Los Angeles County
Beaches & Harbors
Caring for Your Coast

*To enrich lives through effective and caring service*

**Stan Wisniewski**
Director

**Kerry Gottlieb**
Chief Deputy

November 4, 2004

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

SUBJECT: **COMMISSION AGENDA – NOVEMBER 10, 2004**

Enclosed is the November 10, 2004 meeting agenda, together with the minutes from your meetings of May 12, 2004, July 14, 2004 and September 8, 2004. Also enclosed are reports related to agenda items 3a, 3b, 5a and 6a.

Please call me if you have any questions or need additional information.

SW:tm
Enclosures

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

Los Angeles County Beaches & Harbors — Caring for Your Coast

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# AGENDA

SMALL CRAFT HARBOR COMMISSION MEETING
NOVEMBER 10, 2004
9:30 a.m.
BURTON W. CHACE PARK COMMUNITY BUILDING
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 12, 2004, July 14, 2004, September 8, 2004

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

4. **OLD BUSINESS**

   None

5. **NEW BUSINESS** (ACTION REQUIRED)

   a. Appointment of Member and Alternate for 2005 to Marina del Rey Convention and Visitors Bureau Board of Directors

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

a. Ongoing Activities
- Board Actions on Items Relating to Marina del Rey
- Design Control Board Minutes
- Concerns about Proper Handling of Asbestos Materials
- West Nile Virus Concerns (PRESENTATION BY L.A. COUNTY WEST VECTOR CONTROL DISTRICT)

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

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) 305-9546.

Small Craft Harbor Commission
Meeting of September 8, 2004
Minutes

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

| | |
|---|---|
| Department of Beaches & Harbors: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau |
| Other County Departments: | Tom Faughnan, Senior Deputy County Counsel<br>Captain Samuel Dacus, Sheriff's Department<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 9:48 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

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

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

## 2. APPROVAL OF MINUTES

Since there wasn't a quorum of Commissioners present today who attended the May 12, 2004 and July 14, 2004 meetings, action on the minutes was postponed to October.

*Commissioner Lesser moved and Vice-Chairperson Stevens seconded a motion to approve the June 9, 2004 minutes. The motion passed unanimously.*

In response to Chairman Searcy's request for comments pertaining to the August 11 minutes, Vice-Chairperson Stevens noted the omission of the asbestos issue from today's agenda. At the August meeting, she requested an investigation of Archstone-Marina's Apt#806 and adjacent apartments and thought staff would provide a report at today's meeting.

Vice-Chairperson Stevens expressed her concerns as follows:

> If you check through the minutes from last month, I had asked staff to investigate apartment 804 [806] in Archwood [Archstone] and the adjacent apartments because of the asbestos that had been removed from the walls and ceilings, or at least from the ceilings, and had been left in the dumpster in a bag that was marked 'asbestos.' I'm sure that the guys who come wheeling down don't stop to look at what's in the garbage. They have an automatic thing that just lifts it up. I think that this is an incorrect disposal of asbestos, but it leads me to a much more far-reaching problem that I think we have here in the Marina since we now know that there is asbestos everywhere around here and that it's okay as long as it doesn't get disturbed.

> I have received a couple of calls from people who live on Marquesas that during the time that Mr. Ring was tearing down his old building, the workers were wearing masks as they are by law supposed to do. The wind blew asbestos into the garages of the tenants in, I think it's Villa del Mar, and leads me to think, 'Oh gosh...we have onshore breezes most of the time and that means from Archwood [Archstone], and from Neptune, which is going to be torn down, and Bar Harbor, which is going to be torn down and whatever the one across the street from Bar Harbor is going to be torn down, that there are rules and regulations for asbestos disposal. AQMD and HazMat have them. I think that we need to alert our lessees, who are either remodeling or tearing down, that there's going to be a lot of it coming down the pike very shortly, what the rules and regulations are for safe removal that protects the tenants that are living in other buildings or in apartments adjacent. I would ask, respectfully, that staff look into this and come back next month with it agendized.
>
> The reason I'm doing this during [approval of] the minutes is because it's in the [August] minutes but it's not agendized. I think we need to publicize it. It was publicized in the Argonaut, I mean there was a huge story about asbestos. Everybody is very aware and people are very leery it's there. We're going to end up being responsible for the enforcement of it but we need to discuss this with the lessees and make sure that they understand what their responsibility is, not only to the people who they hire to tear down the walls and the ceilings but to the rest of the residents of the Marina.

Chairman Searcy said the minutes should reflect that Vice-Chairperson Stevens is looking for a comprehensive report on the issue. Additionally, the issue should be agendized for October.

Mr. Wisniewski informed the Commission that staff would report in October on the issue.

*Vice-Chairperson Stevens moved and Commissioner Lesser seconded a motion to approve the August 11, 2004 minutes. The motion passed with Vice-Chairperson Stevens and Commissioner Lesser voting since they were the only Commissioners in attendance at the August meeting.*

## 3. REGULAR REPORTS

### a. Marina Sheriff's Department Report

### -- Crime Statistics

Lt. Greg Nelson reported an increase in criminal activity in the Marina area. He said that the increase is not abnormal as far as seasonal crime trends are concerned and it happens every summer. Lt. Nelson explained that the Department is a little less able to respond because it no longer has the summer enforcement team due to budgetary constraints. The majority of the thefts are bicycles and the Department is actively pursuing information that may lead to apprehension of the thief.

Vice-Chairperson Stevens asked Lt. Nelson for information concerning the jewel theft that recently occurred on Marquesas Way. Lt. Nelson responded that there were three burglaries in the area, two of which were residential that occurred at night without a forced entry; the residents left their doors or windows unlocked. The Department has a vague description of the jewelry items that were stolen and is trying to obtain more details.

Deputy Carvalho referred to his report at the August meeting in which he informed the Commission that the Sheriff's Department would probably issue citations to some of the boat owners who received Notices to Comply. He said that since that report, the citations haven't been issued and staff continues to work with the boat owners, providing them viable options for the dilemma they're facing. He said that it's in the County's and Department's best interest to take this approach. If a solution can't be found for the boat owners, the Department will issue them citations.

Chairman Searcy asked Deputy Carvalho the time-period allowed the boat owners. Deputy Carvalho responded that two separate issues are involved. The Department is working with the owners of the unseaworthy vessels who were issued Notices to Comply. Hopefully, their vessels won't end up at the Sheriff's docks. The vessels that are already at the Sheriff's docks were impounded for being illegally moored. Letters were sent to the registered owners on record and, if they don't respond in a timely fashion, the Department will conduct a lien sale.

Chairman Searcy asked Deputy Carvalho how many boaters are being helped to find solutions to their problems. Deputy Carvalho responded that there are seven boaters. He explained that Notices to Comply were issued to other boat owners, but they have made repairs to their vessels to bring them into compliance with the ordinance.

**b. Marina del Rey and Beach Special Events**

Mr. Wisniewski informed the Commission that the report includes the Discover Marina del Rey Day event scheduled for Sunday, October 10, 2004, which is sponsored by the Department and Arrowhead Mountain Spring Water. Also included in the report is Coastal Cleanup Day sponsored by Heal the Bay and scheduled for Saturday, September 18. Additional information about the events is available on the public information table.

**4. OLD BUSINESS**

**a. Approve the Release of Request for Proposals for Development of Fuel Dock Facilities on Parcel 1S in Marina del Rey**

Mr. Wisniewski informed the Commission that the Parcel 1S Request for Proposals (RFP) was modified since the August meeting. In particular, the Department included in the RFP a preference that the water taxi dock be incorporated into the operation, but only if it could be done in such a way that it not impact fueling operations as well as transient slips for large boats.

Mr. Wisniewski continued, stating that Mr. Warrington, the current lessee of the parcel, had expressed concerns at the August meeting. Staff responded to the concerns in a letter that was included in the Commission mailing. Mr. Warrington also submitted a letter (attached to these minutes) to the Commission at today's meeting.

In reference to the letter, Mr. Wisniewski informed the Commission:

> He [Mr. Warrington] keeps talking about the market rent that the County receives from the fuel dock operation. He said that while he appreciates that we documented that the price for fuel in Marina del Rey is...within the range of rates charged within the Southern California area, he said that we missed the point. The point being that we ought to look at the way we structure our rent to the County. As our report says to you, that is an item we're asking proposers to respond to us on. Before we take any negotiated deal back to the Board of Supervisors, we will confirm market rates through an appraisal, as we do all of our lease deals.
>
> Another thing I want to point out is that he was somewhat skeptical about the evaluation criteria that we outlined in the RFP and made some suggestions as to what he would like to see in the RFP, feeling that we were tilting the scales toward the adjacent lessee. My concern would be adopting anything that he is suggesting because then there is a rule of law that would say that if you allow a consultant or proposer to influence you in structuring an RFP in a certain way, then there is an argument that that proposer would not be allowed to propose because you're then conceivably looked at as tilting the scale in their direction.

> We haven't looked at tilting the scale in anyone's direction. This is not tilted toward the adjacent lessee, toward someone out there that we're not aware of who is going to propose on this, nor towards Mr. Warrington. We've got objective criteria. We will form an evaluation panel that will be independent of the director. They will make a report and recommendation to me. I will bring that report and recommendation back through this Commission in route to the Board of Supervisors.
>
> Once again, this action [presented today for Commission approval] is just authorizing the release of an RFP to solicit proposals.

Vice-Chairperson Stevens asked how the Department would rank the percentage that is received as the County's rental fee in comparison to the surrounding areas along the coast. Mr. Wisniewski responded that he doesn't have the survey information. He said the key thing is that the RFP will be released and the proposals the Department receives will identify market rental rates. Additionally, the appraiser, when assessing market rates, will survey rental rates charged by other government jurisdictions.

Commissioner Lesser commented that, because the Commission was led to believe fuel prices in the Marina are higher than everywhere else, he had asked at the August meeting for information regarding the comparative prices of fuel costs in the Marina vs. other marinas. He noted that staff has apparently found, in some cases, the rates in Marina del Rey are equal to or less than the marinas in other areas. Clearly, under the existing rental structure, the Parcel 1 operator has been able to make a profit and keep fuel rates equal to or less than surrounding marinas.

Mr. Moliere commented that it's a little bit apples and oranges. He explained that not all of the marinas are government leases. Land cost should be considered when discussing the percentage that an operator charges or what's charged to rent a space. Mr. Moliere said, "Obviously, you can't get into that in this venue because you're really talking about negotiating a rate. What RFPs are meant to do is solicit a wide range of proposals and the evaluation panel will judge which one is the best."

Chairman Searcy thanked Mr. Warrington for contributing his knowledge and encouraged Mr. Warrington to avail himself of the RFP process.

Mr. Wisniewski informed the Commission that he received e-mail from Commissioner Crail expressing his concern that the placement of a water taxi at the fuel dock might displace some boat fueling needs. Mr. Wisniewski said that Commissioner Crail made a good point and, consequently, Mr. Wisniewski requested staff to change the RFP to indicate that the water taxi's location at the fuel dock is a preference rather than a requirement.

In addition to Mr. Warrington's letter to the Commission, he gave the following testimony:

> First of all, they did make substantive changes to the RFP, so I'm pleased with that. I want to thank the Department for making those changes. I only have, essentially, two ongoing issues with the RFP. The first of which is this issue of the lease. Right now, we're at a 6% gross and, as you all are aware, the price of fuel is escalating. Typically, a lease, any of the leases, which I understood they were going to poll up and down the coast. Typically, a lease is volumetric. So, you get, say 3 cents a gallon on fuel, which is not an atypical cost up and down the coast. If we use 6% of gross and we have just a $2.00 per gallon, that's about 12 cents per gallon that gets passed through to the customers.
>
> What we have done over the years, and it's been a family philosophy, essentially, is to price as low as possible to maintain the business and maintain the continuity of the boating community so that they don't essentially worry about the price of fuel. They can use it as entertainment. Entertainment is part of the boating activity. So, we've essentially been pricing it that way over the years and I think this bears that out. What it does show is that prices are especially low here in the Marina, which is atypical and I

> think in order to actually get a fair evaluation of prices in the Marina you need to look at the price in the Marina as compared to prices across the entire year. So, what you're seeing is an anomaly. If you'd like, I can always come back to you with a similar survey. We try to price similar to all of our competitors. That's the first issue.
>
> The second issue, fundamentally, is the evaluation criteria. What happens in an evaluation is, unless you have criteria laid out up front, it becomes very subjective. A number of folks, and I'm sure they're independent to some degree, get in a room and get a series of evaluation criteria that they sort of look to, potentially, after the fact. So, it's not essentially a fair and unbiased approach to an RFP. The items that I put here, that you'll see in the letter, those are just example items. I didn't mean those to be written into the record in any particular sense, to actually formalize them in an RFP, but what I did notice was that there's no specific outline of criteria that any of the bidders or respondents will have experience operating a fuel dock, which given the nature of the fuel dock here, I would think that would be the number one criterion.... The one criterion that I think would be foremost in your mind would be the ability to operate a fuel dock. It is not a simple thing. In fact, when we originally took over the lease, it was from a failing operator.

Mr. Moliere suggested that Mr. Warrington refer to "Evaluation Criteria" on page 21 of the RFP for a list of items the County would consider. Item 8 clearly shows that successful marketing and operating experience is part of the evaluation criteria.

Mr. Warrington asked Mr. Moliere whether he could answer how much weight would be put on item 3, "Creativity and Quality." Mr. Moliere responded that the evaluation committee would have those values and weighting in place before scoring, "because when we provide or come up with the judging and scoring criteria they are weighted and assigned specific numerical values and percentages. We don't publish them on purpose so that the responses aren't targeted and they, in fact, every one of them, if you look at the past, once the judging is done, we make those public and people can look at the scores. They are always scored numerically and with percentages."

Mr. Wisniewski added:

> One thing that's most significant and pursuant to County policy is that before the RFP responses are opened, the evaluation document is completed and the weighting is already assigned. That is a requirement that I insist that staff comply with on opening every RFP. If you're going to propose, before we open your package and see anything, we'll have the weighting assigned to each one.

