pacific Marina Development/Almar Management, Inc. for an Option and Long-Term Lease for Development of Parcels 52R and GG (Dock 52 Public Parking) – Marina del Rey

Ms. Silverstrom informed the Commission that the Department issued a Request for Proposals (RFP) for development of facilities at Parcels 52R and GG in 2003. Because of various concerns that were expressed about lack of clarification in the RFP, particularly with respect to responding to the parking requirements, the Department was requested to reissue the RFP to the three responsive proposers of the prior RFP, clarify that particular provision and request that the proposals be resubmitted, and return to the Board in 120 days. After the proposals were resubmitted, an evaluation committee reviewed them and recommended Almar as the proposer with which the Department would enter into exclusive negotiations.

Mr. Moliere explained that the evaluation committee was chosen so that it would have representatives from all the disciplines that would be appropriate to judge this kind of proposal. There was a marine engineer, Ron Noble, who heads one of the most respected marine engineering firms in the area. There was an architect, Richard Orne, to review the spatial relationships. The chief negotiator was Dick Volpert. There was also an economist, Robert Wetmore of Keyser Marsten to evaluate the financial proposals. A member of the CAO's Asset Management Division was on the committee and a staff member from the Regional Planning Department served in an advisory capacity.

Mr. Moliere said the committee felt that in particular Almar's proposal offered a unique and appropriate use of the property because it would provide such wide view corridors from over the water construction. He said that concerns were raised as to the California Coastal Commission's (CCC) reaction to this type of construction. Before the evaluation committee submitted its recommendation, Mr. Moliere, along with the Department's CCC consultant, met with CCC staff members to review the current proposal and discuss issues such as navigability, sight lines, view corridors, building masses, over the water construction. The proposal was discussed in great detail. In the end, the CCC staff was pleased with the Almar proposal and the Department believes it has an excellent chance of receiving Coastal Commission approval.

Mr. Moliere pointed out that the Almar proposal is conceptual and it is not meant to be, or necessarily will be, the exact final product. Many projects have undergone drastic revisions from how they started. The committee believed that the proposal has much to offer and much to recommend it and there's been more progress than in the normal sense in checking with the Coastal Commission and with appropriate experts in the field of navigation, engineering, etc.

Mr. Moliere said that a chart is appended to the Board letter that compares the three proposals. All three proposals met the minimum criteria. One of the other proposals was also excellent but on balance, the Almar proposal stood above the others in every category and was the equal in one category in which another proposer was very similarly rated. The Department is pleased to recommend the Almar proposal and he informed the Commission that Almar representatives are at today's meeting to answer any questions.

Mr. Richard Volpert informed the Commission that the three finalists were the same that submitted the previous proposals. The finalists submitted modestly revised proposals. The Almar proposal took into account a number of the questions that were raised earlier and, he believes, somewhat enhanced its proposal. Mr. Noble, who is an expert in marine engineering, thoroughly analyzed the proposals and offered a lot of helpful information that the committee did not previously have.

**VICE-CHAIRPERSON STEVENS OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Andrus requested a summary or written documentation of the Coastal Commission's comments relative to the proposals. Ms. Silverstrom responded that a summary is not available. Mr. Moliere

explained that the staff discussions are not something that would be released in written reports. As a matter of policy, written reports are issued by the CCC only on items formally submitted to the Commission for final approval.

Mr. Moliere commented that in addition to meeting with Coastal Commission staff, the Department's staff also communicated with a number of Coastal Commissioners concerning the project and the Commissioners had positive things to say about the proposed Almar project.

Ms. Andrus commented that it appears a private meeting was held. She said that it would be nice for the Department to issue a written summary of the Coastal Commissioners' comments so that she could read their positive perception of the project. Ms. Andrus explained that this might help her to understand the project's positive aspects since she doesn't see any, particularly because it's an overlay on the water and doesn't make any sense.

Additionally, Ms. Andrus reminded the Commission that the public has expressed prior disapproval concerning this project and the public remains opposed to it.

Ms. Silverstrom informed Ms. Andrus that the public would have the opportunity to hear the California Coastal Commission's position on the Almar project, as well as provide comment, when the matter becomes before the Commission.

Commissioner Lesser asked Ms. Silverstrom to clarify what is being asked of the Commission today. He commented that, as he understands it, the Commission is being requested to recommend that the Board authorize the County to enter negotiations with Almar, which is the proposal that was selected by the evaluation committee. At some point in time, during the regulatory process, there will be more public hearings to discuss the project plans and the pluses and minuses will be discussed. The project will go before the Coastal Commission, which also will review the project plans. He asked how the project proceeds after the Coastal Commission review.

Ms. Silverstrom responded that there are two tracks that occur with respect to all projects in the Marina. The unusual aspect of Beaches and Harbors is that the Department functions from a proprietary standpoint and it is where the deal is made. Once a deal is made, the project goes through the entire regulatory process, which is when the Design Control Board, Regional Planning Commission and California Coastal Commission review it. The Small Craft Harbors Commission is not involved in the regulatory process. The project would not return to the Small Craft Harbor Commission until the lease documents are completed and are en route to the Board of Supervisors.

Vice-Chairperson Stevens requested that staff return to the Commission with the project once the deal and changes are made so that the Commissioners can judge for themselves what's happening with the project. She acknowledged that reviewing the plans is not normally within the Commission's jurisdiction, but the matter is of significant interest to the Commission and public to warrant this action.

Ms. Silverstrom responded that, while she can't say that the Department would submit the proposal to the Commission since it is not within the Commission's purview to opine on the actual development project, the Department would be happy to provide the Commission with a staff report once the project has gone through the regional planning process.

Vice-Chairperson Stevens asked whether the Commission could receive the staff report after the Design Control Board and before submission to the Regional Planning Commission. Ms. Silverstrom clarified that when the Design Control Board first reviews the project it gives conceptual approval. The project then proceeds to Regional Planning where many of the changes typically occur. The Department could provide the staff report after this point thus enabling the Small Craft Harbor Commission to have current information on the project.

Commissioner Lesser commented that it appears the public has three separate opportunities to comment and hear both the positives and negatives. Ms. Silverstrom explained that the public has even more opportunities than that. The public can also comment at the Board of Supervisors meeting.

Once the lease documents are completed, the material will be submitted to the Small Craft Harbor Commission, at which time the public can again provide comment.

So that there would be no confusion or misunderstanding, Commissioner Lesser clarified that at today's meeting the Department is requesting the Commission to recommend that the Board authorize commencement of negotiations with Almar.

**VICE-CHAIRPERSON STEVENS OPENED THE FLOOR TO PUBLIC COMMENT**

Mr. Steve Weinman informed the Commission that he has worked at Dock 77 for 6½ years and believes that he represents the majority of boat owners, who were somewhat taken aback and hurt by the money they would need to spend at the new dry stack storage facility. He said that neither he nor the other boat owners have seen the proposed fee schedule, but he doesn't think they would be able to keep their trailers at the facility.

Mr. Weinman said that he was speaking on behalf of Coalition of Save the Marina and would like to see the proposed fee schedule. His organization also wanted to go on record in opposition to the Almar proposal. He said that the project is not consistent with the Coastal Act or the MdR Local Coastal Program. Mr. Weinman also mentioned that he hasn't received any information as to whether a permit will be obtained from the Army Corps of Engineers since the project requires a change in the seawall and dredging might be needed.

Mr. Weinman expressed an interest in knowing how the Coastal Commission really feels about the Almar project and if it's happy with the over the water construction and intrusion on the basin. He questioned how much water is available to the boating public and how the project would affect the launch ramp.

Mr. Greg Schem, (The Boatyard) began, and Mr. Bill Anderson (Westrec Marina) completed, reading a prepared statement that detailed their concerns relative to the Almar proposal. Their statement is Attachment A to these minutes (per Vice-Chairperson Stevens' request to attach the material).

Commissioner Lesser mentioned that he noticed staff taking notes as the public expressed its concerns. He asked whether inaccurate statements concerning the Almar project have been made. Mr. Moliere responded that a lot of what was said was inaccurate and one inaccuracy he noted in particular was that the new facility would affect navigability. Mr. Moliere said that this is in fact incorrect and of the three proposals, Almar's has the least intrusion in terms of its distance from the launch ramp.

Mr. Moliere said that with the Almar proposal, the queuing is moved far back and there are clear sight lines. There is specific zoning in the LCP for dry stack storage, which says 70 feet. The view corridor is over 50% and that is one of the things that the CCC commented on most favorably. It allows not a long mass building as does the other two proposals that block the views from the street, but allows for half of the parcel to be open in the sense that you can see the water.

Further, Mr. Moliere said that the Department would like to start the process in terms of authorizing the negotiations so that the proposal can be fleshed out. Most of the questions have been answered and most clearly those questions from the Coastal Commission since there has been extensive conversation with them about all the proposals, most specifically the Almar proposal in great detail.

Mr. Rockwell Scharer, H basin slip tenant, informed the Commission that his slip is adjacent to the public launch. Mr. Scharer owns Ocean Pacific Mortgage Co. and he spent a year locating a boat slip that would make him happy, only to find out very recently that his slip would be encroached upon by the Almar development. He said that he will no longer have the shade or the view and he believes the safety of the public launch ramp is an issue. He expressed his opposition and said that he would do everything he could to try and understand why Almar has to encroach on the bay.

Mr. David Levine, president, MdR Lessees Association, requested that the Commission continue or delay taking action for 30-days on the Parcels 52R/GG item because of the proposal's complexity and

controversial nature. Mr. Levine said that those who have been active in the community would like to see a diagram and understand the ramifications of the proposed project design before the Commission takes action.

Mr. Levine stated that the proposed structure over the water has great interest throughout the community and, given the nature of the project, more review is needed before its approval. He said that the Lessees Association is keenly interested in the provision of additional dry stack storage and feel it's an important element to the harbor's viability, particularly in the years ahead; however, the Almar design has raised concern from a wide range of people in the community who, because of the design's unprecedented nature, should be able to review the pictures before proceeding with the negotiation process. It should be determined whether there is a consensus to go ahead with the concept. Thirty days would provide an opportunity to review the design and understand what it means. Such a delay would be helpful to all concerned given the short amount of time that the community has had to react to the report.

Ms. Silverstrom explained that the Board of Supervisors ordered the Department to return within 120 days from the date of the Board order with a recommendation. She therefore could not tell the Commission that the Department would hold the item. The Department plans to proceed with submitting the item to the Board as instructed. To the extent that the community needs more time for comment and/or if the Commission would like to make individual comments, the comments will need to be made directly to the Board of Supervisors since the Department is under direct order to submit a recommendation to the Board and is not in the position to interfere with the deadline.

Ms. Silverstrom further explained that when it became clear that the Department would not be able to return to the Board within the 120 days as ordered the Department informed the Board that it would have the item available for the July 19 agenda, which is the date upon which the Board agreed.

Ms. Silverstrom suggested that the Lessees Association and members of the community address the Board when the Parcels 52R and GG item is before the Board and request a continuance at that time. Ms. Silverstrom added that, if the Commission wishes, the Department could indicate in the Board letter the Commission's request for a continuance.

Commissioner Lesser asked why the Commission is discussing the item if the Commission can't influence the Department's actions. Ms. Silverstrom responded that generally the Department brings an item to the Commission and has the latitude to hold the item if it believes more time is needed. The Department also includes in the Board letter the Commission's action on a particular item. Staff communicates what transpires at meetings with the Board offices. However, the Department must respond to Board orders within a specific timeframe. The Department is not in a position to refuse.

Commissioner Lesser commented that he understands the Department reports to the Board, but he just wanted to clarify that it doesn't matter what the Commission does with the Parcels 52/GG item since it will go before the Board on July 19 no matter what. Ms. Silverstrom said yes, but if the Commission wishes, the Department could communicate with the Board that the Commission would like the Board to hold the item.

Mr. Levine stated that he was told the Almar design that went through the current evaluation process differs from the design that went through the process two years ago and sparked the controversy about the feasibility and desirability of having an over the water structure. He hasn't seen any pictures and doesn't understand the differences between the current proposal and the previous proposal. Mr. Levine said that there are a wide variety of questions that he believes should be addressed before consensus is reached on the advisability of proceeding with the Almar proposal.

Further, Mr. Levine said that he understood the Department has a deadline with the Board but he hopes the community would have an opportunity as much as possible and as early in the process as possible to have a serious and intelligent conversation regarding whether this is the kind of structure it wants to have in the Marina.

Vice-Chairperson Stevens questioned whether there is a reason the Department could not request another extension given the tremendous interest of the Commission, public and Lessees Association, as well as the fact that it is an extraordinary proposition that hasn't previously been done and no visuals have been seen.

Commissioner Lesser suggested, and Vice-Chairperson Stevens agreed that, rather than have staff respond to Vice-Chairperson Stevens at this time, the Commission proceed with hearing public comment.

Ms. Angie Bera, basin H boat tenant, informed the Commission that she attended the meeting to speak on behalf of the boaters who are unaware of the Almar development. Ms. Bera expressed her opposition to the Almar project and explained that the proposed development doesn't meet many of the County's RFP requirements. She said that page one of the RFP states that the developments are to be developed as a regional draw serving the greater Los Angeles area, citizens of Marina del Rey and the recreational boating community. The Almar facility is designed to extend 160 feet from the seawall and block half of the public launch ramp in basin H. Basin H is the only public launch ramp in Marina del Rey and boaters outside of Marina del Rey heavily use it. Throughout the year, thousands of boaters use the ramp. Additionally, one of the three public pumpouts would be blocked and this is not a boater friendly choice.

Ms. Bera said that page one also states, "The County will also consider proposals for other related boater coastal dependent uses that enhance access to waterfront through recreational boating and encourage visitation to the nearby Marina attractions." She commented that the Almar development would cause increased boat traffic in basin H and near the launch ramp.

Ms. Bera questioned whether the County is aware of how much traffic currently exists during peak hours in the area of the proposed development. She said that she has taken pictures and has to push boats from her swim step because of the degree of traffic during peak hours. The traffic would be backed up along basin H and into the main channel. She expressed surprise that the County is unaware of the number of boaters that use the public launch ramp and a survey should have been conducted.

Ms. Bera also referred to page three of the RFP and said it states, "Some of the focus of the RFP is to improve access to recreational boating described as top priority in the Local Coastal Program. The County believes that this project explicitly addresses the needs of the boating community." She asked whether the Department asked the boating community whether the RFP addressed its needs and Ms. Bera commented that she doesn't think the RFP addresses the boating community's needs.

Ms. Bera said that the County is proposing 276 dry dock spaces compared to blocking half the public launch ramp available to millions of people in the greater L.A. area. She commented that building over the water would affect many sea lions and birds that inhabit the area, which Ms. Bera also has pictures of that she could supply to the Commission.

Ms. Bera expressed her opposition to the development and hopes the Commission and the County realize that the development would cause more harm to the boating community. She also said the Department needs a better method of notifying boaters about planned development.

Ms. Nancy Rich, H basin boat tenant, said that it's absolutely crazy to have a large building constructed over the water. Ms. Rich sits out there on the weekends and sees how everyone loves to come to the Marina during holidays and weekends. It's the only area where families without a lot of money can go. They can take their small boat and bring it to the public dock without paying an arm and a leg for fees having their boat dry docked. A lot of boats use the launch ramp and on the 4th of July, hundreds of boats used it to view the fireworks.

Ms. Rich questioned where the boats are supposed to go if 1/3 of the waterway is removed. She said that taking more of the waterway is not a good idea. The County is proposing something that most people won't be able to afford and make the Marina less accessible then it already is. She also expressed concern that the free parking at Dock 52 would be removed.

Mr. Moliere informed the Commission that there would be no loss of public parking since the parking would be replaced before the facility is built.

Relative to the concern about intrusion on the waterway, Mr. Moliere explained that the Marina was designed such that there is a 200-foot leasehold line running from the bulkhead to the water. The proposed construction is only about half way and is at the furthest end away from the launch ramp. The marine engineers, Coastal Commission and staff looked very carefully at the issue of navigability and determined that Almar's proposed design does not affect the navigability and use of the launch ramp. There also would not be a stacking problem. Any effect the construction might have is actually less than the other two proposals that were submitted.

Mr. Jerry Neuman, Almar Management, Inc., informed the Commission that the company had not planned to make a presentation; however, he felt that it would be important to address some of the speakers' comments. Mr. Neuman said that the company would be happy to meet at the proper time and appropriate process with the lessees and members of the Marina community to discuss the project. The company believes it is the right project for the area and believes that what it's done is refine a project that benefits boaters in all the ways staff has described. It is less impact from the water perspective and the public dock than any of the other proposals. The County has made the decision to have dry stack storage and Almar believes its proposal is most appropriate. Almar has been in the process for two years and has twice been selected as the winning proposer.

Mr. Neuman continued, stating that Almar believes that its operation stands firm and has done the best for the County and community. In terms of process, what the Commission is doing today is very important to the company because it isn't just going to the Board of Supervisors. The Commission has the ability to make decisions in terms of a recommendation to the Board. Almar is hopeful that the Commission chooses to support the Department's recommendation. The company has done everything it could in changing the project's profile to increase the view corridors, decrease the water impact and provide the best service possible with an operation that is proven and has proper utilization and the least impact to the waterway.

Vice-Chairperson Stevens asked whether there is an existing facility like Almar's proposed facility somewhere in California. Mr. Neuman responded that there is no existing facility at the scale Almar is proposing; however, in terms of the operation itself there is such a facility. Lake Arrowhead has an overhead crane system for dry stack storage that puts boats in the water. It is not at the scale of Almar's proposed facility, but it also is not within the same context as the Marina, which is an urban marina. This is a new way, in some ways, of doing dry stack storage. It is a way that people in the industry believe is the way of the future for urban impacted marinas. It may not be the way to do it in a coastal area where you might not want to have dry stack storage against the water, but it provides the most expedient methodology and gets boats in the water with the greatest comfort and security for the boaters. For that reason, Almar believes it is the most appropriate use. The crane itself that has been criticized is a crane that has been used for over 100 years in the industry and is a proven commodity. It has great operational stamina and the company has great confidence in it.

Vice-Chairperson Stevens asked the portion of the project that extends over the water and directly affects the public launch ramp. Mr. Neuman responded, "None." He explained that a portion extends over the water not quite halfway through the leasehold interest. It's about 2/3 less than what was in the previous proposal. The public launch ramp is not impacted. Each of the proposers proposed facilities that were in the waterway. The Almar proposal has less water contact than any of the other proposals. The other proposals had facilities in the water that were far closer to and had more impact on the public launch ramp. The Almar building would set high above the waterway so that it is visible through. Boaters going out would have a total view corridor through the Marina.

Vice-Chairperson Stevens asked whether a boat with its mast up could get through. Mr. Neuman responded that the boat couldn't go under the proposed building because the building would be in the leasehold area. He reiterated that the building would extend about half of the lease area. The navigation ways in the Marina don't go through the actual leasehold area.

Vice-Chairperson Stevens asked whether the boats would go through the public area. Mr. Neuman affirmed that they would go through the public area. The building would be in a private area and would take up only half of the area that is within the leasehold interest.

Vice-Chairperson Stevens asked for clarification on an earlier comment involving a building height of 85 ft. Mr. Neuman responded that one of the speakers commented on the building height in reference to high tide and low tide and at high tide the building sets at 70 ft and at low tide there could be a differential from sea level to the top of the building at 85 ft. Mr. Neuman said that he doesn't know whether this is true and the company would have to review the matter. He doesn't know if Almar has done a low tide measurement relative to where the sea is at low tide vs. the building height. If the company has done such a measurement, he doesn't have the information at this time.

Vice-Chairperson Stevens commented that it would be important to have such information before moving forward. Mr. Neuman said that Almar has the building height and the height relative to where the grade is of the property now and relative to where the waterway is on its normal level. The company has high tide from where the water generally is and where the dock space is currently.

Commissioner Lesser asked whether Almar has done any other projects in the Marina. Mr. Neuman responded that Almar has not previously done any other projects in the Marina; however, Almar is currently working on acquiring another property in the Marina.

Commissioner Lesser questioned whether Almar is a member of the Lessees Association. Mr. Neuman responded that the company currently is not, but would become a member once it is a leaseholder.

Commissioner Crail commented that he opposed the previous Almar project because of its plan to build a facility over the water. He asked to what extent the planned construction over the water was reduced in the new proposal. Mr. Neuman responded that the previous proposal had two buildings extending over the water. In the new proposal, the smaller building is eliminated and the larger building is reduced 2/3 of the way of what had previously been extended.

Commissioner Crail asked for clarification on the 2/3 reduction. Mr. Neuman corrected his earlier statement and said, rather than 2/3, the reduction is actually one-half.

Vice-Chairperson Stevens commented that a visual was provided at the meeting but wasn't included in the Commission's mailing packets before the meeting. She said that visuals enable the Commission to actually see what is proposed and give a more clear perception than written words.

Mr. Neuman apologized for the oversight and said that now that the Commission has the visual it can see the proposed building. In the previous proposal, the building shown on the visual had extended out almost to the leasehold line. The new proposal cuts out one edge about half-way and the edge closest to the public launch ramp 2/3 of the way so that was is left is 1½ phased over the water now.

Commissioner Crail asked whether reducing both buildings back to 45 ft would impede the ability to use the overhead crane. He said, for example, what if the building that extends 105 ft was cut back 45 ft. Mr. Neuman responded that such a reduction would impact the amount of storage that is planned. This issue would be addressed during the design review as well as with Regional Planning Commission and California Coastal Commission.

Mr. Neuman explained that the proposed plan enables Almar to preserve the sight lines and preserve the line of sight from the launch ramp. By having it at an angle, no viewpoints will be cut off. In effect, the same view corridor you would see whether or not the back end or the most westerly end was cut back to 45 ft., it would make almost no difference from the view driving down the road westerly. Whether than losing spaces just for purposes of having less over the water on one side seemed irrelevant to Almar because its plan produces the most optimal number of spaces with the least visual impact and the least intrusion to the public ramp.

Commissioner Crail asked whether the view line is the view that drivers would see as they drove down the street. Mr. Neuman clarified that he meant it is the view while driving down the street or coming around from off Mindanao Way.

Commissioner Crail said that his concern pertains to the view line for the people in the slips and boaters going throughout the Marina. Mr. Neuman said that from this perspective the separation of the 60 ft between those two minimizes that visual impact from the person coming out of the slips or from the public launch ramp. Almar conducted extensive studies on the view impact of boaters coming through the Marina, which resulted in the most optimal proposal in the way that it is currently proposed.

Vice-Chairperson Stevens commented that she understands the view line, but doesn't understand the practice of moving the boats through and not creating a stacking problem. Mr. Neuman said that if the Commissioners viewed the other proposals, they would see facilities that extended further out in the water than Almar's proposal. He explained that just because a facility extends over the water doesn't in and of itself mean it impacts a boater who is navigating through the Marina. It is the actual intrusion in the water that is at the surface of the water that makes an impact happen. The Almar proposal is the least impactful.

Commissioner Lesser referenced a map that showed the proposed building and slips. He pointed out that concerns were expressed about a building extending over the water and the encroachment of water space when the slips themselves extend far into the water.

Mr. Moliere showed on the map the location of the proposed public launch ramp. Commissioner Lesser noted that the launch ramp is a distance from the new facility. He commented that the dry storage facility would have zero impact on the public boat ramp and it appears that a massive amount of misinformation is being spread about the project.

Mr. Craig Purcell, H basin boat tenant, informed the Commission that he is concerned about accessibility, safety and navigability. He said that the company representatives at the meeting tend to be the "money guys" and the guys that want to complete the project. The boaters at the meeting, on the other hand, are somewhat, or very much, opposed to it. The reason for this opposition is safety.

Mr. Purcell explained that parking a boat is like parking a car and there are no brakes on a boat. He used an analogy of a parking lot with 260 or 300 cars trying to exit or enter the lot at the same time and must wait for the cars ahead of them to be moved by a valet. Mr. Purcell said that this is the situation, with boats being taken up and down a ramp. With approximately 200-300 boats coming in, waiting for valet service, H basin would be backed up. Unfortunately, a boat can't be forced to stay in one spot. Tide and wind are some of the factors involved in moving a boat around. There is not enough room to have everyone moving in a circle because on top of those people trying to get into or out of dry stack, there are people coming out of the boat ramp, the people who can't afford the dry stack storage.

Mr. Purcell said that not everyone who is in a boat on the water has the experience or ability to handle it in a high traffic area. There will be a lot of problems in H basin if a facility is constructed with such a large number of dry stack units. It isn't true that the facility won't impact the public launch ramp. Mr. Purcell said that he hasn't studied the new proposal, but he believes the boat owners would be impacted. He and his wife sit on the back of their boat while having cocktails and watch people who've been drinking while fishing all day try to back up their trailers and take the boat out of the water. The pump out dock won't be available to the bigger boats, which are the boats that need the pump out docks rather than the boaters with 18 feet runarounds who go outside the breakwater to fish.

Commissioner Lesser asked how many boats could use the public ramp at one time. Mr. Moliere responded that there are three ramps. Commissioner Lesser asked what would happen with the hundreds of boats mentioned by an earlier speaker. Mr. Moliere responded that some of the speakers presume that the 4th of July influx of boats is the typical traffic. Counts have been taken and Almar is aware of the amount of boat traffic.

Commissioner Lesser asked if there are 300 boats in dry storage on an average weekend the number that would be used in any one weekend. He commented that it doesn't appear that 95% of the boats

are ever taken out in the Marina. Mr. Moliere responded that there is a 300-space mast up storage facility in the area. He recalled doing specific studies on weekends and Wednesday nights when the boat races were going and the Commission would be shocked at the low number. To presume that all of the boats that are in storage would be taken out and used at the same time is not realistic.

Mr. Tom Hogan, Principal of Pacific Marina Development, which is partnered with Almar in the transaction, informed the Commission that there is no influence into the navigable channel. All of the proposals have docks. Almar happens to have docks in a building that sits out over a portion of the water. There is no intrusion into the water over a navigable channel; in fact, there is quite a bit less since the docking space does not cover the entire site. Secondarily, he noted that none of the spaces on the docks would be rented to anyone else. Approximately 120 boats can be queued at any one given time on docks themselves that will be pertinent to Almar's operation and no one else's operation. There won't be any intrusion into the public waterway.

Commissioner Lesser asked whether 1/3 of the boats in dry storage could be queued up at any point in time. Mr. Hogan responded that in the water approximately 120 boats could be docked at any one given time.

Commissioner Lesser asked whether the only purpose for the docks is to take care of the boats in dry storage. Mr. Hogan responded, "Exactly." He said that not all of the boats get used at any one given time. Historically, it's a 10-15% use at any one given time with some additional uses during peak periods. This information is included in the parking analysis.

Mr. Jeff Pence, co-owner of Pacific Marina Development, addressed some of the earlier comments pertaining to the project height. He said that the Boatyard proposed a 52 ft high dry-stack boat storage facility. Almar proposed a 65 ft high facility with a 5 ft well for the mechanical.

Relative to the over the water construction, Mr. Pence said that Almar reduced from its original proposal 70% of the overall down to 30%. There are 24 trailer facilities where people with boats can have their trailers stored.

Mr. Pence mentioned that there are two other over the water projects that will go before the California Coastal Commission sometime this year or next year. His company is involved with one of the projects. The over the water concept is really growing and becoming viable.

Relative to the gantry crane, Mr. Pence said that gantry cranes have been in business over 100 years. The issue is the stacking forks that they put in the mechanism. There is a project with the same system in Connecticut. There are three projects in Florida and one project in Hong Kong. All of these gantry cranes have been in business from 1989 to 1993. Within all these years, only two have been down, one because of a hurricane in Florida. The other crane was down for one day. It cost three times as much to develop this technology and use it.

Ms. Jeanne Linville, H basin boat tenant, said that her boat is on an end tie. She informed the Commission that she has watched children playing in the area and she is amazed that they will no longer be able to do it. She questioned who would benefit from the proposed project. Ms. Linville said that something is being taken away from the community and, particularly, from the children living inland in places like Norwalk, which is not near the water. They are able to come to this little small area that they've been given in this big Marina to ride in boats. Ms. Linville said that she doesn't mean that they're at the beach, but here in the Marina where they can go in a boat and fish, or pretend to fish, or canoe or learn to sail. Ms. Linville also expressed concern for the children in their tiny boats and their safety while boats are being lifted on cranes.