Mr. Warrington asked the rationale for not allowing people to target their bids.

Mr. Wisniewski responded:

> I think people would intentionally weigh their response in those areas that would get the greatest number of points. We want the most comprehensive proposal we can get from proposers. We don't think that it's in the County's best interest to give you a tip on what is going to be 30% vs. 10% because, perhaps, you're going to weigh your effort in that direction.

Chairman Searcy asked Mr. Wisniewski for the number one focus of the RFP. Mr. Wisniewski responded that it's clearly the ability to provide a fueling operation to the boaters at a reasonable price.

Mr. Warrington said that he has RFP experience and would like to see selection criteria provided up front. He said to Mr. Wisniewski:

> If you want a fuel operation in there and you want folks to respond in that area, I would encourage you to let everybody know that that's the primary focus. When I read this thing, and I was trying to read it objectively rather than subjectively, what I noticed was that I got a clear sense that this was a redevelopment project, not necessarily a fundamental primary facility here in the Marina....
>
> For me, it would have been helpful had you identified the selection criteria and actually weighted operating experience as one of your key criteria. I know that you've made changes and I'm pleased with the changes. It's just that you have a category called, 'selection criteria,' and when I look at that, they're really broad and they don't really provide me with any guidance.

Mr. Moliere informed Mr. Warrington that proposers would have the opportunity to attend a conference where they can ask questions and receive clarification if needed. He also commented that the RFP identifies the primary focus in its project description, which clearly states, "The ultimate aim of the fuel dock project is the provision of a modern dock system with on the water fuel facilities designed to serve the recreation and commercial boating community of Marina del Rey."

Mr. Warrington agreed that the project's description is very clear. His concerns, however, pertain to selection criteria.

Mr. David Levine informed the Commission that he represents the lessees of Parcels 111/112, which are adjacent parcels to the fuel dock. The lessees, in association with Bellport Group, will submit a proposal for the fuel docks. He said that the Bellport Group is a professional marina management group based in Orange County with experience operating fuel docks. The intent is to submit a proposal that has a water-taxi shuttle stop on the main channel on Parcel 1.

*Vice-Chairperson Stevens moved and Commissioner Lesser seconded a motion to recommend Board approval of the Release of Request for Proposals for Development of Fuel Dock Facilities on Parcel 1S in Marina del Rey. The motion passed unanimously.*

## 5. NEW BUSINESS

None

## 6. STAFF REPORTS

### a. Ongoing Activities Report

- Board Actions on Items Relating to Marina del Rey

Mr. Wisniewski reported that there were no action items in Marina del Rey during the month of August.

- Design Control Board Minutes

Mr. Wisniewski informed the Commission that the DCB minutes are attached to the report.

- Eviction Law for Liveaboards

Mr. Faughnan reported that Mr. Donald Klein, president, Coalition to Save the Marina, asserted at the August meeting that there might be a new requirement to give liveaboards a 60-day notification, rather than 30-day, before termination of their tenancy. Mr. Faughnan researched the matter and found that there is a 60-day eviction notification requirement for floating homes that are in floating home marinas, which are both statutorially defined terms.

Vice-Chairperson Stevens asked whether Marina del Rey is considered a floating home marina. Mr. Faughnan responded that he doesn't know whether there are any floating home marinas in Marina del Rey. He believes the law might need to be interpreted for each individual marina.

Since the Commissioners weren't presented with an actual case involving an evicted liveaboard, Mr. Faughnan said that he would refrain from advising them on a hypothetical legal situation. However, for the purposes of this particular discussion, he informed the Commission that a floating home marina is defined as:

> An area where five or more floating home berths are rented or held out for rent to accommodate floating homes but does not include a marina where 10% or fewer of the berths are leased or held out to lease two floating homes nor a marina or harbor which is managed by a non-profit organization, the properties, assets and profits of which may not inure to any individual or group of individuals but only to another non-profit organization the rules and regulations of which are set by a majority of the berth holders thereof and which contain berths for fewer than 25 floating homes.

Mr. Faughnan said that he conducted an exhaustive search and could not find any legislation related to liveaboards or boats in general other than the floating home statute. As far as he knows the 30-day eviction notification requirement still applies.

Mr. Klein explained that he hasn't been referring to the statute pertaining to floating home marinas, but to a new law, introduced by Senator Bowen, and supported by the Coalition to Save the Marina, that requires a 60-day notification to tenants who are evicted due to building construction. He said that he doesn't have the bill number with him, but would provide it to Mr. Faughnan at a later time. [Mr. Faughnan gave Mr. Klein his business card so that he could contact Mr. Faughnan.]

Mr. Klein said that many lessees evicted tenants when construction began. He believes the tenants were served with a 30-day notice and were illegally evicted since a 60-day notice is required. Mr. Klein stressed that the law refers to "tenants," which is the key word. He isn't referring to floating home marinas or liveaboards, but people with boats who may or may not be liveaboards and who are being evicted. Mr. Klein said that an interpretation of the law as it applies to boaters might be necessary since the law pertains to tenants (and he believes that boaters qualify as tenants).

Commissioner Lesser requested that Mr. Faughnan report on the issue at the October meeting after he receives the bill number.

**b. West Nile Virus Concerns**

As a follow up to concerns relating to the West Nile Virus expressed at the August meeting, Mr. Moliere reported that the L.A. County West Vector Control District informed Beaches and Harbors' staff that there is not an active infestation at the Oxford Flood Control Basin. Mr. Moliere explained that, typically, mosquitoes cannot breed in large open bodies of water particularly when the water is choppy and deep like the Oxford Basin. The only location in the Oxford Basin where mosquitoes might breed is along the edges where there is thick vegetation, but the Basin has mosquito fish that forage along those edges and serve as a control mechanism.

Mr. Moliere also noted that the staff report includes contact numbers if the public is interested in receiving additional information.

Vice-Chairperson Stevens said that she doesn't consider the Oxford Basin choppy. She's killed three mosquitoes on her patio and she resides between the Oxford Basin and Mother's Beach, which isn't choppy either. Vice-Chairperson Stevens requested that DBH staff arrange with staff from the Vector Control District to check the Oxford Basin. While she is glad the mosquito fish serves as a control mechanism, Vice-Chairperson Stevens expressed concern that the situation could worsen and put the County's blood supply at risk because people have the virus and are unaware of it when donating blood.

Mr. Paul Wong, Chief, Asset Management Division, informed the Commission that the Vector Control District staff and DBH staff are currently (while the meeting occurs) investigating the Oxford Basin.

## 7. COMMUNICATION FROM THE PUBLIC

Mr. Donald Klein provided the following testimony:

> A lot of these [impounded boats] are not really derelict vessels. They're just people who could not find any place to put their boats. They're beside themselves and they had to give up their investments.
>
> A boater's eviction and loss of vessel is due to the fact that there are no vacancies and it is a problem that has to do with the construction. I think Marina Harbor was one of the ones where the contractor told them, 'We have to take all of these docks out all at one time and that's the way we have to do it.' There was no phasing done. If phasing was done, this problem would not be existing right now.
>
> The contractors developing these projects are not exempt from the covenant in the master lease, which required originally that when the boat slips were put into service they were to remain open to the public until the end. That is a somewhat vague statement. The end of what? Again, we have these words that are going to come up for legal interpretation.
>
> It is very obvious to me that when our forefathers set up the public marina that this very thing would not be happening as it is. I'm saying that these contractors are not exempt from this covenant in the Marina master lease. You might want to bring that up at your next meeting. This is a real serious problem. These people are being evicted. They've invested money in their boats. We're not just talking about a couple of slips. We're talking about hundreds and hundreds and hundreds of slips. This is wrong. It needs to be corrected.

Chairman Searcy said that the Commission shares Mr. Klein's concern about the availability of boat slips. The Department has tried to address this concern in ongoing and future development and renovations. He explained that there have been, however, circumstances beyond anyone's control and the needed timing and phasing wasn't done. After some of these earlier experiences, the Department has made an effort to ensure that construction is done in phases.

Mr. Moliere concurred with Chairman Searcy. Mr. Moliere explained that it is in the lessee's interest to do the construction in phases. The only project that was not done in phases was Doug Ring's and it was because of the size of the parcels and construction and safety constraints. The lessee would have preferred to do the project in phases; however, the parcels are on a narrow part of the peninsula and the project includes underground parking. The whole project had to be excavated and there was no way to provide boat access during this construction; therefore, the boaters had to vacate.

Mr. David Levine commented that he doesn't think Mr. Klein meant to identify Marina Harbor earlier when he discussed the construction projects that weren't done in phases. Mr. Levine said that Marina

Harbor's reconstruction has been done in phases and this winter will be its third year of construction with one more remaining next winter. Also, boaters who were asked to vacate because of reconstruction were given 90-day notices and Marina Harbor dealt with them in a fair and legal manner. He commented for the record that the Commission hasn't heard complaints from Marina Harbor boaters about inadequate notification or unfair treatment.

Mr. Klein commented that, as far as his earlier testimony is concerned, he isn't sure whether Marina Harbor should have been identified as a parcel in which phased construction wasn't done.

Commissioner Lesser questioned Mr. Klein's testimony that hundreds of boaters are being evicted, have no place to go and have lost their investment. Commissioner Lesser also asked whether Mr. Klein followed up on Mr. Moliere's request in August for specific information regarding Mr. Klein's allegation that dockmasters arbitrarily evict boaters.

Mr. Moliere informed Commissioner Lesser that, to date, staff has not received specific information about arbitrary evictions from Mr. Klein.

Mr. Klein informed the Commission that he is in the process of compiling a report.

Commissioner Lesser asked Mr. Klein whether he could provide specific examples of boaters who have lost their investments. Commissioner Lesser stressed the need for specific information rather than generalities.

Mr. Klein responded that his intent has been to provide general information concerning a problem that needs investigation; however, he is working on a report.

In reference to Mr. Levine's comment that Marina Harbor's boaters haven't complained to the Commission about being treated unfairly, Mr. Klein said that he has spoken to many boaters in general who won't present their concerns to the Commission because they're terrified of eviction. Many boaters don't even want to give their names because they fear retaliation. Some of the boaters are working people, some are low-income. They're not united, not organized and don't have big law firms to represent them.

Mr. Rick Horner asked Commissioner Lesser what action the Commissioners would take if they received specific examples of arbitrary evictions. Mr. Horner said that he could provide the Commission with numerous examples, but he wants to know what the Commission would do about the problem after it is given the examples.

Additionally, Mr. Horner commented that a 90-day eviction notification, like Marina Harbor gives boaters, is still inadequate since it might take a boater looking for a slip along the Pacific Coast a much longer period to find one.

Commissioner Lesser asked Mr. Horner to suggest what a lessee should do when his anchorage needs remodeling. Mr. Horner responded that construction should be done in small stages and boaters should be given alternative facilities until construction is completed, then move the boaters back to the remodeled anchorage.

Mr. Horner said that when he was looking to purchase a new boat, he received offers from several people who were willing to almost give their boats away for a couple of hundred dollars. He ultimately purchased a new boat for next to nothing although it is probably worth $10,000. The seller had no choice but to sell cheap since he had been evicted and could not find a slip. Mr. Horner said that this is a huge problem and he cannot believe the Commissioners don't realize it.

Mr. Horner again asked what the Commission would do if provided with specific information about arbitrary evictions or examples of boaters who have thrown their investment away. Commissioner Lesser responded that he doesn't have an answer regarding what the Commission would do. He

explained, however, that the lessees attempt to do construction in phases, which means that boaters have to vacate during this process. Additionally, most lessees don't want to evict people for no valid reason; they don't make money when they evict boaters. The lessees want to complete their projects as fast as possible so that the boaters can return to the anchorages.

Mr. Horner said that lessees don't lose money when they evict boaters since there is insurance for lessees that lose revenue. He said that if construction phases were smaller and there was a longer eviction notification period, there would be happy boaters.

Further, Mr. Horner commented that if staff were to look at the rent rolls, it would see that the evicted boaters won't be the same boaters who return to the anchorages. He suggested that the Department request the rent rolls or send a letter to boaters who were evicted within the last two years asking them about the process and what the Department could do to improve the process. Mr. Horner said that he doesn't oppose development, but wants to see responsible development.

Chairman Searcy said the Commission isn't claiming that there are no existing problems, however, problems can't be addressed unless the Commission has specific information. Additionally, the Commissioners can't state what they would do if provided examples of arbitrary evictions since they first need the chance to review the data and the specific transgressions.

Chairman Searcy questioned why, if a boater was already evicted, he/she is fearful of providing information about his/her eviction. He stressed the need for the Department to be informed if an anchorage has discriminatory or arbitrary practices. Chairman Searcy added that Mr. Horner's suggestion about surveying evicted boaters might be a good idea. He suggested that if the Department can't do the survey because of privacy issues, perhaps, the Coalition to Save the Marina might be able to conduct the survey.

Vice-Chairperson Stevens asked staff whether the Department has data regarding slip tenants. Mr. Moliere responded that the Department has data about slips, but does not have information about tenants. Chairman Searcy explained that the Department would have to ask lessees whether they are willing to volunteer information about their tenants. Vice-Chairperson Stevens suggested that the Department involve the lessees in this issue.

Mr. Moliere reiterated the need for specific information about problems, such as those identified by Mr. Klein. Mr. Moliere explained that every month staff spends a lot of time and effort responding to general requests without being given any data at all and he is averse to continuing this practice. Additionally, the Department does not have sufficient staff to collect eviction information from the numerous apartment complexes and anchorages in the Marina. The Department has requested this type of information from the lessees in the past, but has not received it.

Chairman Searcy asked whether there are lessees who would like to voluntarily provide this information. Mr. Levine responded that it would be a violation of the tenants' privacy for a lessee to reveal information about the tenants. The lessee is legally not allowed to. This type of information would have to come from the tenants themselves or their representative, such as the Tenants Association.