Ms. Silverstrom said that she wanted to comment on the community's concern relative to accessibility for boaters, particularly in the area of basin H. She explained that the Department is currently undergoing a periodic review of the Local Coastal Program by the Coastal Commission. One thing that is particularly apparent is that there is no more space to construct docks. The Department has been mindful of that and tried to bring opportunities for people to have boats in the Marina outside of a wet slip, which is no longer possible. In the Coastal Commission's staff report, the Department was

encouraged to consider alternatives. One alternative that was specifically identified by the Coastal Commission as providing an opportunity for people to have boats in the Marina is a dry stack facility. The Department is aware that there are people who use the launch ramp and that's why it will remain here and untrampled on.

Ms. Silverstrom continued, stating that the Department is providing an additional opportunity for people that either do not have access to boat slips because there aren't anymore or don't have enough money for wet slips and will have a lower cost alternative, which is the dry stack storage facility. This was the goal of the County in releasing its RFP for a dry stack storage facility in the Marina.

As for the basin H location, Ms. Silverstrom explained that the area is what is considered the public area for boats to go out. There are no other areas in the Marina for this sort of public facility. The Department believes that what is recommended in the Almar proposal is an appropriate response. Having a managed system where boats are put into the dock and ready for owners is a way of appropriately handling that kind of public incursion into the water.

In terms of other public areas available to children and other recreators, Ms. Silverstrom informed the Commission that in addition to keeping the launch ramp, an aquatic center will be constructed at Chace Park, which will be expanded to provide more recreational opportunities where the community will have the opportunity to be involved, with a particular focus on children. Almar has appropriately responded to the RFP and Almar has indicated its willingness to share its plans and, hopefully, relieve the community of some of its concerns.

Ms. Silverstrom expressed her agreement with Vice-Chairperson Stevens' comments about graphics. She extended her apologies to the Commission and members of the public for the omission of the graphic. Ms. Silverstrom said that Vice-Chairperson Stevens' point was well taken and the Department will try to do better in the future.

Vice-Chairperson Stevens said that it would have been helpful if Almar had provided pictures of an existing facility that is similar to Almar's proposed facility. Ms. Silverstrom commented that the Almar proposal contains visuals.

Vice-Chairperson Stevens commented that the Commission is not sufficiently aware of what is being proposed and she recommended that whatever motion the Commission makes include a request that the Board of Supervisors, given the tremendous contention within the community, including the lessees and boaters, postpone taking action on July 19 and return the item to the Commission.

Commissioner Crail expressed his opposition to the Almar proposal and said that he would rather "see it put back to 45 ft. length over the water. I'd rather see nothing over the water, but 100 ft. is too much for me."

Commissioner Lesser said that the situation is complicated. The original goal, as Ms. Silverstrom well stated, was to enhance the boating experience for people who can't find a slip but want to keep their boat located close to where they're going to use it and the Almar proposal provides the most effective way for them to do it. Almar proposes the most cost and space effective way for people to accomplish this goal. The goal is to allow more people to enjoy boating. The concept of the project doesn't take away from the public launch ramp or anything else.

Commissioner Lesser commented that the proposed project is very creative and that is part of the problem. Because the project is creative, it means a big change with something new and different. It's been his experience in life that change brings resistance and fear of the unknown.

Further, Commissioner Lesser commented that the Almar project is one of the few projects in which he's been contacted by "certain powers that be." He said that he doesn't want it taken the wrong way, but the fact is that one of the "good ole boys" was not selected and did not get the project. An outsider (Almar) was chosen and there are sore losers.

Commissioner Lesser said that the County organized an incredible team of independent evaluators who selected the best project. He said that everyone should keep in mind that the project has not been finalized but would go through a lot of review, public input and some design changes. The County has nothing to gain by doing a lousy job and is making an effort to do what is best for the community and boaters. Commissioner Lesser said that the project should proceed to the next step.

Commissioner Lesser made a motion recommending that the Commission authorize the Chief Administrative Officer and Director of the Department of Beaches and Harbors to enter into exclusive negotiations with Pacific Marina Development/Almar Management, Inc. for development of Parcels 52R and GG, subject to all regulatory and public input reviews. The motion did not receive a second and failed.

Vice-Chairperson Stevens announced that the motion failed and she strongly recommended that the Department educate the Commission and the public, particularly the lessees and boaters, more on the Almar project since they are integral to the Marina's operation.

Ms. Silverstrom suggested that the Commission consider making another motion that would include either a request that the Board of Supervisors instruct the Department to continue the item so that the Department could obtain more public comment or request the Board to postpone taking action on the item on July 19 and wait 30-days in order to allow more public comment. Ms. Silverstrom indicated that, as it currently stands, the Department planned to proceed with the Board letter, which would either indicate the Commission's disapproval or the fact that it did not take an action.

Commissioner Crail commented that he didn't believe the Commission needed to make another motion. Although the Commission did not endorse the Department's recommendation the Department could still move forward to the Board, which will act as it chooses.

Vice-Chairperson Stevens proceeded to the next agenda item.

## b. Consent to Assignment of Lease and Major Sublease and Approval of Amendment to Lease --Parcel 103T (Oakwood Apartments) – Marina del Rey

Ms. Silverstrom informed the Commission that this item is an assignment of the Oakwood Apartments to Archstone. Archstone will become the lessee; however, the apartments would continue with the existing Oakwood management for seven years.

The Department is also proposing a lease amendment and Ms. Silverstrom apologized for the delay in its submission. The amendment was provided to the Commission at today's meeting rather than prior to the meeting. She asked Mr. Moliere to provide details regarding the lease amendment.

Mr. Moliere commented that the amendment is by-and-large, with one exception, very pedestrian. The amendment, among other provisions, provides a more clear definition of gross receipts and restatement of the law in terms of prohibitive uses. He pointed out that one substantive provision is that the current lease has a dual rent structure because Oakwood has apartment units and corporate service units, which are furnished units that operate somewhat like a hotel and provide maid service and other services. It is Archstone's intention to phase out the corporate service aspect and eventually become solely an apartment complex. One of the unique features of the corporate service is that the County requires a furniture and fixtures sinking fund. Since such a fund will no longer be necessary, the County will allow Archstone to stop contributing to this fund. The existing money in this fund will pay the cost of furniture and fixtures for the next seven years.

Further, Mr. Moliere said that the lease will function as an apartment lease and all of the rents would be converted to the 10½% rate. There will no longer be a 9% rate for a different kind of unit. If Archstone chose to continue operating corporate service units, Archstone would be vastly overpaying since it would have to pay the County 10 1/2% for the apartment, plus 5% for any other services that are rendered. Instead of the Department getting the benefit of the 9% rate for the corporate services unit, the Department is taking Archstone at its word that the corporate service will be discontinued.

**VICE-CHAIRPERSON STEVENS OPENED THE FLOOR TO PUBLIC COMMENT**

Mr. David Naftalin, representing the Marina Tenants Association, expressed the association's opposition to the Parcel 103T assignment. He said:

> At this stage, in working out these deals, "the proprietary stage," is not a public process at all. So now, we suddenly open up to the public and I think the distinction between the regulatory period and the proprietary period is an interesting one because, in my opinion, there's a real connection between the regulatory process and the proprietary process because the value of these leaseholds is determined on what the uses are and what the regulatory body says and a lot of other things that happen down the line.
>
> There is no information on the price paid by Archstone to the Oakwood. There's no information on the profit that's being made by the Oakwood now. You talk about a net proceed share, which I assume is based on a percentage of the price paid by the assignee to Oakwood, but that's not revealed either. Without this information, how do you gauge whether or not the County is getting a fair deal?
>
> I said the same thing at the time of the Kingswood transfer and it came out later. I said, 'there's no information here.' It came out later that Archstone is paying $87 million to the selling lessee. My point is that these values, paying $87 million for that leasehold is like taking the value of this land and valuing it as if we're out in Lancaster.
>
> The County takes care of all of this dredging and making this a nice area and the percentage rentals we're getting are 10%. We should be getting 35%.... Thirty-five percent would be a fair percentage rental for the County. That's what my experts tell me.
>
> The Marina Tenants Association proposes basically three things: 1) that the sale not be approved. Every sale is an opportunity to scale back on the big business aspect of the Marina. This relates to all of these things, all of the questions about development of the Marina. Do you want to just make it the biggest and most profitable or do you want to run it for small boaters?; 2) More information is needed; 3) I strongly urge you to get an independent appraiser outside the County, not anybody from staff, not anybody from the appraiser's office downtown.
>
> All of the money spent in sanitizing this report would be enough so to speak. By sanitizing, I mean making it so it doesn't reveal the essential financial information but does apparently make it look legal. I don't think it is legal but that's just one lawyer's opinion. Your County Counsel thinks it's a legal transaction I would assume. I think an outside appraiser...if in fact the role of this Commission, as I believe it is, is to be a watchdog. This would be a good opportunity to get some outside input on the values involved in this transaction.

Mr. Moliere commented that he believes Mr. Naftalin might be confusing a lease extension and a pure sale. There was a Parcel 103 lease extension a number of years ago. The current transaction actually is one of a number of transactions that are regular in nature and in which the County consented without any contract participation.

Mr. Moliere explained that the criteria upon which extensions are based, as identified on page 3 of the Board letter, are: 1) the financial condition of the assignment; 2) the price to be paid for the leasehold as it relates to the improvements or potential development thereon; and 3) the management of leasehold by the new lessee being in the best interest of the Marina as a whole. He said that Parcel 103 is one of the leases that were renegotiated. With new leases, there is a profit participation, which had previously not existed. The current transaction will give the County a $4.2 million net proceed share. This amount has nothing to do with the property's value per se, the Parcel 103 assignment is

just a sale from one private party to the other and there is no change to the underlying interest of the County.

Mr. Moliere added that there is no physical change of the property. Vice-Chairperson Stevens commented that the Department said the same thing about Kingswood.

Ms. Andrus commented that Kingswood was afforded an illegal lease extension, which needs to be addressed. She said that the Asset Management Strategy also needs to be addressed.

Ms. Andrus expressed her hope for Supervisor Don Knabe to attend the Commission meetings and share his vision of the Marina that doesn't include the eviction of a number of residents.

Vice-Chairperson Stevens referred to the Department's criteria for recommending or denying an assignment, which is listed in the "Purpose/Justification of Recommended Action," section on page 2 of Parcel 103 Board letter. One of the criteria, Item C, states that, "the management of the leasehold by the new lessee being in the best interest of the Marina as a whole." Vice-Chairperson Stevens commented that she doesn't believe the Commission has had as much grief concerning any lessee as it's had from Archstone. She doesn't believe that it's in the best interest of the Marina that Archstone be given another parcel in the Marina.

Ms. Silverstrom said that for the first seven years the property would continue to be managed by Oakwood. The Department has found generally in its investigation of the complaints pertaining to Archstone that the company is doing a good job in the Marina. Many of the complaints pertaining to Archstone's improper management were unfounded. There were anecdotal complaints that the Department investigated and, on a regular basis, was unable to confirm the particular complainant's issue. The Department disagrees with the assessment that Archstone is unfit to manage residential properties in the Marina.

Commissioner Lesser noted that when Archstone acquired Kingswood it was assumed that many residents would be upset. It was known that a large amount of money would be invested in renovating the complex and the rents would be increased. The prior owner had kept the rents artificially low and below fair market value. He said the statistics reveal that a large number of residents chose to remain at the Archstone complex after the renovation and despite the rent increases. Almost all of the residents who moved left the Marina because they could not find as nice of an apartment in the Marina for the same amount of money that they paid at Kingswood.

Commissioner Lesser said that Archstone is not doing a bad job. He acknowledged that dealing with increased rent and having to move is traumatic, but it is a fact of life. Everyone had a good deal for a long time.

Mr. Geoffrey Mitchell, attorney for the current Oakwood Marina del Rey lessee, informed the Commission that a few years ago Oakwood underwent an approximate $12 million renovation and upgrade. This was part of the lease extension that was granted in 2001. Under the terms of the Oakwood master lease, the existing management will continue. From the tenants' perspective, there will be no change. The rents won't change other than in the ordinary course. The current rents are at fair market value. The Oakwood situation isn't the same as what occurred at Kingswood with below market rents. At the end of the seven-year lease term when management of the property reverts to Archstone, the rents are expected to be at fair market value. There should not be any rent increase at that point and time other than in the ordinary course as rents may increase in the market place.

Additionally, Mr. Mitchell said that this project and the operation of it is one of the things that contributes to the highest possible percentage rents for the County, which is what the objective of the County is in its proprietary function, or at least that's part of the objective, which is to earn the highest possible rents. Mr. Mitchell commented that he didn't believe the Commission would hear any problems from tenants. He said that, in addition, as Mr. Moliere pointed out, there would be a $4.2 million net proceeds share paid to the County in connection with this transaction.

*Commissioner Crail moved and Commissioner Lesser seconded a motion endorsing the Department's recommendation that the Board approve the consent to assignment of lease and major sublease and approval of amendment to lease for Parcel 103T (Oakwood Apartments) – Marina del Rey. The motion passed with Commissioner Crail and Commissioner Lesser voting in favor. Vice-Chairperson Stevens opposed.*

## 6. STAFF REPORTS

### a. Ongoing Activities Report

Ms. Silverstrom reported that June was an active month for the Board with respect to items relating to Marina del Rey, many of which were considered and recommended by the Commission.

Ms. Silverstrom pointed out the staff report's inclusion of an update on the MdR Local Coastal Program Period Review. Since the last Commission meeting, the California Coastal Commission (CCC) met and continued action on the periodic review report until the November 2005 meeting. The report is 144-pages with 54 recommendations by the CCC. What the CCC staff heard was that the Commission would like less recommendations and a more condensed, focused product. The Commissioners particularly commented on environmental, recreational, water quality and public access issues.

Ms. Silverstrom said that the Department is working on a response to the report and will meet with CCC staff to try to fashion a report that the Department could support. The Department intends to meet with the CCC staff around August. She explained that the meeting was deferred because the CCC staff wanted the meeting at an L.A. location and the next time the CCC meets in Los Angeles is in November. The Department feels positive about the report and feels that it has a lot of opportunity to tell about the good things that is being done in the Marina. Much of the report has acknowledged that the County is doing a good job.