Mr. Moliere said that an eviction is a legal process. If boaters are being evicted without reason, they have legal recourse since there is a process for evictions that lessees should follow. If boaters have an issue that is unrelated to rent, they can avail themselves of the County's dispute settlement service, which was discussed at a prior Commission meeting. He said that staff would be happy to provide the public with this information again.

Commissioner Lesser clarified that in August Mr. Klein was not referring to evictions that were due to remodeling of a marina, but to arbitrary evictions. At the August meeting, Commissioner Lesser requested specific examples of the arbitrary evictions. The Commission and Department have yet to receive this information from Mr. Klein.

Commissioner Lesser commented that an arbitrary eviction would be the perfect case to present to the County's dispute settlement service. The County would not be pleased and would take action against the lessee.

Mr. Weinman suggested the County's rent rolls as an excellent resource for obtaining names of boat owners since every boat owner pays a property tax.

Discussion ensued regarding whether the needed information about boaters could be obtained from the County's rent rolls. Chairman Searcy commented that the information is actually in the tax records; however, these records don't always identify current location.

Mr. Weinman commented that he receives numerous calls from boaters who are looking for a slip. He mentioned a boater (named Tim Harvey, formerly the owner of Polynesian Concept at Deauville Marina) who sold his boat because he could not find a slip to relocate. Mr. Weinman said that there are other boaters as well who have lost their boats. There are also boaters at Ballona Creek who could contribute valuable input to this discussion.

Chairman Searcy said that Mr. Weinman raised an important issue about evicted boaters who are unable to find slips to relocate and must sell their boats; however, Commissioner Lesser specifically asked for examples of boaters who were evicted because of the arbitrary and capricious practices of dockmasters, as Mr. Klein alleged at the August meeting.

The last speaker, Mr. Lev Stachkevitch, requested help regarding a boat he recently purchased that has mechanical problems. Mr. Stachkevitch felt misled about the boat's condition. Mr. Stachkevitch took the boat to Mr. Steve Weinman to repair, but is dissatisfied. Chairman Searcy suggested that Mr. Stachkevich meet with Mr. Moliere and Mr. Weinman after the meeting to further discuss his problem and obtain assistance.

## 8. ADJOURNMENT

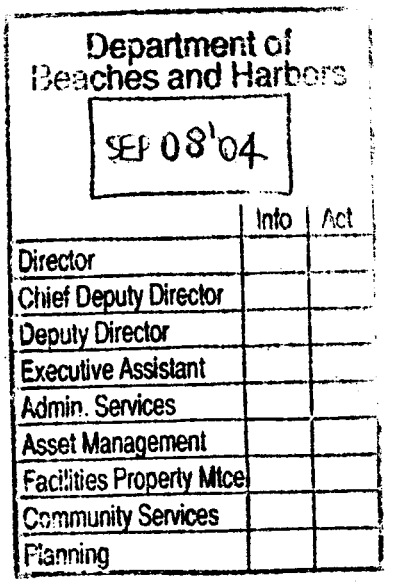
Chairman Searcy adjourned the meeting at 11:01 a.m.

Respectfully submitted,

Toni Minor
Commission Secretary

ATTACHMT

From: Ron Warrington
Marina Fuels & Service, Inc.
#1 Bora Bora Way
Marina del Rey, CA 90292




September 8, 2004

To: Small Craft Harbor Commission
C/o Department of Beaches and Harbors
County of Los Angeles
13837 Fiji Way
Marina del Rey, CA 90292

RE: Parcel 1S Request for Proposal for Marina del Rey Fuel Dock

Honorable Commissioners:

Again, it is my intention to respond to and comment upon the RFP for Parcel 1S, as well as the letter from the Department of Beaches and Harbors before you today.

I would like to begin by thanking the Department for making substantive changes to the Request For Proposal as originally submitted at the August meeting. There has been an effort to clarify some elements of the RFP to focus more clearly on the primary use of the facility as a fuel dock rather just a redevelopment project. This is important, since long after any construction phase, boaters will be concerned with fuel prices and operational services available at the site. Few boaters will have patience for a "white elephant" redevelopment project when they wish to fuel up as quickly as possible and get on with their recreational activities.

Also, it was nice to see the Department's findings regarding the reasonableness of Marina Fuels and Service fuel pricing relative to competitors – a strong endorsement of our corporate stewardship. In that regard, the Department found some interesting information regarding our low fuel pricing, but missed the main question posed by the Commissioners and in my letter. That question was the relative *lease rates* for fuel dock facilities in their survey. Had they surveyed this issue, they would have found that Marina del Rey rates are more than double what most facilities pay in California. They would also note that most fuel dock lease rates are based upon volumetric charges rather than percentage of gross, which becomes increasingly onerous as fuel prices escalate. And, the higher lease costs are passed on to boaters through higher prices.

Since the fuel dock provides an essential service to the boating community, it is important that the RFP anticipate its stand-alone operation in its primary function –

providing reasonably priced fuel to boaters. Without a restructuring of the lease rates, the fuel dock will not be the focus of anyone's operation, since it will be unable to make money. Rather, the County will end up with an operator that focuses on the real estate business rather that a fuel operation – which would not be in the interest of the boating community.

While the Department has made an effort to change the RFP, there remains some work to make it fair and unbiased. I realize this a goal for the Commission and the Department given the recent "Archstone" lawsuit regarding the extension of leases.

In order to protect against this type of challenge, the RFP still could use some changes in their selection criteria and evaluation process. I have some experience in this area, having advised clients on the development of RFPs for products and services valued at over $1 billion. Some of my publications are identified below, and I would be happy to provide copies of the articles at your request.

Currently, the selection criteria has five elements which do not necessarily reflect the focus on fuel dock operations: (1) revenue enhancement; (2) implementability; (3) implementation of AMS; (4) upgrade of the west side of the Marina; (5) creativity.

In fair and equitable RFPs, the selection criteria are clearly identified and explained so that bidders have an opportunity to compete on a level playing ground. Ideally, a clear, quantifiable set of evaluation criteria with appropriate weighting applied. For instance:

1. Experience in the fuel business (X% or points)
2. Proposal's fit with AMS (X% or points)
3. Implementability (X% or points)
4. Creativity (X% or points)

I would suggest that Revenue Enhancement may be somewhat controversial, given my comments earlier regarding the state of the current lease rates. Further, relying on revenue enhancement as a primary selection criterion provides an unfair advantage to adjacent parcel holders, given the nature of the "Specification and Minimum Standards of Achitectural Treatment and Construction". The advantage lies in adjacent parcel holder's ability to increase the number of moorings. If, as the Department indicates, the primary use of Parcel 1S is to provide fuel and they wish to maintain the fairness of the RFP process, the weighting of revenue enhancement may best be minimized.

With a clear set of criteria, bidders are informed about where to put their efforts when developing their submissions. Also, by identifying the weight of each category it simplifies the evaluation process, reducing the subjective elements. If the criteria are left as currently outlined, it still appears to focus more on a real estate operation than operating a fuel business and appears to be extremely subjective in the evaluation.

Once again, while I applaud the work of the Department of Beaches and Harbors in updating their RFP, I suggest there may still be some work to be done.

**Publications**

*Note that these articles are focused on the RFP process despite their titles:*

*Woo CK, Borden M, **Warrington R**, Cheng W (2003) 'Exploring the Cyber Auction Alternative" Public Utilities Fortnightly, 141:2, 30-37.*

*C.K. Woo, D. Lloyd, M. Borden, **R. Warrington**, C. Baskette (2004) 'A robust internet-based auction to procure electricity forwards,' Energy-The International Journal, forthcoming*

*Carmen Baskette*, Debra Lloyd, Michael Borden, **Ron Warrington**, C.K. Woo (2003) 'Buying Electricity Capacity Options on the Internet,' working paper*

Small Craft Harbor Commission
Meeting of July 14, 2004
Minutes

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

| | |
|---|---|
| Department of Beaches & Harbors: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau<br>Joe Chesler, Chief, Planning Division<br>Dusty Crane, Chief, Community & Marketing Services Division |
| Other County Departments: | Tom Faughnan, County Counsel<br>Lt. Greg Nelson, Sheriff's Department<br>Deputy Paul Carvalho, Sheriff's Department |
| Also Present: | Andrew Zephirin, President, Marina del Rey Convention and Visitors Bureau |

## 1. CALL TO ORDER & ACTION ON ABSENCES

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:45 a.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 today's meeting. The motion passed unanimously.*

## 2. APPROVAL OF MINUTES

Chairman Searcy said that action on the May 12, 2004 and June 9, 2004 minutes would be deferred to the August 11, 2004 Commission meeting since there isn't a quorum of Commissioners present who attended those meetings.

After receiving a request to speak on this item from a member of the public, Chairman Searcy opened the floor to public comment.

Dr. T. Vrebalovich came to the podium and said:

> The minutes state that the homeowners were unhappy with the builder of the Marina City Club and that was not the case. The homeowners were unhappy with the developer, the Snyder Company. The County failed to disclose to the homeowners that we had certain problems on the property before we took possession. The developer did not give us a set of buildings that were in good shape. For example, there were two chillers, which provide cooling for two towers and the club. One of the chillers was cannibalized to repair the other. There are two water pumps for each tower. One of the pumps in each tower was not working and was cannibalized to repair the other.
>
> The elevators, when I got onto the board in the mid-90s, we had to redo the elevators and they were redone. Snyder did not give us a perfect unit. In my view, the County was satisfied if the curbs were painted and the place looked good.

Chairman Searcy asked Dr. Vrebalovich to clarify his objection. Dr. Vrebalovich said that the minutes should state the homeowners were unhappy with the developer rather than with the builder.

Chairman Searcy asked Mr. Wisniewski whether he understands Dr. Vrebalovich's objection and the correction in the minutes that Mr. Vrebalovich requests. Mr. Wisniewski responded that staff would review the minutes and make any adjustments that are necessary.

## 3. REGULAR REPORTS

### a. Marina Sheriff's Department Report

#### -- Crime Statistics

Lt. Greg Nelson reported a slight increase in grand theft auto, burglaries, automobile burglaries and grand theft. He said that there was a decrease in these criminal activities last month because of the presence of the crime impact team, which was not available this month due to budgetary constraints. Many of the thefts were opportunistic and occurred when people left their cell phones, computers, etc. on the front seat of their cars. Lt. Nelson advised the meeting attendees not to leave such items visible in their cars.

Further, Lt. Nelson reported that there were robberies at local banks and the suspect was apprehended and positively identified as the perpetrator of the robberies.

Commissioner Lesser asked whether the residential burglaries are opportunistic. Lt. Nelson responded, "yes," and said that since there was an unprofessional way of gaining entrance to the residences the Department believes that juveniles and non-career criminals committed the crimes.

Mr. Chesler asked whether the crime report identifies precincts. Lt. Nelson responded that the report identifies reporting districts.

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

Deputy Carvalho reported that there were no new warnings or Notices to Comply issued last month. As he reported last month, the Department is continuing to work with the owners of the vessels that received Notices to Comply. Two owners have brought their vessels into compliance with the ordinance. Three additional impounded boats were disposed of and there are currently 16 boats awaiting disposal or going through the lien sale process.

### b. Marina del Rey and Beach Special Events

Mr. Wisniewski noted that the report includes information on the MdR Concert Series and the 2004 International Surf Festival. He encouraged members of the public who want additional information to pick up a copy of the report from the public information table.

Mr. Wisniewski announced that a ceremony will be held on Wednesday, July 21, from 9:00 a.m. to 10:00 a.m., at Marina Beach with Supervisor Don Knabe launching the Boys and Girls Club of Venice, Fairwind Yacht Club and Los Angeles County Sheriff Department's award winning "Fast and Fun Junior Sailing Program." Mr. Wisniewski informed the Commission that the ceremony is not included in the Special Events report and was brought to his attention by Dave Lumian (of the Fairwind Yacht Club).

## 4. OLD BUSINESS

### a. Report – Kingswood Village Apartments – Rent/Renovation Issues

Mr. Wisniewski informed the Commission that this report summarizes the issues brought to the Department's attention regarding Archstone's management of the Kingswood Apartments. The Department's research confirms that Kingswood is managed according to the lease; building permits

are obtained when needed; proposed rents are for renovated units or soon to be renovated units; tenants are not having their leases terminated; and leases are being respected. Mr. Wisniewski said that, as he understands it, notices are given to tenants who are on a month-to-month lease so that their units can be vacated and renovated.

Mr. Wisniewski commented that the rent increases are very substantial, as can be expected since the existing apartments are being renovated and going from below market rates to market rates.

Chairman Searcy clarified that tenants with month-to-month leases are subject to the 30-day notice to quit and are the people impacted by the huge rental increases. He asked whether this practice complies with the tenants' and lessee's rights. Mr. Wisniewski responded, "yes," and explained that the Department's report identifies Archstone's proposed rents as well as comparable rents within and outside of the Marina

Commissioner Lesser asked whether the rental rates identified in the Department's report are the proposed rents after renovations. Mr. Wisniewski responded, "yes."

Commissioner Lesser referred to the "Garden Unit Rent Analysis," which identifies a rental range of $1,425 - $1,850 for 1-bedroom apartments in the Archstone Marina del Rey. He asked whether these rates become effective after the renovations. Mr. Moliere responded, "Yes, that's correct."

Commissioner Lesser asked whether the other units listed in the analysis are comparable in quality. Mr. Moliere responded, "Yes," and explained that the policy requires the Department to do two things: 1) compare the Kingswood rents to other rents in the Marina; and 2) compare the Kingswood rents to rents in a specified geographic area. In the Marina, the Kingswood rents compare to other apartment units that have not yet been renovated. Mr. Moliere said that, in the Marina, only Dolphin Marina and, partially, Parcel 111/112, have been renovated. The other apartment complexes are of similar age but are unrenovated. Outside of the Marina, comparable apartments were found that were built around the same time as Kingswood and have since been renovated; these apartments are a more direct comparison to Kingswood.