Vice-Chairperson Stevens questioned why the periodic review report uses the word, 'shall' almost on every sentence or recommendation. She commented that 'shall' is not typical CCC terminology. Ms. Silverstrom responded that she doesn't know why 'shall' is used; it might indicate the CCC's interest in the Department following the recommendations.

Ms. Silverstrom explained that the CCC can't require the Department to follow the recommendations. In a periodic review, the most that the CCC can do is make recommendations. The Department has one year to respond and has the freedom to say, 'thank you very much. We have no comment on your report.'

Commissioner Lesser commented that, if the report has some good ideas, the Department should consider them. Ms. Silverstrom agreed and said that the Department is working toward a report that both the Department and CCC can feel comfortable about.

Vice-Chairperson Stevens said that given the fact that the Department and CCC staff have met and the Small Craft Harbor Commission is not privy to the comments, she wondered if the Commission has any input to the Department's response to the periodic review report. She commented that it would be wise not to keep the Commission out of the loop of information. A lot was brought to the surface today that reflected the lack of information provided the Commission and it isn't fair to ask the Commission to make decisions under such circumstances; even though the decisions are almost meaningless because the Commission doesn't have authority to make them.

Commissioner Lesser commented that he doesn't believe the Small Craft Harbor Commission's decisions are meaningless since major changes in projects have been made as the result of input at Commission meetings.

Ms. Silverstrom explained that the Department's staff would meet with CCC staff to discuss the Department's response. After the Department receives the report in November, it will have one year to

make comment. Vice-Chairperson Stevens requested that the Department involve the Commission in this process.

Vice-Chairperson Stevens questioned how Ms. Silverstrom could state that the CCC has no right to direct the Department's actions when the CCC managed to get the Broad Beach residents to put the sand back on the public beach. Ms. Silverstrom responded that she might have miscommunicated before. She explained that there is a certified Local Coastal Program (LCP) and there is nothing in the Coastal Act that allows the CCC to instruct the Department to amend the LCP. This is something that the CCC cannot do.

Vice-Chairperson Stevens asked whether the Department could request exceptions to the LCP. Ms. Silverstrom responded that the Department could request amendments to the LCP in connection with individual projects. This occurs when the Department itself requests the Commission to amend the certified program. The CCC doesn't have the ability in the periodic review to require the Department to amend the LCP.

Commissioner Lesser asked what would happen if the CCC found that the County is not in compliance. Ms. Silverstrom responded that what generally has come out in connection with the periodic review thus far is that the Coastal Act allows the CCC to review under the periodic review whether the Department has implemented the LCP as it was written. The CCC has also gone beyond that to review changed circumstances and new information. It makes recommendations on these two additional features. The CCC has said in connection with this particular periodic review that the County generally is implementing the plan but there are changed circumstances and new information that the CCC would like the County to consider in coming forward, if it is willing to do so, with an amendment to the LCP. Ms. Silverstrom said that, in general, the CCC is not finding problems with the Department's implementation of the LCP.

Commissioner Lesser expressed his appreciation to staff for the Ongoing Activities Report. He commented that it was neat to read staff's follow up concerning Eric Huff, who, as it turns out, is not being evicted from Panay Way. Mr. Huff is being given a temporary slip during Panay Way's reconstruction and will have the option to return after construction is completed.

## b. Update on Floating Home Issues

Ms. Silverstrom informed the Commission that the report responds to concerns expressed at previous meetings pertaining to floating homes and a request that lessees be required to accommodate existing floating homes during dock reconstruction and to provide tenancy to the same upon reconstruction completion. She said that the Department does not agree with such a requirement.

Ms. Silverstrom explained that at the time the ordinance change occurred the Board of Supervisors had considered allowing a period of beyond 10 years. She said that the current law is that if a floating home is in existence at the time the ordinance change occurred, the owner of the floating home is allowed up to ten years within which to transfer his/her ownership. After the ten years, if there is a transfer of ownership, the floating home has to leave the Marina. The Board was requested to consider a longer term and the Board chose not to consider a longer term.

Commissioner Lesser clarified that the Commission didn't say a lessee should be required to accommodate the floating homeowner during a dock's reconstruction. It's just that it didn't seem right that in a certain few cases in which the homeowner is legal, has done nothing wrong, and his/her floating home is in great shape, he/she can't be accommodated. Commissioner Lesser commented that he was somewhat bothered the floating homeowner didn't do anything wrong, but was being kicked out during renovations.

Commissioner Crail commented that he can't state that a floating homeowner didn't do anything wrong, it's just that a decision was made ten years ago to settle the matter in the way it was settled.

**VICE-CHAIRPERSON STEVENS OPENED THE FLOOR TO PUBLIC COMMENT**

Ms. Andrus commented that she agrees with Commissioner Lesser and said that it just seems unfair to the floating homeowners and the community in general. The community is not being enriched by the way that many members have been eliminated because of high rent. There is no value to the community when members are lost in this way. She expressed her hope that the floating homeowners could remain.

Mr. Naftalin, representing the Marina Tenants Association, expressed his understanding that the Department's floating home report is a follow up to Mr. Wisniewski's comment at the May 25 meeting that staff would look into the issue of mandating that a lessee keep the floating homeowners during the redevelopment process. Mr. Naftalin said that his issue pertained to liveaboards and he, in fact, wrote a letter in May 2005 to the Commission about the displacement of liveaboards, specifically mentioning Dr. Hoffman as an example of a legal liveaboard who is being displaced.

Mr. Naftalin said that Dr. Hoffman is a legal liveaboard and the same principal [relative to floating homes] is true with regard to throwing people out. It's highly unfair. He said that Dr. Hoffman was told by the anchorage dockmaster that applications would be taken from people in the community and then tenants would be selected. The anchorage asked what method could be fairer than its method.

Mr. Naftalin told the Commission that what would be fairer would be to give Dr. Hoffman, a guy with a vested interest who has lived here for a long time, and whose boat is losing all its value, precedence.

Mr. Naftalin commented that the floating home report is a litany of negativity about how bad floating homes were. The report says that Chapter 19.12 of the County Code was amended to limit floating homes; however, at the time of 1994/95, there was a big fight, not really over floating homes, but over liveaboards. Floating homes are being phased out and have a few years left because of the amendment, but liveaboards are fully legal.

Mr. Naftalin said that the May 25, 2005 minutes include Mr. Wisniewski's comment about it being in the lessees' interest to phase development because they need good tenants. Mr. Naftalin stressed that what is needed are regulations. If the Commission has any power, this is an area that cries out for regulation, just as the landside lessees were regulated. He said that Dr. Hoffman was removed summarily and the exact description of the legal process by which Dr. Hoffman was removed is a difficult one to describe. Mr. Naftalin urged the Commission to continue fighting for the liveaboards.

Ms. Silverstrom explained that prior to the ordinance, one of the lessees contemplated building floating homes or having an arrangement with a developer to construct more floating homes at the Marina docks. This idea created a lot of concern from recreational boaters, other lessees and community members and a series of meetings were held as well as a public hearing conducted by former Small Craft Harbor Commission Chairman Herbert Strickstein. A follow up committee of interested community members was created and the ordinance resulted, which was created specifically with respect to floating homes. It did not deal with liveaboards. That is not to say that comments were not made about liveaboards; however, liveaboards are not precluded in Marina del Rey.

Mr. Jonathan Balfus, representing Robert Weinmeier, informed the Commission that he wished to comment on the floating home report, which Mr. Balfus said is legally and factually inaccurate. He said that the Commission was approached over the past couple of months about legal liveaboards and legal floating homeowners who were grandfathered in tenants of Panay Way Marina. These tenants are being evicted and don't have any other place to go. It was proposed that the Commission intercede or look into the matter so that the lessees could discuss their tenants' rights, not that the County take any particular position. The reason that the staff report is inaccurate is that it's an analysis of the 1995 ordinance that prohibited the expansion of floating homes. No one is interested in preventing any more floating homes from coming in, it's decided, it would be against the law. The issue is what to do with the floating homes that are already there. The rights of the floating homeowners who are there legally is not decided by the 1995 ordinance, but by the state law and by the 1999 amendments to the 1995 ordinance.

Mr. Balfus said that the Department's floating home report is a perfectly good analysis that would make sense if it was ten years ago but it is not the state of the law in 2005. Further, Mr. Balfus said that, while he addressed the reason why the update is not legally correct, which is because it does not take into consideration the present state of County Code 19.12 as amended in 1999, it is important for the Commission to know that the report is also factually incorrect because it seems to imply that all of the issues with the tenants have been resolved and that the dockmaster interceded and that there are no other problems.

Mr. Balfus noted that the staff report is dated June 30, 2005 and since that time Mr. Weinmeier received another eviction notice and must vacate in less than 60 days. Mr. Balfus said that not everything ended up happily ever after and it is not the case of the appropriate people being spoken to and now realize the error of their ways.

Mr. Balfus offered to discuss with Ms. Silverstrom or anyone else his analysis of the law. He said that, while the issue isn't complicated, it is an important issue. He offered to answer any questions about why he believes the staff report is not up-to-date.

Vice-Chairperson Stevens asked Ms. Silverstrom to communicate Mr. Naftalin's and Mr. Balfus' comments to Mr. Faughnan (County Counsel) and request his legal opinion. Ms. Silverstrom responded that she would be happy to, but she also wanted to state on the record that no tenant in the Marina, whether they are liveaboard or a floating homeowner, has an automatic right to be in the Marina. They have a month-to-month tenancy that can be terminated by the lessee. The amendment to the floating home ordinance disallowed any new floating homes from coming in and legitimized those that were here so long as they continued to have a slip, but the ordinance did not require them to be given a slip.

After expressing her understanding of Ms. Silverstrom's statements, Vice-Chairperson Stevens reiterated her request for a legal opinion on the information that Mr. Naftalin and Mr. Balfus brought to the Commission's attention. Ms. Silverstrom indicated that she needed to receive more of an understanding of the legal issues that were raised. Vice-Chairperson Stevens requested that Ms. Silverstrom speak with both men after the meeting to clarify the issues.

## 7. COMMUNICATION FROM THE PUBLIC

Mr. Naftalin, representing the Marina Tenants Association, informed the Commission that the association is primarily composed of tenants, but also a fair number of boaters. One of the directors is a liveaboard. One issue that came up is the issue of whether the Marina Tenants Association could engage in litigation at the same time it brings a matter before the Commission. The issue brought up in the suit regarding Dr. Hoffman was that one of the reasons the preliminary injunction should be denied was because Mr. Naftalin had written a letter to the Commission and the County and that the association was trying to engage in the political process and should, therefore, not engage in the legal process.

Mr. Naftalin said it had been indicated at a meeting that since Mr. Naftalin is one of the people involved in the lawsuit, the Commission should be careful in its response to him. Mr. Naftalin commented that it might be a good strategic idea not to make statements that might hurt your case, but he believes that anything you say is subject to that.

Mr. Naftalin said that another point is that the historical record makes it very clear that the Commission was started as a watchdog Commission. In the early days of the Marina, there were allegations that none of the original lessees were brought in by public bidding and that at the last moment there was an idea to build 6,000 apartment units with 10,000 tenants, which would help repay the bonds. Now, certificates of participation have replaced the bonds.

Mr. Naftalin said that as tough as the Commission's job is, he urges it to be a locus where the community can come and argue for various kinds of changes and contribute input. He said that the mere multiplicity of public meetings and opportunity for input is not always a good thing and is

sometimes more confusing than it is helpful. The Small Craft Harbor Commission is really a good place with helpful people who are responsive and nice, which he appreciates.

Ms. Andrus informed the Commission that she wished to discuss the affordable housing issue in the Panay Way area. Ms. Andrus said that there are 99 units at Parcel 20 and 10% were set aside for affordable housing; however, she has been told that the units are being restricted to seniors 62 years of age and older. Ms. Andrus said that she spoke to Pam Emerson at the California Coastal Commission (CCC) office to discuss the issue. Ms. Andrus also commented that the Department of Housing and Urban Development (HUD) should be informed of how the County, particularly Regional Planning, interprets affordable housing.

Ms. Andrus said that affordable housing is one thing and senior housing is another and Capri is restricting its affordable housing units to seniors. The conditional use permit designates its affordable housing as being for seniors and justifies this by saying that a majority of seniors are displaced in the Marina, which Ms. Andrus doesn't believe to be the case. She said that affordable housing should address the public that lives here first, which is not being done.

Ms. Andrus also said that the apartment across the street is for active senior citizens, aged 55 years and older. HUD would be interested in knowing that there is a new category of active senior citizens. She questioned whether inactive seniors could live there. Ms. Andrus said that the apartment complex is quite different than was initially proposed, which was a senior board and care with a nurse on site and this was part of the conditional use permit.

Ms. Andrus said that as residents are being displaced, the demographics of the Marina do not justify placing senior housing before affordable housing. Affordable housing is supposed to serve the community in which the housing is built. There appears to be serious violations by the Panay Way properties of the conditional use permits and this should be investigated. She said that there currently are no residential units reserved exclusively for low-income seniors. That's what #39 says in the conditional use permit. There should be an investigation of the housing situation, which she brought up with the Coastal Commission staff. Ms. Andrus said that per Pam Emerson's suggestion, people were sent to the Parcel 20 complex and they well documented their reception.

Mr. Moliere clarified that the Parcel 20 permit predated the Marina's affordable housing policy. Regional Planning granted the lessee a permit on the condition that 10% of the parcel's housing is designated for low-income seniors. The units are currently in the process of being rented. He commented that the Department is not the enforcement agency, but does work closely with the Community Development Commission and Regional Planning Department, which are the enforcement agencies.

Commissioner Lesser requested that staff investigate whether Parcel 20 has complied with the affordable housing requirements and update the Commission within the next 30 or 60 days. Ms. Silverstrom responded that staff would follow up on this request and report to the Commission. She mentioned that a concern was expressed at a prior meeting that units weren't being rented to senior citizens at Parcel 18. Regional Planning conducted an investigation and found no violations.

Ms. Maryann Weaver informed the Commission that she personally, along with several other people, visited the Capri to inquire about the availability of affordable housing. One of Capri's employees told Ms. Weaver that the complex has 10 one-bedroom affordable housing units and the residents have to be at least 62 years old.

Ms. Weaver is 61 years of age and is permanently disabled. Ms. Weaver asked the Capri employee about people with disabilities and was told that it didn't matter. The employee did not ask Ms. Weaver her age. When Ms. Weaver told the employee that she was retired and disabled, the employee assured Ms. Weaver that she was qualified. Ms. Weaver then completed an application and submitted it, along with other required paperwork and a check for $200, and reserved a specific unit. Approximately 4 days later, the employee contacted Ms. Weaver and informed Ms. Weaver that she did not qualify for the unit because she was not 62 years old. Ms. Weaver explained to the employee that she completed the application, etc., because the employee told her that she was qualified. The

employee responded that she assumed Ms. Weaver was 62 years old because Ms. Weaver had told her that she was retired.

Ms. Weaver said that she contacted the Department of Regional Planning and an employee referenced the Mello Act, which is the Affordable Housing Policy for Marina del Rey, and read the following to her:

> For all new housing development projects constructed in County owned Marina del Rey, ten-percent of the newly constructed units consisting of a mix of all unit sizes contained in the project shall be reserved for low-income households for a period of thirty years.

Mr. Moliere informed the Commission that he is very familiar with the policy, having contributed to its drafting. He clarified that there was no affordable housing policy for Marina del Rey at the time the Capri project began. Its permit was issued before the policy was established. The permit is governed generally by the Mello Act, which states in general that when new housing is built, some units, an undetermined number, must have affordable housing. On an ad hoc basis, for the first projects that went through, the Regional Planning Commission, which has the responsibility for issuing permits and determining how they comply with the Mello Act, issued permits variously to Parcels 12 and 15, Parcel 20 and one other parcel. Any new parcels that are built and that obtain permits after the affordable housing policy's implementation must comply with the policy.

Ms. Weaver said that the Regional Planning employee referred her to the Community Development Commission (CDC) and suggested that she request its staff to check whether there are special provisions set aside for the parcel. Ms. Weaver contacted the CDC employee and gave him the Capri's address. The employee checked and then told her that there are no different provisions made for the parcel and it appears that the Capri's management is trying to keep a certain class of people out of the complex. The complex is only allocating 10 one-bedroom units for affordable housing; however, affordable housing allows families. The complex should allocate every type of unit available.

Mr. Moliere commented that he is knowledgeable about the issue and the CDC employee was misinformed.

Vice-Chairperson Stevens requested Mr. Moliere to investigate Ms. Weaver's concerns and report to the Commission.

Mr. Tim Riley, Executive Director, Marina del Rey Lessees Association, informed the Commission that the association followed up on the Commission's request to address issues related to the temporary displacement of boaters during dock reconstruction. The association met on the matter and is planning a smaller follow-up meeting with dockmasters. He will provide an update at a future Commission meeting.

Mr. Riley asked how often the anchorage vacancy report is updated on the Department's website. Ms. Silverstrom responded that the report is updated on a monthly basis. Mr. Riley commented that the report wasn't easy to find and suggested that staff make it easier to locate.

Ms. Julie Schaller expressed appreciation to Vice-Chairperson Stevens for her comments about Archstone. Ms. Schaller said that since Commissioner Lesser thinks Archstone is doing such a wonderful job, she would invite him to come visit her apartment so that he can see the "wonderful" job they are doing. (She commented that she was speaking facetiously.)

Ms. Schaller said that some of the building problems are: elevators being routinely turned off, disabled smoke alarms, inoperable doorbells, overhead hallway lighting that's been removed. Cables...with work lamps hanging over, tied up to where the old fixtures were. Apartments have the balconies removed. The apartments are often left unlocked so that anyone can wander in. A child can wander in there and just fall off a balcony. There is no hot water. Ms. Schaller explained that one day the hot water pipes broke on a Friday and management released a memo on Saturday morning saying they would not be able to fix it until Monday. Miraculously the hot water came on Sunday afternoon. She

said that when there is water, it's orange. Ms. Schaller offered to show the Commission some samples that she has.

Ms. Schaller continued, stating that workers are walking around in masks and there are dust clouds everywhere. She has congestion and knows of a number of people who are congested like that. There's debris in the hallways. The ceilings, which have asbestos in them, are opened up. She offered to show the Commission pictures. Washers and dryers are unplugged so that construction workers can use the outlets. Tennis courts are taken so that there can be parties for the construction workers.

Ms. Schaller said that approximately 50% of the residents are relocating and, by the end of August, there will not be 50% of the original tenants in that building. She said that she knows for a fact that 50% of these people are not staying.

Ms. Schaller said that she doesn't begrudge granting anyone a rent raise, but when residents presented information to the Commission last year, it was 62% to 80%. Since Archstone added washers and dryers, the rent has been increased by $150 more. So, it's higher than 80%. Ms. Schaller said, "I would like you to think about that when you say they're doing a great job."

Ms. Dina Novak, Archstone resident, informed the Commission that she hadn't planned to speak until she heard a staff person say earlier that the Archstone complaints were anecdotal and that the County, allegedly, was unable to check the complaints. She said that none of the Department's staff members contacted her. At a previous meeting, she provided pictures of the conditions at her complex. Trash was routinely thrown right in front of her balcony. She contacted the Department of Building and Safety and told an inspector that dust clouds were in front of her balcony. He was appalled and told her that he visited the property on a daily basis and he told her to contact him the next time it happened. Ms. Novak said that thereafter the construction workers stopped throwing the trash.

Ms. Novak said that since September 16 she hasn't been able to do anything in her apartment because of the construction and sandblasting. She has to leave her apartment at 7:00 a.m. in the morning. She has to eat out and can't return until about 4:00 p.m. or 4:30 p.m.

Further, Ms. Novak said that Archstone had initially claimed that the apartments would be constructed building by building and the management would keep the tenants informed. Archstone, however, has failed to keep the tenants informed. The practice of renovating building by building has been thrown by the wayside and the company is renovating two buildings at one time.

Ms. Novak said that, anecdotal as it is, she's dealing with issues such as her mother's hospice situation, her own stolen identity, which is a hell of a job to resolve. She can't work in her apartment because of the noise, etc. Ms. Novak said that she asked management whether she could relocate to the apartment next door or across the hallway so that she can have two months of quiet until she could at least get an apartment and she was told, "No, they're doing a great job."

Ms. Maryann Weaver, Archstone tenant, informed the Commission that she experienced serious problems in building one. She received a Notice to Terminate Tenancy, which is given to tenants when they have to relocate from one building to another. Ms. Weaver moved out before the deadline because she had a problem with the tenants who lived above her. They continuously flooded out her apartment and the management was unresponsive to the problem. These neighbors constantly fought and she contacted the Sheriff's Department twice. One of the deputies suggested that she take the neighbors to court. Ms. Weaver took the neighbors to small claims court and the Archstone manager testified, lying under oath, that Ms. Weaver was a nuisance and that the Sheriff's Dept. considered Ms. Weaver a nuisance and that Ms. Weaver even complained when she was a Kingswood resident. The judge believed the Archstone manager even though what she said was hearsay, which Ms. Weaver said is not admissible in court. Ms. Weaver said that she would have to redo the whole case because the manager lied under oath.

Further, Ms. Weaver said that she has a friend who is a pilot who lives in the tower and Archstone gave her an eviction notice while she was three weeks in reserve. While the pilot was gone,

construction was done on the building and the construction workers burst threw the pilot's wall while working on another apartment. Some of the pilot's possessions were stolen from her apartment and she is now suing Archstone for breaking and entering and theft.

Ms. Weaver said that these are the "good" things that Archstone does. Ms. Weaver moved to her current apartment on March 7 and just received another eviction notice to move by August 31. She said that there is no place for the building six and seven residents to move. These are the last two buildings to be renovated. She has to move and this is the reason that she is trying to find another complex to relocate. Ms. Weaver commented that Archstone does not care about its tenants and the complex is a disaster because they have no consideration.

## 8. ADJOURNMENT

Vice-Chairperson Stevens adjourned the meeting at 12:30 p.m. in memory of Mrs. Dinny Wisniewski (Director Stan Wisniewski's wife).

Respectfully submitted,

Toni Minor
Commission Secretary

Good morning. My name is Greg Schem and I am the lessee for parcel 52 known as the BoatYard which is immediately adjacent to the subject RFP parcels. As you may know, I was also a respondent on this RFP and came in second. Although I am disappointed about loosing, I am even more concerned about the impact the Almar plan will have on my business and on the boating community. I am also very upset about the broken evaluation process which has paid lip service to the objective measures on RFP selection and placed subjective measures of "creativity" over functionality and implementability.

Let me first comment on the process. As of this morning, I and members of the public have had only three business days to review the department's recommendation and less than one day to review our competitors proposal. Notwithstanding the fact that the evaluation committee had completed their review over thirty days ago, the report was only made public on the County's web site late last week. My team and I have spent more than two years working on this RFP and we, and the public, should be allowed sufficient time to review the results.

It is my understanding that the recommend Almar proposal includes a 70-foot structure extending 105 feet from the sea wall. Given average tide heights, that puts their building approximately 85 feet above sea level! This creates an unimaginably large, night lit, structure immediately adjacent to 105 boat slips at the BoatYard. The design also includes an industrial overhead crane moving back and forth over the water, hauling boats up to 40 feet long. This will severely impact each of these boat slip tenants and cause shading issues, wind issues, and further restrict the staging area in front of the public boat ramp.

As compared with conventional dry stack boat storage facilities, the proposed technology is not only unproven, it is used by less than 2% of dry stack facilitates world wide and has never been successfully utilized in a structure of this height. Further, this design relies on a single overhead crane which, should it fail, would close down the facility.

* I have with me a petition signed by 54 Marina del Rey boaters objecting to this design. I am certain that many more would have voiced their opinion had the results of the evaluation committee been released earlier. Some of these people have been in the marina for over 20 years and currently live aboard their boats in our marina. They are very upset at the prospect of losing their privacy and views and by the unavoidable noise, shading and wind effects which will accompany this over the water design.

In terms of the objective criteria used to evaluate the RFP responses there has been several incorrect conclusion based upon pure facts. Without having the opportunity to review the Almar proposal in depth, it is clear that the following conclusions are simply wrong:

1. Almar provides greater revenue enhancement to the county- Not true, especially since their proposal provided the least number of dry stack spaces of the three respondents. Our analysis indicates that we provide $2.0 million verses Almars $1.6 million in ground rent without the BoatYard increases and we provide $2.8 million with the BoatYard, on a net present value basis over ten years.

* Petition Excluded from SCHC mailing To protect addresses + phone #s.

2. Almar provided greater than required view corridors—Not true, they only provided the code required view corridor in exchange for additional building height.
3. The regulatory requirements would make the implementability of an over the water design equal to that of a conventional building—Impossible. Due to the additional regulatory agencies involved alone, this can't be true.
4. Almar has the most qualified in depth project team—Westrec/BoatYard has experience operating six dry stack facilities for over 15 years with over 2,000 spaces. To our knowledge Almar does not own or operate any.
5. Almar had stronger financials—This is not likely, however, our proposal demonstrated our ability beyond any shadow of doubt by reserving 120% of the total development costs in cash.
6. The mobile forklift we proposed was less environmentally acceptable than the overhead crane—Not true, especially since it can easily operate on natural gas.

These are only a few of the obvious errors, which jump out after a preliminary review of the recommendation.

In regard to the Coastal Commission, the recommendation also state's that the Department has met with several Coastal Commissioners regarding the Almar proposal and that it is confident that obtaining a coastal development permit is "highly achievable". This is distressing since it is the Commission's policy not to comment on matters until they are before the commission. In addition, I wonder if the other two proposals were given equal opportunity to be presented to the commission. It seems clear which proposal would create more concern for the Commission.

So in summary, the proposal being recommend to you today is more creative, but un-proven; contains fewer boat storage spaces but somehow produces the same revenue; requires additional regulatory review, but is judged to be equally implementable; and is being proposed by the most qualified in depth project team, which has no dry stack experience.

You as Commissioners are being asked to recommend this unprecedented proposal of building out over the water to the Board of Supervisors, if not today, than at some point in the future. I simply ask that before you accept these recommendations on their face value that you grant the public and the other RFP respondents the additional time necessary to review the findings and to investigate more closely the factual errors contained in the recommendation. If you do nothing else, I urge you to perform an independent analysis of the financial viability and the true dry stack experience of the recommended proposer.

Thank you.

The following individuals hereby voice their objection to the Almar dry stack proposal being recommended by the Department of Beaches and Harbors for exclusive negotiations with the County.

It is the undersigned opinion that the Almar design is flawed and will cause substantial impacts to the boating community in Marina del Rey through their over the water design. We urge you to re-consider and deny approval to any design, which will reduce staging area in the water and permit the construction of a 70 to 85 foot structure over the water.

Thank you for your consideration.

Department of
Beaches and Harbors
JUL 07 '05

| | Info | Action |
|---|---|---|
| Director | | |
| Chief Deputy Director | | |
| Deputy Director | | |
| Executive Assistant | | |
| Admin. Services | | |
| Asset Management | | |
| Facilities Property Mtce | | |
| Community Services | | |
| Planning | | |

# BOAT CENTRAL

**Proposal Comparison**

**Total Ground Rent - Boat Central Only**

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | TOTAL | Discount @ 8% |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| WESTREC | - | - | 220,311 | 340,381 | 434,734 | 447,777 | 461,210 | 475,046 | 489,298 | 503,976 | 3,372,733 | 2,007,102 |
| ALMAR | - | - | 104,691 | 194,798 | 328,711 | 408,924 | 421,192 | 433,828 | 446,843 | 460,248 | 2,799,235 | 1,624,558 |

**Total Ground Rent - Boat Central and Incremental Increase in BoatYard**

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Boat Yard (1) | - | 8,500 | 99,473 | 164,007 | 168,928 | 173,995 | 179,215 | 184,592 | 190,129 | 195,833 | 1,364,673 | 821,539 |
| Boat Central | - | - | 220,311 | 340,381 | 434,734 | 447,777 | 461,210 | 475,046 | 489,298 | 503,976 | 3,372,733 | 2,007,102 |
| Total | - | 8,500 | 319,784 | 504,388 | 603,662 | 621,772 | 640,425 | 659,638 | 679,427 | 699,810 | 4,737,406 | 2,828,641 |

**Incremental Increase in Ground Lease after BoatYard Improvements**

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| After | 316,587 | 334,584 | 435,340 | 509,950 | 525,249 | 541,006 | 557,236 | 573,953 | 591,172 | 608,907 |
| Before | 316,587 | 326,084 | 335,867 | 345,943 | 356,321 | 367,011 | 378,021 | 389,362 | 401,042 | 413,074 |
| Difference | - | 8,500 | 99,473 | 164,007 | 168,928 | 173,995 | 179,215 | 184,592 | 190,129 | 195,833 |

Department of Beaches and Harbors
Director
Chief Deputy Director
Deputy Director
Executive Assistant
Admin Services
Asset Management
Facilities Property Mgmt
Community Services
Planning

# MARINA DEL REY HARBOR ORDINANCE
# SEAWORTHY & LIVEABOARD COMPLIANCE REPORT

| | June | July |
|---|---|---|
| **Liveaboard Permits Issued** | 4 | 5 |
| **Warnings Issued (Yellow Tags)** | 0 | 0 |
| **Notices to Comply Issued** | 0 | 0 |

**Total Reported Liveaboards By Lessees - 583**
**Total Liveaboard Permits Issued - 476**
**Percentage of Compliance - 81**

No new Warnings were issued in the month of July.