Commissioner Lesser asked Mr. Moliere the current rental rates for the Kingswood apartments that are scheduled to increase to the $1425-$1850 range. Mr. Moliere responded that he needs to make a distinction and he explained that the Department researched the history of Kingswood over a 10-year period for the entire complex and on an individual basis and found that many of the longer-term tenants were at rents that were fairly low and were not raised very frequently. Within the last several years, rent was not raised at all in many cases. Consequently, there is a larger gap than would be the case if a person were to rent a new apartment last year, which would have been at a market rate. The market rates by and large have not increased very much from last year. The larger increases are in the tower rents, which were low for longer-term tenants, as well as asking rents for new tenants. These apartments, after renovation, have increased rental rates that are comparable to similarly aged and renovated apartments in other complexes.

Julie Schaller, Kingswood tenant, came to the podium and said:

> Last month, I addressed the Commission to communicate my concerns surrounding the Archstone acquisition of Kingswood. I implored you to address the exorbitant rent increases that we are due to receive. Of course, I did not have this report [that the Department submitted to the Commission] but a lot of my things still hold true. After the meeting, Mr. Moliere communicated to me that I needed to gather information and I could present it to him along with the evictions/rent increases that were issued. Well, we haven't had any new eviction notices that have been served at this time, but the impending rent increases remain a major problem.
>
> Since reporting last month on my 55% rent increase, it's gone up to 62% this month. This equates to an $870 raise for my one-bedroom apartment. Please note that I moved in just under a year ago.

Chairman Searcy asked Ms. Schaller whether she currently is on a lease and whether Archstone is choosing not to renew the lease at the existing rate. Ms. Schaller responded that she has a lease until July 31. She explained, "I will be month-to-month. Then I will be able to have this increase as of July 31. I mean, it is not going to take effect July 31, but I can get my 60-day notice from then on."

Chairman Searcy asked Ms. Schaller whether she is being offered a new lease at the higher rate. Ms. Schaller responded, "no."

Chairman Searcy asked Ms. Schaller whether her rent would remain the same then increase after July 31. Ms. Schaller responded, "when my stack comes up, which I'm in the third stack, then I will have the option to come back for the new rent, move out for 45 days at my expense, stay somewhere, pay my current $1,400 that I pay for 45 days. Then when I move back, I have to pay to move back in. Then I can receive $1,000 off my first month and then I will be paying the $2,270."

Ms. Schaller continued her testimony:

> I followed Mr. Moliere's suggestion to gather information and I visited many local complexes. I was looking specifically at one-bedroom apartments. It's important to recall that the Archstone representatives assured the County and the Kingswood residents back in March at a meeting right here that the proposed rates would be comparable to other 30-year old buildings and not too recently constructed buildings. The problem was within the statement, with the operative word being lies.
>
> As of last Thursday, Archstone was telling people that the proposed rates were already agreed to by the County weeks ago. The information was forwarded to Mr. Rodriguez that afternoon. The new proposed rates for the tower one-bedrooms are approximately $2.51 per square foot, with the one-bedroom apartments trailing behind that. So, what does that mean? I priced out one-bedroom apartments at Crescent Park, the Playa Vista Apartments that were built this year, and they averaged $2.41 per square foot, so we're 10 cents higher than a brand new building. So, so much for comparing Kingswood to comparable properties, which brings us to the question of what is comparable? How is market rate calculated? I compared 30 year old one-bedrooms without a view and found that they averaged $1.67 a square foot, then I compared 30 year old one-bedrooms with a view and they averaged $1.80 a square foot, which brought the 'market rate' to $1.73 a square foot. That sounds good, but now the problem is the many variables that exist.
>
> You cannot compare a no-view garden apartment to a waterfront property or a tower apartment to a garden apartment so, then, if we go for square footage to square footage, but now we have the problem of the varying amenities operating at each complex: gyms, and pools and pet policies, etc. For example, if I take Mariner's Village vs. Kingswood, they're on the waterside. They have numerous pools, a library, a hair salon, a store. We're on the other side of the street and we have one pool for 623 units. That's left out of this report. They include trash, water and sewage and we're going to be expected to pay for that in the future, which incidentally is a form of hidden rent increase. So there, we have no comparison in that complex.
>
> How about our tower apartment to the Marina tower apartments? That also was left out in here [Department's report]. That's a tower right in the Marina del Rey. I looked at the seventh floor unit. I live on the seventh floor. Well, they don't have a pool, so there's no comparison.
>
> How about a tower in Santa Monica? Well, that's a different geographic area. So what does all this prove? That 'market rate' is meaningless. We're comparing apples to oranges. There is no such thing as 'fair market rate.' It all comes down to the fact that there is absolutely nothing in Section 16 of the lease that says you should compare market rates. In closing, I once again implore the Commission to help the Kingswood residents receive fair treatment from the Archstone corporation.

Mr. David Hittelman gave the following testimony:

Commissioners, I want to first thank you for last time indulging me for as long as you did. I'm glad that in one respect or another it got some responses. I can honestly say that, between an e-mail that I sent out between Mr. Moliere and conversations, and then this report, that a lot of information that we received from the County is helpful. Granted, it helps us in a lawsuit. It doesn't help us in peace of mind.

In my e-mail to Mr. Moliere I made statements about evictions. I got a response back that people aren't being evicted, they're being provided options for housing. But, the section that is stated in the notices is Section 1946. If I'm wrong, that is about evictions. None of the notices that went out was served correctly. That aside, no notices are going out anymore because, one way or another, whatever happened here, they stopped progress on the cosmetic renovation. That at least I know in the towers.

The garden unit, which was our complaint about permits, there was a comment that they had permits for mockups...they started to do everything. They started to strip off siding and exposed wood. We've got termites now. So, the interesting thing is that we said one thing. The report here will address strictly mockup. It doesn't address the other issues as far as how far they were going with their renovation on the garden building. They've evicted everybody out of that garden building and I'd like to see, because I've asked for the permits for the plumbing and everything else that they supposedly have, they don't have.

The other question I have in regard to the permits is, I'm fairly sure that the Coastal Commission needs to approve whatever plans go through but I understand from the Design Control Board that it doesn't. But, from what I understood, the Design Control Board only submits the recommendations to the California Coastal Commission for the high-rise, at least, for approval of the design....

In regards to the 'Controlled Prices,' Section 16...it says nothing about market rates. It says nothing about comparable rates...the real issue here is that it is based on the reasonable rate of return on investment on a property for whoever the leaseholder or lessee is at the time. The question then becomes whether or not you can use that $87 million, which was the purchase of the lease, as a rate of return or figuring the rate of return on investment. All they did was buy the management agreement. They didn't do anything to the property. The fact that they say they're going to spend $24 million, is there an audit that's going to occur that's going to confirm that they actually spend that?

I've got photos of what they're proposing to place in these units as far as amenities are concerned and it's particleboard with not even a plastic laminate, but a melamine, which is strictly a coating. It's a vinyl sheeting. It's not necessarily pregnable. These things are going to be basically just as bad as the stuff they're taking out in just a few years.

When you talk about the month-to-month situation, none of us, in the last 1½ years, was able to get Kingswood to give us a renewed lease because of the pending purchase. What was going on was the office was refusing to renew leases. You've heard this before so this is nothing new. In regard to the substantial increases that I'm glad Mr. Wisniewski was so glad to announce, as Julie said, we've done a comparable rate review even though we don't need to. We've done a comparable rate review on our own because at first we were told we had to then I saw in Section 16, which says 'no,' the County does that based on our individual complaints. Then I thought, 'boy that's interesting. You mean, I'm supposed to be bringing down the 200 or so people who are complaining about this rent increase and line them up outside Mr. Wisniewski's or Mr. Moliere's door so that he could individually address each one of the concerns?' Because essentially that's the response I got in my e-mail. Granted, my response to that is rather disingenuous to say I'd do it.

We do have people who are willing to come down here and do what needs to get done so that there is a reasonable review done by the County. I have to ask how many minutes were spent on the phone or whether or not it's just a matter of them going down and picking up our apartment magazine to figure out the rates that are in this report because

> they're not actually correct. I could look at what they're actually charging at Kingswood just in the report and know. I made a phone call and I got different numbers. That's an interesting thing considering this is supposedly the official response to the concerns and this is essentially what the director is providing the Commissioners as far as approval for the rents.
>
> My issue wasn't solely with rents. My issue is the lease and how it's being done. It also has to do with the dollars that are on the lease, but it also has to do with, as Julie said, they're gonna be charging for water, sewage. Those things are hidden. Those are prorated somehow and I'd like to know...they're planning on charging for that. They are asking for a pet deposit, reasonable, but then an additional pet rent on a month-to-month basis? I don't know whether or not you allow that within your purview. But, regardless, I don't think that anybody has seen these.... There's a mold amendment to the lease now that deals with mold because I'm sure that they've had a lot of litigation about mold. That basically puts the liability on the tenant if they don't specifically do certain things...it's interesting that they're adding these things. Granted, if you don't know about it, they may hit you by surprise, but I would think that based on what you gave me as far as Section 16 and controlled pricing and what it talks about as far as County approvals of leases, which it basically says you do, that you're letting this stuff go forward the way you are.

Mr. Donald Klein, president of Coalition to Save the Marina, referenced the Kingswood report, first sentence in the third paragraph of Section A, which states, "Building and Safety Division has advised that no permits are required for most interior non-structural work." He informed the Commission:

> I'm a stated licensed contractor and as far as I know, the city, I'm not absolutely positive about the County, but it would require some research into the building and safety codes for the County but, regardless of whether you have individual permits for electrical or structural or whatever it is, if the actual project itself is over a certain amount of money, I believe it's $1,500. In this case, I think they're saying it's $45,000 for each one of these units, I do believe that a permit is required. That will take a little bit of looking into, but I did want to bring that to the Commissioners' attention at this time.

Mr. Klein referenced the report's Section C-a, "Rent Review Process," which states:

> The process for reviewing proposed apartment rental rates for Marina apartments, in conformance with the Controlled Prices provision of Marina leases and the Department's Policy Statement No. 27, is detailed in the Department's policy statement and involves consideration of rent in relation to the range of prices charged for facilities of similar age, location and amenities. Pursuant to this process, the Department gathers from the apartment tenant individual information relating to the apartment under review – such as building location with the complex, whether the apartment is in a high-rise or low-rise building, views and other relevant factors – and the proceeds to gather information on comparable accommodations within the geographic parameters set forth in the policy to determine what appropriate comparable rates may be and whether a given rental rate is within the range of those charged for similar apartments. The results of such investigation are then shared with the party asking for the review.

Mr. Klein said to the Commission:

> The market study of the rents was flawed as compared with apartments in the Marina on the water or with water views of Kingswood and the garden apartments, which was brought up by Ms. Schaller. These are not on the water and do not have water views. No comparisons to such apartments would be made by any reasonable person or professional appraiser. The market study was also flawed and did not compare any high-rise in the Marina despite the existence of such buildings. No information was given on the high-rise buildings outside of the Marina. Additionally, the proposed rents used for Archstone-Kingswood did not include the extras, such as pet fees, parking, utilities. The study also did not include any comparable data on return on investment. The market study demonstrated that the director has abandoned Section 16 of Lease No. 3822.

Ms. Sylvia Youbi, Kingswood resident for 22 years, informed the Commission that she has lived at Kingswood since 1980 and was paying $1,700 a month for rent. Her rent is being increased to $3,000

for the same accommodations. Ms. Youbi submitted, for the record, correspondence that she received from Archstone regarding its renovation plans and rent increases.

Chairman Searcy asked whether there are any Archstone representatives attending today's meeting to address the tenants' concerns. After hearing that there were no representatives present, Chairman Searcy asked Mr. Wisniewski whether he is prepared to respond at this time. Chairman Searcy clarified for the public that any response given by staff at this time is preliminary and the Department would provide a report at the August meeting.

Mr. Wisniewski responded relative to the issue of Coastal Commission jurisdiction that the renovation work at Kingswood does not require Coastal Commission permits, only Building and Safety permits are required. Mr. Wisniewski said that he isn't aware of there being any limitation on the amount of interior work; however, staff would verify whether a particular permit is needed if the work exceeds a certain dollar amount.

Relative to Mr. Hittelman's comment that sewer and utility fees are being passed on to tenants Mr. Wisniewski responded that he doesn't remember anyone bringing this to his attention and staff would investigate the matter.

Mr. Moliere confirmed that these fees were not brought to the Department's attention. He explained that the Department's review contemplates an analysis on an individual basis. The information presented to the Commission was illustrative of an overall trend.

Chairman Searcy asked whether staff was given any documentation by the tenants. Mr. Moliere responded that staff has on numerous occasions had extensive discussions with individual tenants. He explained that this is how the process works. The analysis provided in the report is intended to show the trend, which has been verified by individual investigations.

Mr. Wisniewski said that if the Department's analysis does not include a pass back of a sewer or utility fee, or whatever, this information should be added. If Kingswood's general policy is to include these assessments, this information should be included in the Department's analysis because staff is comparing Kingswood to other apartments that presumably have fully loaded costs. The Department will investigate the matter to ensure that it is comparing apples to apples.

Mr. Moliere commented that many of the comparable apartments do have separate charges for certain utilities, pets, etc. This is not unusual. These fees would be considered for inclusion in the analysis if the Kingswood tenants bring them to the Department's attention. Mr. Moliere said that to his knowledge no one has yet brought this information to the Department's attention.

Commissioner Lesser asked staff to identify the number of individual cases that were analyzed. Mr. Moliere responded that he doesn't know the exact number. Factually, he has spoken to four or five people. Other staff members have spoken to approximately twenty people.

Commissioner Lesser asked Mr. Moliere what he has concluded after his analysis of the individual cases. Mr. Moliere responded that none were found to be outside the range of comparable apartments.

Commissioner Lesser asked whether the Kingswood rents, even with the 70% increase, are still within the range of comparable apartments. Mr. Moliere responded, "That's correct." Commissioner Lesser commented that a 70% increase is a disaster to people; however, there is a situation here with a new investor who wants to obtain what he believes to be a reasonable return on his investment.

Commissioner Lesser said the huge increase is absurd and he questioned whether the Commission could do anything about it. Mr. Moliere responded that he echoes Commissioner Lesser's sentiments; however, two things should be considered: 1) a 70% increase is not the norm. The Department has found large increases elsewhere and some not so large; and 2) the increases are not for the same apartment. An increase would go into effect only after there is a full renovation of the apartment.

Commissioner Lesser asked whether Archstone is violating any rules. Mr. Wisniewski responded that Archstone is compliant with the laws of the lease and the laws of the state of California.

Chairman Searcy emphasized that one thing staff needs to do is be vigilant about the complaints/circumstances/data of individual cases and make sure that Archstone adheres to the rules and regulations. He said that if the Department received approximately 24 individual complaints staff should review each very carefully.

Chairman Searcy stressed to the tenants the need to provide staff with information about their own specific circumstances so that staff can review each individual case. He said that even if tenants have already received answers to their complaints they could request staff to review their individual situation again since staff may not have previously had all of the necessary information to address the complaint. This would help to ensure that tenants receive whatever protection is available within the Department's jurisdiction. He urged tenants to provide the Department's staff with specific information between today's meeting and the August 11, 2004 Commission meeting.

Commissioner Lesser said that the problem appears to be that prior owners kept the rents low and didn't perform any maintenance; consequently, the tenants were accustomed to paying below market rents. Mr. Wisniewski said that it isn't true the property was not maintained. It is true, however, that the rents were less than market and when they were raised to market, the increase was a big jump. Mr. Wisniewski said that this is the truth and it aggravates the situation, as does the perception that there is rent control in the Marina like there is in Santa Monica and Los Angeles City.

Commissioner Lesser commented that the County does not have rent control and if the County allows people to have their rent subsidized below market that would be less money for the general fund, which pays for various services for Los Angeles County citizens.

Mr. Wisniewski said that the Marina remains a good bargain when you compare the rents inside of the Marina to those outside of Marina del Rey. He said that when the Marina rents start to increase to market rates, as renovation will necessitate, they are going to cause disruption, inconvenience and a lot of heartburn for people. This is unfortunate but it is the way the system was established for managing Marina leases. The County wants market rents in the Marina because the Marina is managed for 10 million Los Angeles County residents, not just for the 10,000 Marina residents.

Chairman Searcy asked Mr. Wisniewski whether he could address Mr. Hittelman's question regarding how the County would ensure that Archstone actually spends $24 million to renovate the property. Mr. Wisniewski responded that the Department would make sure the lessee is accountable since it is to the Department's advantage to ensure the lessee spends the money as intended. He informed the Commission that an answer would be included in the August Commission report and Kingswood Apartments would appear as an item on the August agenda.

## 5. NEW BUSINESS

### a. Approval of Amendment No. 10 to Lease #11525—Parcel 75 (Marina Professional Bldg.) Adjusting Rental and Insurance Rates and Providing for Installation of Telecommunication and Fiber Optic Cable Apparatus – Marina del Rey

Mr. Moliere reported that this item regarding Parcel 75 results from the Department's decennial rent review, which was in dispute and went to arbitration. Because of the arbitration, the lessee agreed to pay the County rent equal to 50% of gross revenues the lessee receives from the proposed and all prospective wireless antennae subleases that are entered after the amendment. This is a substantial number and it appears that it would account for approximately $10,000 annually for the first year of the sublease and assuming the normal 3% built in increases that are in the contract, about $21,000 in the last year of the option. Over the life of the contract, this amounts to approximately $380,000 just for a wireless contract.

Mr. Moliere said the Department believes that the antennae use is justified because it is primarily due to the location and causes no disruption to the building. The Department has negotiated an industry standard, which is high, for wireless telecommunications. Primarily, the location is an office building and both pharmacy sales and the office rental account for 99.99% of the income and that in itself would increase from approximately $152,000 to $195,000 annually, which is about a $43,000 annual increase. There is also an increase in the amount of insurance coverage, which was negotiated and approved by the Office of Risk Management and there will be a triennial readjustment of minimum rent based on the previous three-year's average rent.

Since there were no requests from the public to speak, Chairman Searcy entertained a motion on the item.

*Commissioner Lesser moved and Commissioner Crail seconded a motion to recommend Board approval of Amendment No. 10 to Lease #11525—Parcel 75 (Marina Professional Bldg.) Adjusting Rental and Insurance Rates and Providing for Installation of Telecommunication and Fiber Optic Cable Apparatus – Marina del Rey. The motion passed unanimously.*

**b. Adoption of a Resolution and Authorization of Applications to the California Department of Parks and Recreation for Funding Through the Land & Water Conservation Fund for the Bali Gateway Park and Fiji Gateway Park**

Chairman Searcy requested the Commission's comments or questions concerning this item. Hearing none, Chairman Searcy announced that he would entertain a motion on the item since there were no requests from the public to speak.

*Commissioner Lesser moved and Commissioner Crail seconded a motion to recommend Board Adoption of a Resolution and Authorization of Applications to the California Department of Parks and Recreation for Funding through the Land & Water Conservation Fund for the Bali Gateway Park and Fiji Gateway Park. The motion passed unanimously.*

## 6. STAFF REPORTS

### a. Ongoing Activities Report

Mr. Wisniewski clarified a comment he made earlier during the meeting regarding the management of the Marina. He said that he wanted the record to show that, while the Department is sensitive to the 10,000 Marina del Rey residents, it is not interested in subsidizing rents. As there are renovations and evictions, the Commission will be repeatedly challenged about rent increases and eviction policies. The Department will do the best it can with tenants but, unfortunately, the changes will be disruptive.

Chairman Searcy encouraged the public to take advantage of the opportunities that are available to express their concerns at Commission meetings as well as to the Board of Supervisors since the Board is the ultimate arbiter and the body to whom the Commission reports.

Since Mr. Wisniewski indicated that he had no comments concerning the report, Chairman Searcy said that the Commission would receive and file the Ongoing Activities Report.

### b. Marina del Rey Convention and Visitors Bureau

Mr. Andrew Zephirin gave the MdR Convention & Visitors Bureau report in the absence of Ms. Beverly Moore, who is out of state. Mr. Zephirin is president of the Marina del Rey Convention and Visitors Bureau (CVB) and General Manager of the Ritz-Carlton Marina del Rey.

Mr. Zephirin expressed his appreciation for the opportunity to speak and said to the Commission:

> We are very grateful and thankful for the support that your Commission has given the CVB and also Beaches and Harbors. We sincerely appreciate that and look forward to even better things in the future. We also appreciate the time that Carole Stevens

gives us on the CVB as well. She is a very active member and we really appreciate her time.

We are part of the work that our organization does and are committed to the partnership we have built with the County. We are working hard to make the Marina economically successful in the community and to improve local services and facilities for visitors and residents.

Mr. Chairman, we want to be relevant to the future development plans of Marina del Rey. So as you execute your Asset Management Strategy, please use us as a sounding board to give you a sense of the needs that visitors require when they come to this destination. Our overriding goal is to ensure that Marina del Rey is viewed by the traveling public as a world class tourism destination that is a friendly place to visit and a place that people leave with a strong intent to return and have a strong likelihood to recommend to their friends and fellow business people.

During last year, the Board of Directors spent substantial amounts of time discussing the importance of rebuilding the...public infrastructure in the Marina as redevelopment occurs on the private leaseholds here. In fact, we want to do everything we can to encourage the County to reinvest in the Marina's infrastructure as soon as possible because that would certainly assist us in meeting some of our key initiatives.

To that end, I just want to take the opportunity to go on record and share some of the key initiatives that we want to focus on for 2004 so as we go forward you will be aware of them. We believe it is very important to implement a common themed gateway signage into the Marina in a very timely manner to give this destination a sense of arrival for people driving into this area. We have a very strong driving market from throughout the state and throughout the County and, of course, our driving market and proximity to LAX remains strong.

We want to encourage more pedestrian improvements along Admiralty Way to encourage better connectivity between the hotels, the restaurants, waterfront parking areas during the day and during the night, which implies the lighting situation as well. This is very important to tourism and maximizing tourism spending. As we go forward, we know the widening of Admiralty Way is on the agendas of the stakeholders here in the Marina. We just ask that you be aware of that. We don't say that one goes against the other but, definitely, it needs to be in front of mind so that as we go forward with the planning of the widening of Admiralty Way the pedestrian use can be incorporated with those plans.

We also would like to encourage the improvements of the bike trail, the quality of the bike trail and the signage so, that when people go on it, it makes using the trail a very seamless form of recreation. That bike trail lends itself to enjoying the natural and manmade beauty of this Marina.

Other things that we have discussed at our meetings is the widening of the sidewalk in front of Marina City Club, which is narrow as you come down from where the promenade is...we want to look at increasing the number of guest docks. At this point, I want to compliment the vision of Beaches and Harbors with the taxi service, which I know the guests at all the six hotels really appreciate because it gives them a great sense of where they are and an opportunity to see the beauty of this Marina very seamlessly and economically.

Improving the directional signage in the Marina is also important to us. Also, increasing the water site signage for our boaters. But all in all, we realize that Marina del Rey is a wonderful community to be a part of and do business. We want you to know that your CVB is an active part and we want to make sure that our partnership continues and is solid and we communicate regularly.

We see ourselves as your resource for assisting in communicating with you and to ensure that the ongoing Marina del Rey Asset Management Strategy enables a memorable visitor experience that is creating positive word of mouth for repeat visitations.

## 7. COMMUNICATION FROM THE PUBLIC

Ms. Rhoda Rich requested a status on the Daniel Freeman Marina Hospital and asked whether the County or the state has done anything to ensure that the hospital doesn't close. Mr. Wisniewski responded that he doesn't know the status but would be happy to provide a report on the matter in August.

Chairman Searcy asked Tom Faughnan (County Counsel's office) whether he has a status on the hospital. After Mr. Faughnan indicated that he did not have a status, Chairman Searcy reiterated Mr. Wisniewski's statement that staff would report on the issue at the August 11 meeting.

Ms. Rich commended the Commission Secretary, Ms. Minor, on the minutes and thanked Ms. Minor for sending them to her each month. Ms. Rich expressed her wish to comment on the July meeting at which Mr. Nate Holden and Dr. Sheila Ruby addressed the Commission.

Ms. Rich said to the Commission:

> I spoke with Nate Holden yesterday morning and I told him that God should bless him for coming here. I wish I had known he was here last month and stating his comments. I would like to rebut the response of a lady who attended, someone I know very well, Ms. Sheila Ruby, where she confronted him and asked him where he was the last two years and why he hadn't helped on this agreement.
>
> I'm here to tell you that from the time Mr. Snyder went into bankruptcy in 1992 Nate Holden was my ally. Every meeting I had with the Supervisors, he was there with me. You can verify that with Don Knabe and, prior to that, Deane Dana. When we went through the settlement agreement, Nate Holden went to the court with me, with us. Dr. Vrebalovich was there. Nate Holden stood before the judge and begged him, told him, 'I'm here at your disposal. Anything you can do to help the homeowners. Don't approve this one-sided settlement agreement.'
>
> I'd like that to be part of today's records; that Nate Holden didn't disappear the last two years. None of the homeowners was made privy to any of the negotiations being done between the former Board president and the County and Manatt/Phelps. I want that to be known clearly. That's number one.
>
> Number two: regarding the item that the County has been, or will be, given an easement on the promenade walkway. I don't know how many years ago it was..., I had a meeting with Bob Fisher, our dear friend, and Ms. Julie Cook, to discuss the promenade. Ms. Cook mentioned that she wanted to takeover the promenade walkway. I said, 'well, how much are you planning on taking because it's my impression that that's a fire lane and it has to have access for fire trucks?' She would not disclose how much would be taken but she suggested that I go, and I did the next morning, to see the building that Jona Goldrich had just completed next to the Chart House. I said to her that evening, and I was a homeowner and a resident, 'depending upon what you, the County, is planning to do on the backside of the MCC,' (we were paying at that time over $500,000 a year for the guards. Now, they're probably paying over $1 million for the guard gate), 'if you open up the back we don't need the guards at the front because we'll have no security.'
>
> I have not gotten an answer and the only thing I learned since that meeting until the night before last when I read Toni's wonderful minutes is that you're taking a total of 12½'. Correct?

Mr. Wisniewski responded that he doesn't know the exact dimensions, but the intent is to make it wider than it is currently. There are areas where the promenade is less than 4'. The intent is to not change dramatically what is there right now but to significantly improve it. The Department hopes to make the change in concert with the lessee because right now the promenade is unattractive, uninviting and restrictive.

Ms. Rich quoted the June minutes' statement that there would be an easement to widen the promenade to a uniform 12½' and make it more usable. She said the owners have a right to know how many feet would be taken and whether there would still be room for a fire engine. Mr. Moliere informed Ms. Rich that the minutes' statement concerning the promenade is correct. He explained that the promenade would in fact be widened to a uniform 12½'. It will still be secured and fenced off and comply with all fire codes so that the fire lanes would remain compliant with code.

Ms. Rich commented that only a few Marina City Club homeowners are at today's meeting and, even though she is no longer a Marina City Club homeowner, she remains involved and it breaks her heart, having lived in the Marina City Club for over 30 years, to see what has evolved.

Additionally, Ms. Rich expressed the following concern that she wanted on the record:

> The County allowed the developer to take over that beautiful gem of the Marina and, when Ted Reed was here, I even came and said that very word. We met with Dennis Heitmann...and Joe Chesler to complain years ago about the lack of maintenance on the property.
>
> Dr. Vrebalovich mentioned a word, 'cannibalized.' I personally came down and met with Dennis and I think Joe Chesler or maybe Roger regarding that inspection report that was done many years ago. The homeowners paid for a complete inspection report. I had never seen that word related to machinery before, where the inspector came and verbalized that if something happened in the west tower, the owner, Mr. Snyder, went to the east tower, and cannibalized the chiller and took it and put it into the west tower but never replaced or repaired. That is what happened over the years when you've had a developer in charge. Unfortunately, the County was aware of all of that because I tried very hard to make them aware. Instead of making them responsible, you allowed him to be paid off with a $28 million check and you put a new developer in.
>
> I would like to make a suggestion after listening to the people from Kingswood, and the Marina City Club went through the same problems when Snyder took over. Before you give over another gem in here, please look into the history of the developer you're giving it over to.