No new Notices to Comply were issued in the month of July.

No new citations were issued for violations of 19.12.1110 L.A.C.C. (liveaboard permit) or 19.12.1060 L.A.C.C. (unseaworthy vessel) in the month of July.

**Number Of Impounded Vessels Demolished**

To date, one hundred and seventy five (175) vessels have been removed from the marina for disposal. Currently, sixteen (16) vessels are ready for disposal and four (4) are awaiting lien sale procedures.

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
# MARINA DEL REY STATION
# PART I CRIMES- JULY 2005

| | West Marina 2760 | East Marina 2761 | Lost R.D. 2762 | Marina Water 2763 | Upper Ladera 2764 | County Area 2765 | Lower Ladera 2766 | Windsor Hills 2767 | View Park 2768 | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|
| **Homicide** | | | | | | | | | | 0 |
| **Rape** | | | | | | | | | 1 | 1 |
| **Robbery: Weapon** | | | | | | | | 3 | 4 | 7 |
| **Robbery: Strong-Arm** | 1 | | | | | | | | | 1 |
| **Aggravated Assault** | | 1 | | | | | 1 | | | 2 |
| **Burglary: Residence** | 3 | 1 | | 1 | | | 1 | | | 6 |
| **Burglary: Other Structure** | | 1 | | | | | | 4 | | 5 |
| **Grand Theft** | 5 | 4 | | 1 | | | | 2 | 1 | 13 |
| **Grand Theft Auto** | | | | | | 2 | 3 | 1 | 1 | 7 |
| **Arson** | | | | | | | | | | 0 |
| **Boat Theft** | | | | | | | | | | 0 |
| **Vehicle Burglary** | 4 | | | | | 1 | 1 | | | 6 |
| **Boat Burglary** | | | | 2 | | | | | | 2 |
| **Petty Theft** | 7 | | | 1 | 1 | | 2 | 2 | 1 | 14 |
| **REPORTING DISTRICTS TOTALS** | **20** | **7** | **0** | **5** | **1** | **3** | **8** | **12** | **8** | **64** |

**Note-** The above numbers may change due to late reports and adjustments to previously reported crimes.

**Source-** LARCIS, **Date Prepared** – August 2, 2005
CRIME INFORMATION REPORT - OPTION B

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

## MARINA DEL REY STATION

## PART I CRIMES- JULY 2005

| Part I Crimes | MARINA AREA (RD'S 2760-2763) | EAST END (RD'S 2764-2768) |
|---|---|---|
| | | |
| Homicide | 0 | 0 |
| Rape | 0 | 1 |
| Robbery: Weapon | 0 | 7 |
| Robbery: Strong-Arm | 1 | 0 |
| Aggravated Assault | 1 | 1 |
| Burglary: Residence | 5 | 1 |
| Burglary: Other Structure | 1 | 4 |
| Grand Theft | 10 | 3 |
| Grand Theft Auto | 0 | 7 |
| Arson | 0 | 0 |
| Boat Theft | 0 | 0 |
| Vehicle Burglary | 4 | 2 |
| Boat Burglary | 2 | 0 |
| Petty Theft | 8 | 6 |
| | | |
| Total | 32 | 32 |

**Note-** The above numbers may change due to late reports and adjustments to previously reported crimes.

**Source-** LARCIS, **Date Prepared – August 2, 2005**
CRIME INFORMATION REPORT - OPTION B

*"To enrich lives through effective and caring service"*

Los Angeles County
Caring for Your Coast
Beaches & Harbors

**Stan Wisniewski**
Director

**Kerry Silverstrom**
Chief Deputy

August 4, 2005

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **AGENDA ITEM 3b - MARINA DEL REY AND BEACH SPECIAL EVENTS**

## ***MARINA DEL REY***

**THE MARINA DEL REY SUMMER CONCERT SERIES 2005**
Presented by Arrowhead Mountain Spring Water
Thursday, August 18 and Saturday, August 13 & August 27
7:00 pm
Waterside at Burton Chace Park
13650 Mindanao Way

The free summer concert series finale at the park is near. Please join us on Saturday, August 13, for our next pop concert, featuring the Grammy-winning New York Voices, one of the most popular vocal groups in contemporary jazz, appearing with their instrumental ensemble.

The Marina del Rey Summer Symphony, conducted by its Music Director, Frank Fetta, will close "Classical Thursdays" on August 18 and Cleo Laine and the John Dankworth Group will close "Pop Saturdays" on August 27.

Concertgoers are invited to come early and enjoy outdoor dining at the Café Lorelei Food Court in the park. Parking at a reasonable rate is available in County Lot 4 near the venue and County Lot 5 on Bali Way. Marina CoastLink Water Shuttle Service to and from the concert site from various locations throughout the Marina is provided for $2.00 per person one way, operating from 5:00 pm to 11:00 pm on Classical Thursdays and 11:00 am to midnight on Pop Saturdays.

For information call: Marina del Rey Visitor Information Center at (310) 305-9545.

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us

**FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES**
Sponsored by Pacific Ocean Management, LLC
All concerts from 2:00 pm - 5:00 pm

Saturday, August 13
Chris Ho, playing Contemporary Jazz

Sunday, August 14
2 Azz 1, playing R&B with an urban flair

Saturday, August 20
Floyd and the Flyboys, playing R & B

Sunday, August 21
Hammer Smith Band, playing Jazz

Saturday, August 27
Michael Haggins, playing Smooth Jazz

Sunday, August 28
Eric Byak Project, playing Jazz

For more information call: Jillian Peterson at (310) 822-6866.

## *BEACH EVENTS*

**DRIVE-IN AT THE PIER**
Santa Monica Pier
August 2 through August 30
at Sunset

You won't need your car to enjoy the classic ambiance of this very special event. Just bring something or someone to keep you warm as the Pier screens a fun, family-oriented film on a huge screen under the night sky for five weeks every Tuesday evening from August 2 through August 30 for a great cause, The Cancer Relief Fund. Admission is FREE but tickets will be required for entry. Get your tickets at the Convention and Visitors Bureau location at 1920 Main Street, Suite B and Santa Monica Visitor Center kiosk at 1400 Ocean Avenue. Doors will open at 7:00 pm.

This year's line-up, featuring fun family classics and some new favorites, is as follows:

Tuesday, August 16
The Sting

Tuesday, August 23
Zoolander

Tuesday, August 30
West Side Story

For tickets and further information call: The Santa Monica Convention and Visitors Bureau at (310) 319-6263 or visit www.smff.com.

**THE GILLIS VOLLEYBALL TOURNAMENT**
Saturday, August 13 and Sunday, August 14
8:00 am
Dockweiler Beach (between Imperial Hwy and Grand Ave.)

This 35th annual invitational tournament will have over 100 teams in five different divisions competing in both 2-man and 6-man competitions. All participants are dressed in costumes or matching swimsuits. Event viewing is free to the public.

For information call: Steve Cressman (310) 337-0601 or visit their website at www.thegillis.com.

**SUNSET CONCERT AT THE BEACH**
Sunday, August 14
South side of the Hermosa Pier
6:00 pm

Bring a picnic dinner, lawn chairs or a blanket to wind down your weekend with a free concert at the beach featuring Freda Payne with the StoneBridge Band. Concerts are held on the sand just south of the Hermosa Beach Pier.

For information call: City of Hermosa at (310) 318-0280.

**FIESTA HERMOSA**
Hermosa Beach Chamber of Commerce
September 3, 4 and 5

Arts and crafts from throughout the West will be featured at the Hermosa Beach Chamber of Commerce Fall Festival on Labor Day weekend from 10 am to 6 pm on all three days and includes free admission. The family-oriented festival will also feature kiddy rides (for a minimal fee), a restaurant cantina, two sound stages, and a beer and wine garden. The street fair is located at Pier and Hermosa Avenues. Parking in town is limited, so visitors are encouraged to park at the Northrop Grumman R-5 parking lot

at Manhattan Beach Boulevard and Doolittle Street. A free shuttle bus will run continuously from 7:30 am to 7:30 pm from the lot to Pier at Manhattan Avenue. Parking is also available at Mira Costa High School, with the Wave Buses providing free shuttle service to and from the Festival.

For information call: Hermosa Beach Chamber of Commerce at (310) 374-9773 or visit their event website at www.fiestahermosa.com.

SW:DC:mc

*"To enrich lives through effective and caring service"*

Los Angeles County
Beaches & Harbors
Caring for Your Coast

**Stan Wisniewski**
Director

**Kerry Silverstrom**
Chief Deputy

August 4, 2005

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **ITEM 5b – APPROVAL OF AMENDMENT NO. 1 TO LEASE NO. 8106 PARCEL 50T (WATERSIDE SHOPPING CENTER) – MARINA DEL REY**

Item 5b on your agenda pertains to a proposed amendment of the existing lease agreement for Parcel 50T (Waterside Shopping Center) that will provide for the addition of the County Parcel 83S premises, approximately 13,984 square feet of land area, to the Parcel 50T leased premises. The proposed amendment will allow the addition of 30 parking spaces to the Waterside Shopping Center, which will increase the center's visitor-serving capacity.

Attached is a copy of the Board letter that explains the details of the proposed transaction. The exhibit to the Board letter is a copy of the proposed amendment as Exhibit A.

Your Commission's endorsement of my recommendation to the Board of Supervisors as contained in the attached letter is requested.

SW:ST:tm
Attachment

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://beaches.co.la.ca.us

August 30, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF AMENDMENT NO. 1**
**TO AMENDED AND RESTATED LEASE NO. 8106**
**TO MERGE PARCEL 50T (WATERSIDE SHOPPING CENTER) WITH PARCEL 83S**
**MARINA DEL REY**
**(FOURTH DISTRICT)**
**(4 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that the proposed Amendment No. 1 is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Authorize the Chair to execute the attached Amendment No. 1 to Amended and Restated Lease No. 8106 ("Amendment") and Memorandum of Lease ("Memorandum") with MARINA WATERSIDE, LLC, a California limited liability company ("Lessee"), for the Parcel 50T lease, Marina del Rey, adding the premises of Parcel 83S to that of Parcel 50T.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The County is the lessor of Parcel 50T, which was originally entered into in 1964 for a term of 60 years. Your Board previously, on November 10, 2004, executed an Amended and Restated Lease Agreement ("Restated Lease") to Lease No. 8106 to facilitate redevelopment of Parcel 50T, which provided for a 39-year extension of the original lease term to January 31, 2063 and payment of a $500,000 lease extension fee, and required a renovation of the Waterside Shopping Center ("Shopping Center") with a minimum cost of $8.865 million, resulting in a remodeled shopping center of 130,353 square feet.

Pursuant to your Board's authorization, the Department issued a *Request for Proposals for Development of Parcel 83S in Marina del Rey* ("RFP") on June 15, 2004. The RFP solicited proposals for development of new visitor-serving improvements on County Parcel 83S (currently not leased), located on the northeast corner of Admiralty Way and Fiji Way, on a stand-alone basis or developed through aggregation with an existing leasehold adjacent to or near the subject parcel. One proposal, from Lessee, was received in response to the RFP and was considered by an evaluation committee appointed by the Director. Subsequently, your Board awarded Lessee the exclusive rights to negotiate for a long-term ground lease on November 7, 2004. As a result of negotiations, a term sheet outlining major deal points was agreed upon by the negotiating parties and presented to your Board in closed session on July 12, 2005.

Reflecting the approved term sheet, the Amendment being presented for your Board's consideration herewith provides for a merger of the Parcel 83S premises into that of Parcel 50T, in order to provide additional parking spaces for the Shopping Center so as to enable expanded restaurant seating in connection with the complete renovation and expansion of the Shopping Center.

The Restated Lease calls for both Lessee and County to sign a memorandum of lease in recordable form following the effective date of the Amendment. The Memorandum updates the previous memorandum of lease to acknowledge the Amendment.

Implementation of Strategic Plan Goals

This recommendation is consistent with the County's Strategic Plan Goals of Fiscal Responsibility and Service Excellence in that the resulting lease amendment would provide the County with an increased stream of revenue and will provide the community with an increase in visitor-serving uses in the Marina.

## FISCAL IMPACT/FINANCING

The Lease currently calls for an annual minimum rent of Seven Hundred Fifty Thousand Dollars ($750,000.00) per year. Upon the effective date of the Amendment, the Annual Minimum Rent shall be increased to Seven Hundred Seventy Thousand Dollars ($770,000.00), an increase of Twenty Thousand Dollars ($20,000.00) per year.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County originally entered into a 60-year ground lease for Parcel 50T on February 1, 1964 and executed an amended and restated lease on November 10, 2004, at which time the expiration of the lease was extended to January 31, 2063. The proposed Amendment merges Parcel 83S into Parcel 50T and requires that Lessee develop the Parcel 83S

premises with 30 new parking spaces, new landscaping elements and a new 8-foot wide sidewalk, and to accommodate a monument sign identifying Marina del Rey, if the County elects to construct such a sign in the future.