Ms. Rich informed Mr. Wisniewski that she would send to him the three-page letter she received from the Essex Company's attorney so that Mr. Wisniewski can see exactly what he has allowed again to happen in the Marina.

Dr. Vrebalovich referred to Mr. Moliere's summary of the Marina City Club agreement in the June Commission minutes and Mr. Moliere's comment that the Marina City Club homeowners would be responsible for the Marina City Club walkway's maintenance. Dr. Vrebalovich informed the Commission that the homeowners weren't previously responsible for the walkway's maintenance and he asked how the homeowners inherited this responsibility. Dr. Vrebalovich commented that this means that the walkway, which is not in front of the three towers, but in front of both the promenade apartments and boats, would now be the homeowners' responsibility.

Mr. Moliere informed Mr. Vrebalovich that the lease has not changed at all in that respect. The lessee has always been responsible and, in terms of dollars, therefore, the homeowners have always been responsible for maintenance of the promenade. It has been that way since day one.

Dr. Vrebalovich said that people throwing their garbage on the promenade shouldn't be the homeowners' responsibility to maintain. He said that at the least the boat owners and promenade ought to be responsible since the homeowners rarely use the area at all. In fact, there are gates there to keep people from the pathway and having access to the property.

Dr. Vrebalovich asked whether the fence would be replaced. Mr. Wisniewski nodded his head to indicate "yes."

Dr. Vrebalovich said that when the seawall was completed the fence was destroyed, as were the electrical systems that were installed to monitor the gates so that guards could see when people came through them. The County didn't replace the wiring and all the locking systems were locked up. He expressed his hope that when the fence is restored, the wiring is also restored so that the electronic security system can be used. Mr. Wisniewski said that the Department would look into the matter.

Further, Dr. Vrebalovich said:

> The new agreement between the County and the homeowners, which is about to be finalized in terms of getting all of the 80% or more of the people for it. I have even signed up for it even though I think it is a terrible agreement.
>
> I have to mention one thing. Prior to the present Board, Herb Strickstein told me, 'I don't want any more discussions about changing the ground rent agreement. Any discussion about changing the ground rent agreement falls on deaf ears on this Board.' Well, finally the wax has been cleared out of the ears of the Board and they have changed the agreement. It's better, but not as good as it should be.
>
> As Mr. Moliere had pointed out, the purpose of the change in the agreement was to make it more compatible with the initial goal of the County, which was to make sure that the County got the rents that they would get, their percentage, from the Marina City Club if it remained a rental. Well, the County is getting many times more than that now. If the average apartment were rented according to the shadow rent the County gets from its present formula the average apartment would be paying $4,300 a month in rent. Well, the average is not near that.
>
> Last and finally, I think the County has made a dreadful mistake, as has the Marina City Club. When there are 35-40 years to go on the lease, which ends in 2067, and you and I won't be around to check that out, you won't be able to give away the property, let alone sell it. When there are 35-40 years to go, no one will loan any money on the property. This has happened in Palm Springs with 65-year leases that have been renewed when there are 35-40 years to go already.
>
> The County would have been much better off to sell us the property, get off the hook, and the cost benefit analysis shows that the County would really benefit from this and would increase the value of the apartments. There's no question about it. We would be paying for that. The promenade apartments should convert to condominiums. It's terrible to have a mixed-use facility there. The tax revenues would increase markedly and the County, I think, in the long run would be far better off.

Ms. Schaller came to the podium and said:

> Along with looking at the utilities and everything that you discussed that you would be looking into on the amendment to the comparable rates in the Marina, you also need to be consistent with the square footage. I know for a fact that on the sheet that you just did that five of the properties that you list do not include balconies and patios in their square footage, because I have the floor plans from those places that I went around collecting, and Archstone does. It will make the information skewed if it's not included.

Ms. Doris Dichek, Marina City Club resident, referred to Mr. Daniel Grcyzman's (Manatt/Phillips) statement in the June SCHC minutes that a hotline telephone number is available for Marina City Club residents. Ms. Dichek informed the Commission that Mr. Gryczman's statement is a lie and the minutes need to be corrected. Ms. Dichek said that when she called the executive office to request a number so that she could ask questions of Manatt/Phillips she was told that there isn't a number and she can't speak to anyone.

Chairman Searcy thanked Ms. Dichek for bringing this information to the Commission's attention. He explained that the minutes were transcribed from the tape of the June meeting and reflect Mr. Gryczman's testimony. Chairman Searcy informed Ms. Dicheck that her rebuttal would appear in the July minutes.

## 8. ADJOURNMENT

Before the meeting's adjournment, Mr. Wisniewski took a moment to dispel the rumors his staff has heard around the Marina about his impending retirement. The rumors are not true and Mr. Wisniewski explained to the Commission that he is not planning to retire but has been taking time off from work because of a family medical emergency. Mr. Wisniewski is now back in the fold and said that he looks forward to participating at Commission meetings for many years to come.

*Commissioner Crail moved and Commissioner Lesser seconded a motion to adjourn. The motion passed unanimously and the meeting adjourned at 11:00 a.m.*

Respectfully submitted,

Toni Minor
Commission Secretary

Small Craft Harbor Commission
Meeting of May 12, 2004
Minutes

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

| | |
|---|---|
| Department of Beaches & Harbors: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau<br>Joe Chesler, Chief, Planning Division |
| Other County Departments: | Tom Faughnan, County Counsel<br>Captain Sam Dacus, Sheriff Department<br>Deputy Paul Carvalho, Sheriff Department |
| Also Present: | Beverly Moore, Executive Director, MdR Convention & Visitors Bureau |

## 1. CALL TO ORDER & ACTION ON ABSENCES

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:43 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

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

## 2. APPROVAL OF MINUTES

Chairman Searcy said that action on the April 21, 2004 minutes would be deferred to the June 9 Commission meeting since there isn't a quorum of Commissioners present who attended the April meeting.

## 3. REGULAR REPORTS

### a. Marina Sheriff Department Report

### -- Crime Statistics

Captain Dacus reported that the summer generally brings an increase in crime and there is approximately a 17% increase in overall crime with the largest being in the area of vehicle burglaries. There is also an increase in residential burglaries. In most of the cases that he reviewed the burglars were people that the residents knew.

Captain Dacus also reported that the West End Commander's meeting has resumed. These meetings provide an opportunity for captains from the Marina Station, Culver City, Santa Monica, Beverly Hills, the airport and a couple of L.A.P.D. stations to share resources. He said that this group has successfully shared information, some of which has led to the arrest of people involved in crimes from various areas. The California Highway Patrol (CHP) is also involved with this group and law enforcement officers are now using Code 100 to alert the CHP when crimes occur in their areas.

Further, Captain Dacus reported that the Sheriff Department will experience budget cuts but would try to compensate by utilizing techniques to show officer visibility since this more than anything else has a tendency to reduce crime.

Captain Dacus reported that the Sheriff Department received approval for a Department of Boating and Waterways' grant to outfit a 42' boat, the "Yellow Tail," (that the Sheriff Department obtained from the Department of Fish and Game) for use in homeland defense. The airport police also received approval for a boat to use in homeland defense. He said that both the Sheriff Department and airport police are awaiting final authorization from the Secretary of Homeland Defense, Tom Ridge. The airport police boat is a regional resource and they are discussing the possibility of having the boat stationed in the Marina area, which will probably require the Board of Supervisors' approval. The boat would be a shared resource between the Sheriff Department and other agencies in the area.

In response to Vice-Chairperson Stevens' question from the April meeting regarding the impact of budget cutbacks on the Sheriff Department, Captain Dacus informed the Commission that there is no definitive answer to this question; however, he knows that there will be an impact in many areas and the Sheriff Department will continue to provide to the best of its ability the level of law enforcement that's sufficient for the area.

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

Deputy Carvalho reported that no new Notices to Comply were issued last month, however, staff conducted a follow-up on ten outstanding Notices to Comply. He said that the Department hasn't heard from all of the owners, but it appears some of them who received notices will be able to make the necessary repairs to bring the vessels into compliance with the ordinance and a few of the owners have asked for and were granted an extension.

Deputy Carvalho further reported that there are 17 vessels at the docks. Seven are still awaiting disposal and 10 are awaiting lien sale procedures. To date this year, 28 vessels have been disposed of, which is a substantial amount compared to last year.

**b. Marina del Rey and Beach Special Events**

Mr. Wisniewski requested that the Commission receive and file the report. Chairman Searcy asked whether the Commissioners had questions concerning the report. Hearing none, Chairman Searcy said that the Marina del Rey and Beach Special Events Report would be received and filed.

**4. OLD BUSINESS**

**a. Marina del Rey Slip Replacement**

Mr. Wisniewski said that, in response to Chairman Searcy's request at the April meeting, staff prepared and submitted to the Commission a report on the Marina del Rey slip replacement.

Chairman Searcy noted that the report shows a reduction of the total number of slips from 5,246 to 4,791. He asked Mr. Wisniewski to explain the reduction. Mr. Wisniewski explained that the reduction is attributable to the redevelopment of the anchorages on Parcels 111 and 112 as well as Parcels 12 and 15. The Department supported both lessees' proposals to build larger slips, which eliminated some of the smaller slips.

Mr. Wisniewski said that staff informed the California Coastal Commission that the Department would not pursue additional reductions in slip numbers until the Department could fully study and resolve the impact on small boat slips.

Chairman Searcy asked whether this means that the numbers are frozen at this point. Mr. Wisniewski responded that they are frozen with the exception of the number of slips that will be lost as a result of engineering requirements. He said that there is only so much water area and, in some cases, space is taken by double slips and Americans with Disabilities (ADA) requirements.

Chairman Searcy opened the floor to public comment.

Mr. Robert Olsberg, Santa Monica Windjammers Yacht Club member and small boat owner, asked the Department to explain the need for the replacement of small slips. He said that most of the sailors in the Marina are day sailors who, in general, don't take extensive trips to places, such as Avalon or Santa Barbara. Most of the Marina's sailors are here for pleasure craft enjoyment and local fishing. Mr. Olsberg said that he doesn't see the need for larger slips at this time, especially since 80% of the Marina's boat owners are day sailors.

Mr. Wisniewski responded that there is an unmet need for slips generally in the 35' and over category and there is still a vacancy factor for smaller slips. However, until the Department is able to fully evaluate the impact of converting additional smaller slips to larger slips, the Department would not support such a change. He said that the vacancy factor is a good cushion to ensure the accommodation of small boaters. The Department does not want to negatively impact the small boater and would not support any additional development proposals. He added that the reason the Department supported the two previous proposals (for Parcels 12/15 and 111/112) was because there is a fairly strong demand for larger slips in Marina del Rey.

Mr. John Davis said:

> The Director is providing false and misleading information to this Commission. That could be easily proven. He is stating that his Department has determined that there is a large vacancy for small slips and an unmet demand for 35' - 40' slips. This contradicts a survey done by the California State Department of Boating and Waterways, which says that Marina del Rey is an exception to that rule and the demand is for smaller slips not larger slips. It seems the County Department of Beaches and Harbors is stepping over its jurisdiction and making these determinations when they've already been made by the Department of Boating and Waterways. I don't know if the Director has even taken a look at this important document that's been available for at least two years, but I have it here. It's in PDF form downloaded from the Department of Boating and Waterways' website. I would like you to take this and print it and I would like the Commissioners to read this and read the exception, which is Marina del Rey, and you will see the Executive Director is providing you with false and misleading information that contradicts the Department of Boating and Waterways' study.
>
> The document says it breaks down the size of the slips as they relate to the projected construction. That attempts to preordain the projected construction that would contradict the needs that were determined by the Department of Boating and Waterways. I don't understand how this happened. Again, we see a line that says 'no additional reduction in slip numbers would be supported by the Department' until we make the determination, but that predordains the fact that it would happen. It should be, if, instead of until. Again, the Department of Boating and Waterways' study needs to be examined in order to do what the Director just said, which is to fully study the issue of small boat slips. You must study the Department of Boating and Waterways' evaluation of the demand and needs for slips in Marina del Rey that I present to you today.
>
> Even though compliance with the Americans with Disabilities Act (ADA) is now a federal rule and not just a recommendation, it applies to small boat slips, which are in higher demand in Marina del Rey as well as larger slips. To say that there will be a reduction in boat slips or the size of boat slips due to the ADA rule is frivolous and unsupported by fact or reason. There are no types of measuring indications that could validate such a claim. Also, on the issue of these proposed docks, under the state constitution, you can't gate them. People are allowed to fish from them. So, to close, I would recommend highly that this Commission print the Department of Boating and Waterways' study, evaluate it independently and compare it with the Director's comment to see if he is providing false and misleading comments to this Commission. I will submit it to the Secretary to retain for the record.

Ms. Andrus' testimony to the Commission included reading from the Parcel 12/15 (Deauville Marina and Bar Harbor) lease as follows:

> The ultimate object of this lease is the complete and continuous use of the premises herein demised by and for the benefit of the public. The immediate object being the development and realization of the greatest possible revenue therefrom. It is agreed that said immediate and ultimate objects are consistent and compatible according to the lease covenants and agrees that he will operate the said premises fully and continuously to the end so that the public may enjoy maximum benefit and the County may obtain maximum revenue therefrom. In the event of any dispute or controversy relating hereto this lease shall be construed with due regard to the aforesaid objects.