The addition of Parcel 83S parking will increase the aggregate parking available at the Shopping Center and thereby enabling an increase in the intensity of visitor-serving uses, allowing the conversion of existing retail space to restaurant space, which requires a higher parking ratio and typically generates higher gross revenues and higher rent to the County than does retail space.

Upon the effective date of the proposed Amendment, the Minimum Annual Rent of the Lease shall be increased by $20,000.00 to $770,000.00 and Lessee shall be obligated to convert at least 75% of the new capacity created by the 30 newly available parking spaces, made possible by the addition of the Parcel 83S premises to Parcel 50T, for restaurant uses. If, prior to the fifth (5th) anniversary of the effective date of the Parcel 50T Amended and Restated Lease, lessee converts any restaurant space to retail space, then upon the earlier of the date of opening for business of such retail space or the date that rent commences for such retail space, the Annual Minimum Rent shall be increased by $7,000 to Seven Hundred Seventy-Seven Thousand Dollars ($777,000.00) until the date preceding the fifth (5th) anniversary of the effective date of the Parcel 50T lease. Upon the fifth (5th) anniversary of the effective date of the Parcel 50T lease, the Annual Minimum Rent shall be adjusted in accordance with the provisions of the Parcel 50T Amended and Restated Lease.

At its meeting of August 10, 2005, the Small Craft Harbor Commission _____ the Director's recommendation that your Board approve the attached Amendment and Memorandum, which have been approved as to form by County Counsel.

## ENVIRONMENTAL DOCUMENTATION

Approval of Amendment No. 1 and the Memorandum of Lease are categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Entering into the Amendment does not authorize construction or re-construction of any improvements on the

parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment/replacement contemplated by the Amendment and the Restated Lease are under review by the Department of Regional Planning.

**CONTRACTING PROCESS**

Not applicable.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There is no impact on other current services or projects as Parcel 83S is not currently leased. Parcel 83S is currently used by Lessee as a staging area for the redevelopment of Waterside under a short-term right of entry permit.

**CONCLUSION**

Please have the Chair execute three (3) copies of the Amendment and Memorandum and instruct the Executive Officer of the Board to acknowledge the Chair's signature. Return two copies of the executed Amendment and Memorandum to the Department of Beaches and Harbors and retain one executed copy for your files.

Respectfully submitted,

Stan Wisniewski, Director

SW:AK:ST:tm
Attachments (2)
c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel

# AMENDMENT NO. 1 TO RESTATED LEASE NO. 8106
# PARCEL 50T

THIS AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE NO. 8106 ("Amendment") dated as of August ___, 2005 (the "Amendment Date"), is entered into by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and MARINA WATERSIDE, LLC, a California limited liability company ("Lessee"), as lessee.

RECITALS

A. County and Lessee entered into that certain Amended and Restated Lease Agreement dated as of November 10, 2004, and referred to as Amended and Restated Lease No. 8106 (the "Lease"), pertaining to the real property located in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 50T (the "Existing Premises").

B. County and Lessee desire to amend the Lease to add to the Premises under the Lease that certain real property located in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 83 and more particularly described on Exhibit A attached to this Amendment and incorporated herein by reference (the "Additional Premises"), on and subject to the terms and provisions of this Amendment.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Lessee agree as follows:

1. Capitalized Terms. All capitalized terms used in this Amendment, and not otherwise defined herein, shall have the same meanings given such terms in the Lease.

2. Lease of the Additional Premises. Effective as of the Amendment Date, County leases to Lessee and Lessee leases from County, the Additional Premises as an addition to, and as part of, the Premises under the Lease, and the definition of "Premises" under the Lease is modified to include the Additional Premises. The Additional Premises shall be leased as a part of the Premises on all of the same terms, covenants and conditions as set forth in the Lease, except as modified by this Amendment. Without limitation of the foregoing, the Term of the Lease with respect to the Additional Premises shall commence on the Amendment Date and expire in accordance with the Lease at 11:59 p.m. on January 31, 2063, unless terminated sooner in accordance with the provisions of the Lease.

3. As-Is. Lessee accepts the Additional Premises in their present condition notwithstanding the fact that there may be certain defects in the Additional Premises, whether or not known to either party to this Amendment, at the time of the Effective Date, and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Additional Premises "AS IS WITH ALL FAULTS". Lessee hereby accepts the Additional Premises on an "AS IS WITH ALL FAULTS" basis and, except as expressly set forth in this Amendment, Lessee is not relying on any representation or warranty of any kind whatsoever, express or implied, from

County or any other governmental authority or public agency, or their respective agents or employees, as to any matters concerning the Additional Premises and/or any Improvements located thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Additional Premises and/or any Improvements located thereon, including, but not limited to, the structural elements, foundation, roof, protections against ocean damage, erosion, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land and within the Improvements and within each space therein, (ii) the quality, nature, adequacy and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Additional Premises and/or any Improvements located thereon, (iv) the development potential of the Additional Premises, and the use, habitability, merchantability or fitness, or the suitability, value or adequacy of the Additional Premises and/or any Improvements located thereon for any particular purpose, (v) the zoning or other legal status or entitlement or lack thereof of the Additional Premises or any other public or private restrictions on use of the Additional Premises, (vi) the compliance of the Additional Premises and/or any Improvements located thereon with any Applicable Laws, including, without limitation, applicable provisions of ADA, (vii) the presence of any underground storage tank or hazardous materials on, under or about the Additional Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any Improvements, (ix) the condition of title to the Additional Premises, and (x) the economics of the operation of the Additional Premises and/or any Improvements located thereon.

Lessee hereby waives, withdraws, releases, and relinquishes any and all claims, suits, causes of action (other than a right to terminate as otherwise provided in this Lease), rights of rescission, or charges against County, its officers, agents, employees or volunteers which Lessee now has or may have or asserts in the future which are based upon any defects in the physical condition of the Additional Premises and the soil thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this instrument. California Civil Code Section 1542 provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

By initialing this paragraph, Lessee acknowledges that it has read, is familiar with, and waives the provisions of California Civil Code §1542 set forth above, and agrees to all of the provisions of this Section 3.

Lessee's Initials _____

4. Use of Additional Premises. Notwithstanding any contrary provision of Section 3.1 of the Lease, the "Permitted Uses" of the Additional Premises shall mean, and the Additional Premises shall be used by Lessee only for the construction and operation by Lessee of

parking facilities for the Existing Premises, along with associated landscaping and the signage purposes described in Section 10 of this Amendment. The Additional Premises shall not be used for any other purpose without the prior written consent of County, which consent may be withheld by County in its sole and absolute discretion.

5. Rent. In consideration of the addition of the Additional Premises to the Premises, effective on and after the Amendment Date the Annual Minimum Rent set forth in Section 4.2.1 of the Lease shall be increased from Seven Hundred Fifty Thousand Dollars ($750,000.00) per year to Seven Hundred Seventy Thousand Dollars ($770,000.00) per year, subject to the provisions of Section 9 below. Such Annual Minimum Rent shall remain in effect through the day preceding the fifth (5th) anniversary of the Effective Date of the Lease. From and after the fifth (5th) anniversary of the Effective Date of the Lease, the Annual Minimum Rent shall thereafter be adjusted in accordance with the provisions of Sections 4.2.3 and 4.4 of the Lease based on the inclusion of the Additional Premises as part of the Premises.

6. No Adjustment to Base Value. There shall be no adjustment to the Base Value set forth in Section 4.8.1 of the Lease by virtue of Lessee's lease of the Additional Premises other than the following: the Base Value shall be adjusted based on actual development costs of the Additional Premises as described in Section 7 below.

7. Redevelopment Work. The Redevelopment Work described in Section 5.1 of the Lease shall include the development of the Additional Premises in accordance with the provisions of Exhibit B attached to this Amendment and incorporated herein by reference (the "Additional Premises Development Work"). The Additional Premises Development Work shall include a landscaped area suitable for the installation by County, at County's costs, at a later date of a monument sign identifying Marina del Rey as provided in Section 9 below. The Additional Premises Development Work shall be performed by Lessee as a part of the Redevelopment Work under the Lease, in accordance with the same schedule, subject to delays resulting from obtaining all necessary governmental approvals, including Building Permits, DCB approval and Force Majeure, which in no event shall exceed 2 years from the date of execution of this Amendment by the Board of Supervisors, and upon all of the same terms and conditions as applicable to such Redevelopment Work. The amount of the required Redevelopment Work Investment set forth in Section 5.1 of the Lease shall be increased to include actual development costs for the Additional Premises Development Work as approved by County. For purposes of clarification, the Reversion Amendment described in Section 5.1 of the Lease shall, among other things, effectuate a termination of this Amendment and forfeiture by Lessee of its leasehold interest in the Additional Premises described herein.

8. Maintenance and Repair. For purposes of clarification, Lessee shall be responsible for the maintenance and repair of the Additional Premises and all Improvements, not including the County Monument Sign, located thereon in accordance with the terms and provisions of the Lease.

9. Covenant Regarding Space Conversion. As of the date hereof, Lessee is engaged in the renovation of the Existing Premises pursuant to the Renovation Plan set forth in the Lease. The intent and purpose of County's agreement to lease the Additional Premises to Lessee pursuant to this Amendment is to make additional parking available to Lessee to facilitate

a conversion to restaurant space of a portion of the retail space currently existing in the Improvements on the Existing Premises. The Improvements currently existing on the Existing Premises include restaurants operated by California Pizza Kitchen, Top Cloud and Chipotle that, in the aggregate, constitute approximately 7,994 square feet of space with seating capacity of 258 seats (the "Existing Restaurant Space"). The addition of the Additional Premises to the Premises will provide Lessee with thirty (30) additional parking spaces, subject to various governmental approvals and final site design changes, including changes to the configuration of the Existing Premises. Such new parking will satisfy the parking code requirements for additional restaurant space serving ninety (90) occupants. Additional parking of four (4) spaces per 1,000 square feet of retail space that is converted to restaurant space will also become available to further satisfy the parking code requirements for such restaurant space. For purposes hereof, the "New Available Restaurant Space" means the maximum additional restaurant space that can be added to the Existing Premises in compliance with parking code requirements (through conversion of existing retail space to restaurant space) based on the thirty (30) parking spaces provided by the Additional Premises and the additional parking no longer allocated to the converted retail space.

In material consideration for County's agreement to lease the Additional Premises to Lessee on the terms and conditions set forth herein, Lessee agrees to use its commercially reasonable efforts to develop and operate (or cause to be operated) during the term of the Lease an amount of restaurant space equal to at least the following (the "Restaurant Space Covenant"): (a) the square footage or seating capacity of the Existing Restaurant Space, plus (b) seventy-five percent (75%) of the New Available Restaurant Space (the sum of (a) and (b) referred to as the "Restaurant Space Requirement"). Lessee shall not be in breach of the Restaurant Space Covenant as a result of any discontinuance of business by a restaurant Sublessee during the term of a Sublease as long as (a) Lessee diligently enforces its rights against such Sublessee in the case of a breach by such Sublessee (including termination of the Sublease if the Sublessee fails to cure the breach within the applicable cure period), and (b) in the case of a Sublease termination Lessee uses its commercially reasonable efforts to find a replacement Sublessee as soon as reasonably possible. Lessee shall not be in breach of the Restaurant Space Covenant as a result of a discontinuance of business by a restaurant Sublessee at the expiration or termination of its Sublease as long as Lessee uses its commercially reasonable efforts to replace such Sublessee.

If prior to the fifth (5th) anniversary of the Effective Date of the Lease, Lessee either (i) converts to retail use any space that is currently devoted to restaurant use as of the date of this Amendment, or (ii) after the termination or expiration of any new lease entered into to satisfy the Restaurant Space Requirement Lessee determines in its commercially reasonable judgment that the space that is the subject of such lease is not economically viable for restaurant purposes and Lessee re-converts such space back to retail use, then upon the earlier of the date of the opening for business of such retail space or the date that Sublease rent commences for such retail space, and continuing until the day preceding the fifth (5th) anniversary of the Effective Date of the Lease, the Annual Minimum Rent shall be increased to Seven Hundred Seventy-Seven Thousand Dollars ($777,000.00). From and after the fifth (5th) anniversary of the Effective Date of the Lease, the Annual Minimum Rent shall be adjusted in accordance with the provisions of Sections 4.2.3 and 4.4 of the Lease (based on the inclusion of the Additional Premises as part of the Premises). The increase in the Annual Minimum Rent as provided in this paragraph shall be the sole remedy for the actions described in clauses (i) or (ii) above.

10. County Reservation for Monument Sign. County's lease of the Additional Premises to Lessee is subject to the reservation by County of the right at County's cost to install, operate, repair, maintain, alter and replace on the Additional Premises a monument sign (the "Monument Sign") and any utilities lines or equipment associated with the use and operation of the Monument Sign (collectively, the "Monument Sign Improvements"), along with rights of access to and over the Additional Premises as reasonably necessary for the above purposes. The Monument Sign shall be located at the corner of Fiji Way and Admiralty Way in the general location depicted on Exhibit B attached to this Amendment County shall have the right to determine the exact location, size and specifications for the Monument Sign. County shall be responsible for the installation of the Monument Sign Improvements and repair or replacement of any landscaping or other improvements damaged or destroyed during such installation and maintenance, when, and if, it elects to install the Monument Sign Improvements. County shall be responsible for the cost of any electricity that may be consumed in providing lighting, if any, for the Monument Sign. The Monument Sign Improvements shall be owned by County.

11. Governing Law. This Amendment shall be governed by and interpreted in accordance with the laws of the State of California.

12. No Other Modifications. The parties acknowledge that the Lease remains in full force and effect, unmodified except as set forth herein. This Amendment constitutes the entire agreement of the parties with regard to the amendment of the Lease, and this Amendment supersedes any and all previous negotiations, communications or understandings between the parties, whether oral or written, with regard thereto.

13. County Costs. Lessee shall promptly reimburse County for the Actual Costs incurred by County in the review, negotiation, preparation and documentation of this Amendment and any term sheets and memoranda that preceded it. County shall deliver to Lessee a report detailing such expenditures within ninety (90) days after the date of this Amendment.

14. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which together shall collectively constitute one fully-executed document.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County and Lessee have entered into this Amendment as of the date first set forth above.

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

MARINA WATERSIDE, LLC, a California limited liability company

By: _____
Rick J. Caruso, Manager

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

# EXHIBIT A

## LEGAL DESCRIPTION OF ADDITIONAL PREMISES

# EXHIBIT B

## DEVELOPMENT PLAN FOR ADDITIONAL PREMISES

*"To enrich lives through effective and caring service"*

Beaches & Harbors

**Stan Wisniewski**
Director

**Kerry Silverstrom**
Chief Deputy

August 4, 2005

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **ITEM 5c – APPROVAL OF LEASE AMENDMENT NO. 1 TO LEASE NO. 8042 – PARCEL 76 (TRIZEC TOWERS) – MARINA DEL REY**

Item 5c on your agenda pertains to the proposed amendment to Lease No. 8042 of Parcel 76 to extend the County's right to utilize parking in the Trizec office structure for public purposes. The attached Board letter contains background information supporting our recommendation regarding the item. Attached to the Board letter is the proposed Amendment to the Amended and Restated Lease No. 8042.

Your Commission's endorsement of our recommendation to the Board of Supervisors, as stated in the attached letter, is respectfully requested.

SW:tm

Attachment

13837 Fiji Way • Marina del Rey • CA 90292 ● 310.305.9503 • fax 310.821.6345 ● internet: http://beaches.co.la.ca.us

August 30, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF LEASE AMENDMENT NO. 1 TO LEASE NO. 8042**
**PARCEL 76 (TRIZEC TOWERS) – MARINA DEL REY**
**(FOURTH DISTRICT)**
**(4 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that the proposed Amendment No. 1 to Amended and Restated Lease No. 8042, Parcel 76, Marina del Rey (the "Lease") is categorically exempt under the provisions of the California Environmental Quality Act pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Approve and authorize the Chair to sign the attached Amendment No. 1 to the Lease which extends through July 19, 2010 the County's right to enter into a separate agreement with the Lessee, Marina-Airport Building, LTD., for the operation and use of a minimum of 250 to a maximum of 860 parking spaces, under specified conditions, in the parking structure on the leasehold premises, located at 4640 Admiralty Way, Marina del Rey.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The proposed Amendment No. 1 would extend the County's right through July 19, 2010 to enter into a separate agreement with the Lessee to operate and use a minimum of 250 to a maximum of 860 parking spaces in the parking structure on the leasehold premises, under specified conditions (Parking Covenant). Under the Lease, the County's right to enter into the Parking Covenant ended July 18, 2005.

The extension of the Parking Covenant provides the County with the flexibility of being able to utilize additional parking spaces, as necessary, to facilitate additional redevelopment

projects in Marina del Rey. Should the County exercise the Parking Covenant and enter into an agreement with the Lessee, that agreement will be co-terminus with the Lease which expires April 30, 2063. Amendment No. 1 also provides for the per space rental to be fixed through July 31, 2011, with the rate subject to adjustments commencing August 1, 2011 based on the Consumer Price Index. All other terms of the Lease remain unchanged.

Implementation of Strategic Plan Goals

This recommendation is consistent with the County's Strategic Plan Goals of Service Excellence and Fiscal Responsibility. The proposed Amendment No. 1 preserves the County's option to use the private parking facility on Parcel 76 for County purposes, and this allows the County time and flexibility to consider redevelopment opportunities in Marina del Rey. The option was obtained without cost to the County.

## FISCAL IMPACT/FINANCING

There is no cost to the County unless and until the County exercises the Parking Covenant and commences use of the parking spaces, at which time through July 31, 2011, the per space rental rate shall be fixed at $12.90 per month. Beginning August 1, 2011, the per space rental rate will be adjusted in accord with the Consumer Price Index. The $12.90 per space per month rate and the CPI adjustment are the same as in the option which expired July 18, 2005. The County will also be responsible for the actual incremental, non-capital costs for such things as extra staff, security and maintenance incurred by Lessee as a result of the County's use of the parking spaces under the Parking Covenant. These costs, however, are expected to be fully offset by the fees charged to the users.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Parcel 76 is improved with two 12-story Class A office buildings and a 1,082-space parking structure on four acres of land in Marina del Rey. The parcel does not have any water area.

The original Parcel 76 lease commenced on May 1, 1964, with an original expiration date of April 30, 2024. The lease was amended and restated on July 18, 2000, to extend the term through April 30, 2063. One of the Lease provisions allows the County to elect to enter into an agreement with the Lessee to use Lessee's parking facility for County purposes. The deadline for County's exercise of this right was July 18, 2005. The proposed Amendment No. 1 extends the deadline for County to exercise the right to the

Parking Covenant through July 19, 2010.

The Small Craft Harbor Commission at its meeting of August 10, 2005 _____ the Director's recommendation that your Board approve the amendment to Lease. County Counsel has reviewed and approved the amendment as to form.

## ENVIRONMENTAL DOCUMENTATION

The proposed Amendment No. 1 is categorically exempt under the provisions of the California Environmental Quality Act pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.

## IMPACT ON CURRENT SERVICES (OR PROJECTS)

Not applicable.

## CONCLUSION

Attached are four (4) copies of the amendment. Please have the Chair sign all four (4) copies and have the Executive Officer acknowledge the Chair's signature. Please return three (3) executed copies to the Department of Beaches and Harbors along with an approved copy of this letter.

Respectfully submitted,

Stan Wisniewski
Director

SW:PW:CM:sp
Attachment (1)

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel

**AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE NO. 8042**
**PARCEL 76 – MARINA DEL REY SMALL CRAFT HARBOR**

THIS AMENDMENT TO LEASE ("Amendment") is made and entered into as of _____, 2005 ("Effective Date"),

BY AND BETWEEN — COUNTY OF LOS ANGELES, hereinafter referred to as "County,"

AND — MARINA-AIRPORT BUILDING, LTD., a California limited partnership, hereinafter referred to as "Lessee."

**WITNESSETH**

WHEREAS, County and Lessee entered into that Amended and Restated Lease dated July 18, 2000 and identified as Lease No. 8042, under the terms of which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, now commonly known as Parcel 76, which leasehold premises (the "Premises") are more particularly and legally described in Exhibit "A" attached to and incorporated in said Lease, as amended (the lease and all amendments are collectively hereafter referred to as the "Lease");

WHEREAS, Section 3.4 of the Lease gives County the right ("County Parking Right") to elect to enter into an agreement with Lessee to provide for County use a certain number of parking spaces in the parking structure on the leasehold premises; and

WHEREAS, County Parking Right is set to expire on the fifth (5th) anniversary of the Execution Date of the Lease and the parties hereto wish to extend the expiration date of the County Parking Right for another five (5) years and one (1) day, commencing July 18, 2005.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Lessee hereby agree as follows:

1. Commencing as of the Effective Date, Section 3.4 of the Lease shall be amended and restated as follows:

"3.4. County Parking Rights. County shall have the right to elect to require Lessee to enter into a recordable agreement with County providing for County operation and use of portions of the parking structure on the Premises as more specifically provided herein (the "Parking Covenant"), provided that County notifies Lessee in writing of County's election to do so no later than July 19, 2010. If County elects to exercise its right to cause Lessee to enter into the Parking Covenant, County and Lessee agree promptly (and shall attempt within thirty (30) days) to prepare and to execute any additional documentation as may be reasonably required by County or Lessee to evidence the County's rights provided hereunder. County's rights under the Parking Covenant may be licensed or subleased by County in connection with such permitted uses only, but shall not be otherwise assignable without the consent of Lessee. The Parking

Covenant shall commence upon the earlier of (i) the date upon which County commences actual use of the parking spaces subject to the Parking Covenant and (ii) August 1, 2010. The term of the Parking Covenant shall be for the balance of the Term hereof. Notwithstanding the foregoing, prior to the date that the Parking Covenant commences in accordance with this Section 3.4, the parking spaces located within the existing parking structure or on surface lots located on the Premises to which access is controlled by Lessee shall be open and available to the general public on weekends and holidays when and as requested by Director; however, the extent to which Lessee is required to make the parking structure and surface lot available for use by the general public shall be subject to the parking requirements of Lessee's approved subleases."

2. Commencing as of the Effective Date, Section 3.4.4 of the Lease shall be amended and restated as follows:

"3.4.4. Payment for County Usage of Parking Spaces. From the date that the Parking Covenant commences in accordance with Section 3.4 through July 31, 2011, County shall pay Lessee the sum of twelve dollars and ninety cents ($12.90) per legally striped parking space per month (as such amount may be adjusted pursuant to this Section 3.4.4, the "Parking Space Rental Rate") for each legally striped parking space in the parking levels rented pursuant to the Parking Covenant in that Lease Year (the "Parking Space Rent"). Parking Space Rent for any partial calendar month will be prorated based on the number of days in the calendar month. During the term of the Parking Covenant, the Parking Space Rent will be paid by the County monthly, in advance, on or before the 1st day of each calendar month (any partial month at the commencement of the Parking Covenant to be included in the Parking Space Rent for the first full calendar month of the term of the Parking Covenant). As of August 1, 2011, and on each August 1st thereafter (each, an "Adjustment Date"), the Parking Space Rental Rate shall be adjusted to be an amount determined by multiplying the Parking Space Rental Rate by a fraction in which the numerator is the Consumer Price Index for the month of May immediately preceding the Adjustment Date, and the denominator is the Consumer Price Index for the month of May one (1) year and three (3) months prior to the Adjustment Date."

3. Except where specifically defined herein, all capitalized terms in this Amendment shall have the meanings given such terms in the Lease.

4. Except as herein specifically amended, all terms, conditions and provisions of the Lease shall be and continue to remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and re-acknowledges their respective obligations under the Lease as amended hereby.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date first set forth above.

LESSEE:

MARINA-AIRPORT BUILDING, LTD.

By: Alta Group GP, LLC, its general partner

By: _____
Jona Goldrich, its Manager

By: Second Street Group GP, LLC, its general partner

By: _____
Michael Kest, its Manager

By: Trizec Holdings, Inc. its general partner

By: _____
Paul Layne, Executive Vice President

By: _____
Mark C. Phillips, Vice President

COUNTY:

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Deputy

"To enrich lives through effective and caring service"

Los Angeles County Beaches & Harbors — Caring for Your Coast

**Stan Wisniewski**
Director

**Kerry Silverstrom**
Chief Deputy

August 4, 2005

TO: Small Craft Harbor Commission

FROM: Kerry Silverstrom for Stan Wisniewski, Director

SUBJECT: **AGENDA ITEM 6a - ONGOING ACTIVITIES REPORT**

## BOARD OF SUPERVISORS ACTIONS ON ITEMS RELATING TO MARINA DEL REY

At its August 2, 2005 meeting, the Board of Supervisors authorized the Director and Chief Administrative Officer to proceed with exclusive negotiations with Pacific Marina Development/Almar Management for an option and long-term lease for development of boat dry-stack and related facilities on Marina del Rey's Parcels 52R and GG. Your Commission previously considered but did not take a vote on this item.

At its July 19, 2005 meeting, the Board of Supervisors authorized the Chair to sign the Consent to Assignment of Lease and Major Sublease for assignment of Parcel 103T lease from Oakwood to Archstone and approved a master lease between Archstone and Oakwood, whereby Oakwood will continue to manage the property for a period of years. The Board also authorized an amendment to the Parcel 103T lease, amending various provisions of the lease in order to clarify definitions and obligations under the lease, to aid in the implementation of lease provisions, and to provide for the discontinuance of the furnishings replacement sinking fund. This item was previously considered and recommended by your Commission.

At its July 12, 2005 meeting, the Board of Supervisors met in Closed Session with the County and its negotiators concerning the proposed new lease/lease amendments for Parcels 83 and 50 (Marina Waterside Center).

Also at its July 12, 2005 meeting, the Board of Supervisors approved a revision to the Marina Beach Water Quality Improvement Project (WQIP) to reflect additional dock improvements to meet Americans with Disabilities Act accessibility requirements and provide structural support for the underwater circulators to be installed at Marina ("Mother's") Beach, resulting also in a revised total project budget of $2,938,000 for Phase II of the Marina Beach WQIP.

## DESIGN CONTROL BOARD MINUTES

The minutes from the July 21, 2005 meeting are not available at this time.

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**RESPONSE TO PUBLIC CONCERNS**

During your Commission's July meeting, Mr. Jonathan Balfus, the attorney representing floating home owner Mr. Robert Weinmeier, voiced disagreement with the Department's report on the floating home issue. Mr. Balfus offered his views on the 1995 floating home ordinance and the 1999 amendment to the ordinance and his critique of the staff report on the subject matter. Mr. Balfus further pointed out that the staff report was dated June 30, 2005 and, since that time, his client had received another 60-day notice to vacate.

Staff communicated with both Mr. Balfus and the lessee after the meeting. The lessee has clarified and confirmed that the 60-day notice to vacate issued to Mr. Weinmeier was unavoidable, because the dock where Mr. Weinmeier's floating home is moored will be up for reconstruction soon. The lessee anticipates the construction to last approximately 40 days, and Mr. Weinmeier would be welcomed back to rent a new slip at the market rate. We have informed both Mr. Balfus and Mr. Weinmeier of this positive news. We will continue to monitor the situation.

Also during your Commission's July meeting, several members of the public voiced their views, opinions and concerns on the issue of affordable housing on Parcel 20, the Capri apartment project. Staff reviewed the Parcel 20 affordable housing status and found that the Capri apartment project is authorized under Coastal Development Permit No. 98-172-(4), Conditional Use Permit No. 98-172-(4), Variance No. 98-172-(4), and Local Plan Amendment No. 98-172-(4). The permits authorize the lessee to construct a 99-unit apartment project with ten (10) units set aside for low-income tenants (as defined in Section 22.08.090 of the Zoning Ordinance) 62 years of age and older.

We have reminded the lessee of its requirement to provide 10 low-income units and have asked the Department of Regional Planning and the Community Development Commission, both responsible for administering lessee compliance, to ensure provision of the 10 low-income units. We will monitor the situation and keep your Commission informed.

We also made inquiries of the lessee regarding Ms. Maryann Weaver's specific complaint that an employee of the lessee, without asking for her age, told her she was qualified to rent one of the low-income senior units when she told the employee she was retired and disabled and, thereafter, accepted a check for $200 and reserved a specific unit for her. She was later turned down for the unit when the lessee screened her application and discovered she was younger than the minimum age requirement of 62 years old. The lessee has since returned her $200 check.

SW:tm