Ms. Andrus then provided the following comments:

> Although Two-Partnership has been paying $32,000 or so a month to the County for Parcel 12 or 112, I'm not sure what number that is, while it sits empty, this does not mitigate the benefit due to the public or the revenue to the County. With the rent increases on the degraded docks at Bar Harbor and your insistence that it is all in line with market value, this brings into question the revenue due the County from Parcel 11, Deauville Marina. This parcel needs to be reassessed unless we're being asked to further subsidize Doug Ring and the double standards he enjoys. Outside of that, businesses are suffering from this long time consequence of deferred maintenance and infrastructure. It goes without saying that when you eliminate a huge part of the population, along with that goes the revenue the local businesses would have been paying to the County. There are consequences suffered due to the mismanagement that has outlasted its useful life. Something must be done. Can someone explain why Dolphin, a brand new marina, is charging less for its slips than Bar Harbor?
>
> I'd also like to submit the editor's report by David Johnson, from April 22 and May 6, for the Commissioners to read...I think he sums up pretty nicely the effects of what's going on in the Marina. I really want Stan to know that this is not a personal attack on him. I think he really knows that, but the management...maybe he came into this problem, but something has to change.

Chairman Searcy requested Ms. Andrus to give the material to the Commission Secretary so that Ms. Minor can make copies to distribute to Commission members. Ms. Andrus informed him that she already submitted the information to Ms. Minor.

## 5. NEW BUSINESS

### a. Consent to Assignment of Leasehold Interest – Parcel 64 (Villa Venetia Apartments) - Marina del Rey

Mr. Moliere informed the Commission that this agenda item requests the Commission's recommendation for Board approval of the assignment of Villa Venetia Apartments from the current ownership to a group consisting principally of individuals from the Wolff Company and Lyon Capital, both of whom are experienced and prominent developers and operators of multi-family homes in Southern California. He said that the Department's responsibility begins with assessing whether the financial condition of the proposed assignee, the price to be paid for the leasehold as it relates to the development, and the management of the leasehold of the new lessee, is in the best interest of the Marina. Mr. Moliere said the Department believes that Wolff/Lyon meets these requirements; therefore, the Department is requesting the Commission to recommend Board approval of the assignment.

Vice-Chairperson Stevens asked whether staff knows why Tuxedo's management of the leasehold was for a short period of only five years. Mr. Wisniewski responded that the Department isn't aware of the reason for Tuxedo's sale of the property.

Vice-Chairperson Stevens said that Tuxedo refurbished the property but raised the rents, causing many of its tenants to leave. She asked whether the new lessee would raise the rents. Mr. Wisniewski responded that in the event the prospective lessee raises the rents it would fall under Section 16 of the lease and the Department would review the proposed rents to ensure that they are within market levels.

Mr. Wisniewski informed the Commission that representatives from Wolff/Lyon are attending today's meeting to answer any of the Commission's questions.

Mr. Steve Jones, a representative of the Wolff/Lyon group, came to the podium. He informed the Commission that Tuxedo refurbished some of Villa Venetia's apartments; however, the apartments have fallen into disrepair and there will be a nominal increase in some of the rents, which will be counterbalanced by improvements to the premises.

Chairman Searcy asked Mr. Jones to explain what he means by "nominal increase." Mr. Jones responded that the nominal increase is calculated in the range of 10-15 cents per square foot. Mr. Jones also commented that the lease is quite specific about rents not exceeding fair market value.

Chairman Searcy asked whether Mr. Jones wished to disclose the reason that Tuxedo is selling the property. Mr. Jones responded that he doesn't know since Tuxedo did not disclose its reason.

Mr. Wisniewski said that Wolff/Lyon, the prospective assignee, has indicated its interest in a lease extension and the Department made it clear to the assignee that the assignment does not give the assignee a first right of refusal or any ingrained right to a lease extension down the road. The amount of redevelopment is something that is yet to be negotiated. Mr. Wisniewski said that he wanted to make sure the Commission knew that this is not a factor before the Commission today.

Chairman Searcy asked the remaining term on the existing lease. Mr. Moliere responded that he believes it to be 21 years.

Chairman Searcy opened the floor to public comment.

Mr. John Davis said:

> Again, the County is really making a lot of mistakes. This constitutes gifting under Article 16 of the constitution. I see that a lawsuit has actually been filed regarding this matter on another parcel. The judicial outcome will directly affect all proposals for 'lease extensions,' which is in reality, new leases.
>
> The County hasn't disclosed that there is an active earthquake fault under this parcel that is under the Southern California Gas storage field and it's adjacent to several leaky oil and gas wells. It's also in a seismic hazard zone. Under Article 16 of the constitution, this assignment constitutes deferred maintenance gifting by deferred maintenance never completed. Furthermore, the sale price of the assignment may not reflect the possibility that the potential lease extension 'real new lease' may not be granted due to the illegality and that the existing buildings must be recycled under the general plan and the land use plan that calls for recycling, not for demolishment and rebuilding.
>
> Should the Commission recommend the sale of this lease it may constitute further illegal gift giving under Article 16 of the constitution. More over, the legality of the length of the original lease under the state constitution and Public Resource Code

regarding lease of public property may be violated and in question if you make this recommendation and you'll be doing so knowingly. The lease, by law, must end in 40 years. The original term of the lease may not be legal. The terms of these leases may end in 40 years from the day of their origin. State lease law requires that at the end of the 40 years, the premises must be returned to the County in ...clean shape, then public hearings must take place. Public hearings must be held to determine the future use of the land that is taken back by the County in ...clean shape to determine what other uses might be more suitable, such as a park.

Given the inappropriateness of residents on such a dangerous parcel and given the fact that there is an ESHA, an environmentally sensitive habitat area, for blue herons on the property, future demolishment and proposed changes may not even be able to take place because it could disrupt ESHA. I'm sure the Coastal Commission will support us on this since they have already and have already told the Department of Beaches and Harbors the fact that it's being treated as an ESHA although it may not already have been declared so.

After the County retains the land, gives the land back after the public lease period, state lease law requires an open hearing to be held to determine what the price for the lease should be. If it's to be leased, then it should be open to public bid, otherwise, it constitutes gifting under Article 16 of the constitution. I recommend that you consult County Counsel to see if any of this would constitute gifting because then it would be his responsibility and not yours directly

Mr. Donald Klein asked staff for the expiration date of Parcel 64's current lease. Mr. Moliere responded that he believes the remaining term is less than 20 years rather than the 21 years he stated earlier. Mr. Moliere said that he could give the exact time to Mr. Klein after today's meeting.

Mr. Klein asked whether a lease option is involved in the assignment. Mr. Wisniewski responded that it is not.

Mr. Klein informed the Commission that the lease should mention that the location is an ESHA (Environmentally Sensitive Habitat Area) and the lessee must comply with any related requirements.

*Commissioner Crail moved and Vice-Chairperson Stevens seconded a motion that the Commission endorse the Department's recommendation to the Board of Supervisors regarding the Consent to Assignment of Leasehold Interest – Parcel 64 (Villa Venetia Apartments) - Marina del Rey. The motion passed unanimously.*

## 6. STAFF REPORTS

### a. Ongoing Activities Report

### -- Board Actions on Items Relating to Marina del Rey

Mr. Wisniewski informed the Commission that the report summarizes the recent Board of Supervisors action authorizing the EDAW contract. He said that EDAW is one of four of the Department's planning and design consultant firms.

Mr. Wisniewski said that the Ongoing Activities Report also includes a draft of the April 15 Design Control Board minutes as well as an update on the underground pipeline located in front of the Harbor House restaurant.

The Ongoing Activities Report also provides follow up information that was requested at the April meeting regarding Chace Park's transient docks. Mr. Wisniewski commented that the Department

doesn't currently keep statistics on the number of people who wish to use Chace Park's transient facilities but plans to begin collecting this data.

Vice-Chairperson Stevens asked whether the part of the pipeline that leaked was disconnected or whether the entire pipeline was disconnected. Mr. Wisniewski responded that he believes the pipeline was disconnected at its various points of connection so that there could not be any transmission through the pipeline. The pipeline was also depressurized so that there would not be a build up of gases. Chairman Searcy added the report also indicates that the gas company is in the process of evaluating various methods of abandoning the pipeline.

Chairman Searcy opened the floor to public comment.

Ms. Andrus referred to the April 15, 2004 Design Control Board (DCB) minutes, Item 3A—Urban Design Guidelines-Public Workshops #2, in which Board member Susan Cloke asked Joe Chesler, Chief of the Planning Division, whether staff received public feedback regarding the proposed design guidelines. Ms. Andrus asked for clarification as to whether Ms. Cloke was referring to the public feedback obtained at the February Small Craft Harbor Commission meeting.

Mr. Wisniewski suggested that Ms. Andrus attend the next DCB meeting so that she could receive clarification from the DCB members directly. He added that, if Ms. Andrus is unable to attend the next DCB meeting, she could submit her questions to the Board members in writing for inclusion in the next DCB mailing.

Ms. Andrus asked whether staff provided the DCB with the public's comments from the February Small Craft Harbor Commission meeting. Mr. Wisniewski responded that the DCB members were given the public's comments.

Ms. Andrus commented that the February workshops were a disappointment to everyone. She asked when the Small Craft Harbor Commission would address the issue of scheduling more workshops with EDAW included. She requested that the Commission include this matter on the June agenda. Mr. Wisniewski informed Ms. Andrus that EDAW representatives attended the February Small Craft Harbor Commission meeting and were available to meet with members of the public at that time.

As for Ms. Andrus' comments that the workshops were a disappointment to everyone and the Kingswood issue dominated the February meeting, Chairman Searcy explained that the Commission did not try to control the Kingswood tenants or prevent them from expressing their concerns. He said that, although a number of Kingswood tenants spoke, there were also speakers on other issues. The Commission very much wanted the workshops to be an opportunity for the public to receive information on several issues and meet with consultants and lessees. Chairman Searcy added that he would like the Commission and Department to receive some recognition from the public for having made a very serious effort to provide a forum for the public to express their concerns and contribute input.

Chairman Searcy informed Ms. Andrus that the Commission would look at the issue of conducting another workshop and ways to make it as effective as possible.

For clarification purposes, Mr. Wisniewski informed the public that the design guidelines are within the DCB's jurisdiction and the DCB, rather than the Small Craft Harbor Commission, is the appropriate body to address the subject. He said that people who are interested can receive information on the draft urban design guidelines at the May 20, 2004 DCB meeting, which is scheduled for 2:00 p.m. in the Chace Park Community Room. EDAW representatives will attend the meeting and the public will have a chance to meet them.

Mr. John Davis said:

> The County spent untold tens of thousands of dollars on EDAW but the public wasn't brought in from the beginning to ask what the public thought about it. It was all done behind closed doors and only after most of the decisions had been made without public comment was the public able to have input. Now we're told that we could help twist the guidelines that are in draft form. I think that we should have been involved a lot earlier on and now we're proposing about a quarter of a million dollars to do the same thing all over again and it's a complete waste of the public's money unless they have the full ability to participate and it's not necessary to hold an EDAW workshop at either a Design Control Board meeting or Small Craft Harbor Commission meeting.
>
> Regarding the underground pipeline, I'm submitting 19 questions to the secretary that I'd like her to retain. I'd like the Department of Beaches and Harbors to answer each and every question before this Board at the next meeting.

Mr. Davis read aloud the following questions from his list:

1. How did the director determine that all of the oil and gas wells have been unhooked from the gas and oil pipeline?

2. When did the County of Los Angeles learn of the existence of the gas pipeline that has been used to transmit gas and oil?

3. Did the County provide surface easements across several leases in Marina del Rey by amendment to those leases?

4. Does the County and/or lessees receive revenues from this line? If so, how much and how are the amounts determined?

5. When did the County learn of the oil line referred to in today's report from the County?

6. Does the County and/or lessees receive revenues from this oil line?

7. Why does the County present a map from Navigation Technologies instead of using County and/or California Department of Conservation Division of Oil and Gas (DOGER) maps that more accurately show the wells that are hooked up to them?

8. Does the County of Los Angeles require NavTech to sign a non-disclosure agreement that prevents oil and gas lines hooked up to the transmission line from being disclosed to the public and, if so, why?

9. What oil and gas lines have been hooked up and are hooked up to either of these lines and where is the location of the production wells and records and how recently have these production wells been in operation?

10. Does the County of Los Angeles own or lease these wells? If so, what revenue has been generated from them for the County and/or lessees?

11. Why didn't the County enclose the existence of these wells in the environmental impact report for the Marina-Two project?

12. Why does the County claim that the gas line will be abandoned when it's already abandoned according to DOGER and what should be done is decommissioning?

Mr. Wisniewski requested that Mr. Davis submit his questions in writing so that the Department could respond to them. Mr. Wisniewski also referred to Mr. Davis' comment about twisting the urban design guidelines and Mr. Wisniewski said that it's more accurate to state that the Department is wrestling with the guidelines since they are in draft form and need to be developed.

**b. Marina del Rey Convention and Visitors Bureau**

Ms. Beverly Moore announced that on May 1, 2004 the Visitor Bureau's tourism website, VisitMarina.com, began offering online hotel reservations in real time, which makes it very convenient for visitors who are planning their summer vacations.

Ms. Moore also announced that the Bureau published a new version of the Marina del Rey Visitors Guide. This year's version includes a number of improvements, including all of the Marina del Rey restaurant locations. She informed the Commission that copies would be placed on the public information table and copies are available at the Visitors Information Center.

Further, Ms. Moore provided a follow up on her April report to the Commission regarding her plans to attend two international trade shows. She said that she attended these shows and held one-on-one meetings with foreign tour companies from over 17 countries. The foreign representatives were thrilled to have one central resource of visitor information in the Marina and these contacts will give the Bureau an opportunity to bid on future hotel business with these firms.

Mr. Wisniewski complimented Ms. Moore on the Visitors Guide and commented that it is the most professional brochure that he's seen produced on Marina del Rey.

Chairman Searcy opened the floor to public comment.

Mr. Davis commented that supporting hotels with County funds is a case of gifting under Article 16 of the constitution. He said that the County is gifting hotel owners, who should pay for advertising themselves. He also said that the County is promoting businesses rather than the Marina as a small craft harbor.

**7. COMMUNICATION FROM THE PUBLIC**

Chairman Searcy opened the floor to public comment.

Mr. Davis submitted a list of questions to the Commission and requested that answers be provided at the June meeting. Mr. Davis said that he would request the Sheriff Department to answer the questions that are within its jurisdiction.

He read aloud the following questions from his list:

1. Why isn't the Sheriff Department enforcing certain County of Los Angeles and City of Los Angeles harbor codes?

2. Is there an uncodified statute of the state of California of 1959 that indicates the County of Los Angeles will own and operate Marina del Rey?

3. Is there an uncodified statute of the state of California whereby the County of Los Angeles was loaned $10 million from state tideland funds to acquire lands needed to construct Marina del Rey?

4. Why have several boat slips been constructed in the federal easement at the east end of the main channel without coastal development permits? Does the County receive any revenue from these slips?

5. Why isn't the testimony and materials from these hearings being transmitted to the Board of Supervisors in relation to coastal development permit recommendations from this Commission?

6. When does the RFP selection committee meet? When are notices of these meetings posted? Are these meetings open to the public as required by the Brown Act?

7. Why does the County knowingly allow lessees to charge boaters to tie their vessels next to the seawall illegally? Why doesn't the County receive revenues for such tie- ups?

8. Why is the County, in contradiction to the state constitution, the Marina del Rey bond measure, the state harbor law and U.S. House of Representatives' Document 389, charging market rates instead of fair and reasonable as required on public trust and/or public lands as dictated by Public Trust Doctrine and Public Land Doctrine?

9. Why did the Chairman of this Commission refer to a report submitted by Counsel Rick Weiss regarding ownership of Marina del Rey as a legal brief when in fact it was simply a report?

Mr. Johnny Lucero and Ms. Patricia Raye submitted a document to the Commission and said that Chace Park staff gave the document to them. The document identifies a list of dates and fees. Mr. Lucero asked the Commission to clarify the document. Chairman Searcy requested staff to copy the document and return the original to Mr. Lucero. Chairman Searcy then informed Mr. Lucero that staff would review the document.

Ms. Raye referred to the document that Mr. Lucero submitted and said:

> I want to explain this document...completely. I was given this document after trying very hard to stay here last month, the month before last, get my seven days, and I was told that, and I have documentation to prove the fact from Yahoo with regard to NOAA, I can prove that most of these days are red flag days. This was given to me after I was told that I had some days that I owed to the Park, which was true, and I owed three days because I had had some medical problems two months in a row and I hadn't paid and I kept going back to...Bernard. I sat in the office while Serge made out this document and copied it from another that was given to him by Jose. This particular document happens to be all red flag days and also...what they based it on was that we had not registered our boat properly. Well, there's a 1/18 and our boat is still registered until the end of January. Now, I can prove it. I have documentation. I have Yahoo reports that they are red flag days, which I offered to pay for. He trumped up a bill so that I could not stay here again this month, of $250.00 back bills. There are other people that he did this to but they did not receive the same bill. Johnny's name is not on it, there is just a CF number. I went to Jose and asked him to put it on a Beaches and Harbors documented paper and sign it and he said to me, 'I don't have to sign anything.' I took it [the document] that day and Clark happened to be standing on the dock. Serge walked up to him, I saw this, and I said. 'I can prove this Clark.' I showed it to him. He is a very good officer, one of the best. He said, 'you don't only have a good case Tish you have a great case. Take it to the judge.' This is proof of harassment; it's proof of boycotting, blacklisting, discrimination and breach of civil rights.

> This is a civil rights case that I'm taking to court. I'm on my seventh court date. I received my civil rights back from the sheriff, Patricia Riley, to be exact, a very good officer as well. I'm telling you that these men are simply doing their job because they're called out all the time by Jose. I have him on film telling them 'you never had so much trouble since you've been here.' I have their officers...because they're doing their jobs but they have to defer to his judgment. These men went through the academy and they're on the long haul. I believe that Officer Carvalho is on his 38th year but he has to stand in deferment to someone who hasn't even any education, no qualifications...By the way, I have medical bills now that I'm putting with the judge because I've had two nervous breakdowns due to this and the heat that he has caused them to do. It's not their fault. He is victimizing the Sheriff Department as well.

Chairman Searcy requested staff to follow up and report at the June meeting regarding the document that was given to Mr. Lucero and Ms. Raye. Chairman Searcy also asked Tom Faughnan to keep the Commission posted if he becomes aware of any pending litigation concerning this matter.

Vice-Chairperson Stevens requested staff to report back to the Commission about the relationship between the Sheriff Department and Chace Park's management staff.

Ms. Andrus indicated that she had a couple of questions that she would like the Department to answer. Chairman Searcy requested Ms. Andrus to submit her questions in writing so that staff could answer them. Ms. Andrus responded that she would provide the questions in writing, but she also wanted to verbally state the questions. Ms. Andrus said that she would like to have answers regarding: 1) How would Doug Ring's Deauville property be reassessed. 2) Why does the County allow Bar Harbor to charge more rent for slips while Dolphin, which is new, can charge less.

Ms. Andrus commented that, if Doug Ring's property is in line with market value, the property should be reassessed. She stressed that Mr. Ring should be treated like any other lessee.

Mr. Kosta Rigopoulos, a transient boat tenant, angrily informed the Commission that his boat was impounded three times over the last three months and he has been continually harassed at Chace Park. Mr. Rigopoulos said that when he addressed the Commission in April his boat had been impounded from Chace Park's 4-hour dock and it took him two weeks to retrieve it at a cost of $330. He said that he has spent approximately $1,000 in boat-related fees and his boat has received damage because there's nowhere to dock it.

Mr. Rigopoulos asked the Commission to tell him who is responsible for writing the ordinance that prevents Chace Park from renting slips to people who have a marina eviction. Mr. Faughnan responded that the adopted written policy of the Department is that the transient docks are to be used on a temporary basis. The docks should not be used on a permanent basis, as a number of people have been attempting to use them.

Mr. Rigopoulos said that he read a rule that's in a book located in the Chace Park office that if "you're ejected from a Marina del Rey slip...you're not allowed to use Burton Chace Park." Mr. Rigopoulos said that people are only allowed to use Chace Park for seven days a week and these seven days make a huge difference. He also informed the Commission that his boat is currently on the 4-hour dock.

Chairman Searcy asked Mr. Moliere whether the rule that Mr. Rigopoulos referred to exists. Mr. Moliere responded that there are a variety of rules and the Department would be happy to report back on them at the June meeting.

Chairman Searcy informed Mr. Rigopoulos that staff would report on the rules at the June meeting.

Mr. Rigopoulos commented that the Sheriff Department is in a bind because it relies on what Beaches and Harbors' staff tells it. He said that approximately half of the Sheriff Department's staff members

understand the boaters' needs and know the appropriate way to conduct themselves. The other half need to understand that not every boater is trying to cheat the system. Some boaters are stuck and have limited financial resources and the current situation in the Marina is critical.

Mr. Rigopoulos said that he obtained a list of Marina anchorages from staff at Beaches and Harbors, but will possibly obtain a slip at King Harbor.

Chairman Searcy requested staff to report at the June meeting regarding Chace Park's transient dock policy. He said that staff needs to clarify what the transient docks are for and whether there is a policy that states boaters with a prior marina eviction are unable to use the transient docks at all. Chairman Searcy added that, if there is such a policy, staff should check whether it is enforceable.

## 8. ADJOURNMENT

Chairman Searcy adjourned the meeting at 11:06 a.m.

Respectfully submitted,

Toni Minor
Commission Secretary

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
# MARINA DEL REY STATION
# PART I CRIMES- OCTOBER 2004

| | 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** | | | | | | 1 | | 1 | 1 | 3 |
| **Robbery: Strong-Arm** | | | | | | 1 | | | 3 | 4 |
| **Aggravated Assault** | 2 | | | | | | 1 | | | 3 |
| **Burglary: Residence** | 4 | | | | 1 | | 1 | 1 | 2 | 9 |
| **Burglary: Other Structure** | | | | | | 1 | 1 | | | 2 |
| **Grand Theft** | 3 | 2 | | 3 | 1 | 1 | 1 | | 3 | 14 |
| **Grand Theft Auto** | | | | | 1 | | | 1 | 1 | 3 |
| **Arson** | | | | | | | | | | 0 |
| **Boat Theft** | | | | | | | | | | 0 |
| **Vehicle Burglary** | 3 | 1 | | | | | 2 | | 4 | 10 |
| **Boat Burglary** | | | | 4 | | | | | | 4 |
| **Petty Theft** | 1 | | | | | 1 | 1 | | 1 | 4 |
| **REPORTING DISTRICTS TOTALS** | **14** | **3** | **0** | **7** | **3** | **5** | **7** | **3** | **15** | **57** |

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

**Source-** LARCIS, **Date Prepared – November 1, 2004**
CRIME INFORMATION REPORT - OPTION B

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

## MARINA DEL REY STATION

## PART I CRIMES- OCTOBER 2004

| Part I Crimes | MARINA AREA (RD'S 2760-2763) | EAST END (RD'S 2764-2768) |
|---|---|---|
| | | |
| Homicide | 0 | 0 |
| Rape | 1 | 0 |
| Robbery: Weapon | 0 | 3 |
| Robbery: Strong-Arm | 0 | 4 |
| Aggravated Assault | 2 | 1 |
| Burglary: Residence | 4 | 5 |
| Burglary: Other Structure | 0 | 2 |
| Grand Theft | 8 | 6 |
| Grand Theft Auto | 1 | 2 |
| Arson | 0 | 0 |
| Boat Theft | 0 | 0 |
| Vehicle Burglary | 4 | 6 |
| Boat Burglary | 4 | 0 |
| Petty Theft | 1 | 3 |
| | | |
| Total | 25 | 32 |

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

**Source-** LARCIS, **Date Prepared – November 1, 2004**
CRIME INFORMATION REPORT - OPTION B

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

## MARINA DEL REY STATION

## PART I CRIMES- SEPTEMBER 2004

| Part I Crimes | MARINA AREA (RD'S 2760-2763) | EAST END (RD'S 2764-2768) |
|---|---|---|
| | | |
| Homicide | 0 | 0 |
| Rape | 0 | 0 |
| Robbery: Weapon | 0 | 2 |
| Robbery: Strong-Arm | 0 | 1 |
| Aggravated Assault | 0 | 3 |
| Burglary: Residence | 1 | 12 |
| Burglary: Other Structure | 3 | 2 |
| Grand Theft | 12 | 8 |
| Grand Theft Auto | 2 | 8 |
| Arson | 0 | 0 |
| Boat Theft | 0 | 0 |
| Vehicle Burglary | 6 | 7 |
| Boat Burglary | 3 | 0 |
| Petty Theft | 6 | 7 |
| | | |
| Total | 33 | 50 |

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

**Source-** LARCIS, **Date Prepared October 4, 2004**
CRIME INFORMATION REPORT - OPTION B

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
# MARINA DEL REY STATION
# PART I CRIMES- SEPTEMBER 2004

| | 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** | | | | | | | | | | 0 |
| **Robbery: Weapon** | | | | | | | | | 2 | 2 |
| **Robbery: Strong-Arm** | | | | | | | | 1 | | 1 |
| **Aggravated Assault** | | | | | | | 1 | 1 | 1 | 3 |
| **Burglary: Residence** | 1 | | | | 1 | | 1 | 3 | 7 | 13 |
| **Burglary: Other Structure** | 2 | | | 1 | | | | 2 | | 5 |
| **Grand Theft** | 5 | 2 | | 5 | | | 3 | 3 | 2 | 20 |
| **Grand Theft Auto** | 2 | | | | 1 | | 1 | 1 | 5 | 10 |
| **Arson** | | | | | | | | | | 0 |
| **Boat Theft** | | | | | | | | | | 0 |
| **Vehicle Burglary** | 3 | 2 | 1 | | 1 | | 1 | 2 | 3 | 13 |
| **Boat Burglary** | | 2 | | 1 | | | | | | 3 |
| **Petty Theft** | 5 | 1 | | | | 3 | 1 | 2 | 1 | 13 |
| **REPORTING DISTRICTS TOTALS** | **18** | **7** | **1** | **7** | **3** | **3** | **8** | **15** | **21** | **83** |

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

**Source-** LARCIS, **Date Prepared – October 4, 2004**
CRIME INFORMATION REPORT - OPTION B

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

| | September | October |
|---|---|---|
| **Liveaboard Permits Issued** | 2 | 3 |
| **Warnings Issued (Yellow Tags)** | 0 | 0 |
| **Notices to Comply Issued** | 0 | 0 |

**Total Reported Liveaboards By Lessees - 565**
**Total Liveaboard Permits Issued - 458**
**Percentage of Compliance - 81**

No new Warnings were issued in the month of October.

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

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 October.

**Number Of Unseaworthy Vessels Demolished**

To date, one hundred and seventy three (173) vessels have been removed from the marina for disposal. Currently, nine (9) vessels are ready for disposal and fifteen (15) are awaiting lien sale procedures.

Los Angeles County
Beaches & Harbors
Caring for Your Coast

*To enrich lives through effective and caring service*

**Stan Wisniewski**
Director

**Kerry Gottlieb**
Chief Deputy

November 4, 2004

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

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

# ***MARINA DEL REY***

## MARINA DEL REY OUTDOOR ADVENTURES
## FINAL SESSIONS

Sponsored by the Los Angeles County Department of Beaches and Harbors
Burton Chace Park

**Bird Watching Experience Program**
Thursday, November 18 at 4:00 p.m.

Join us on our County-sponsored bird watching walk, a free two-hour walk for adults that will take place at selected sites in Burton Chace Park and the Ballona Wetlands. Parking and transportation to tour sites will be available.

For program information and registration call: Burton Chace Park at (310) 305-9595.

## 42ND ANNUAL HOLIDAY BOAT PARADE

"Preview Parade" - Friday, December 10, from 7:00 p.m. – 9:00 p.m.
and
"Main Parade" - Saturday, December 11, from 6:00 p.m. – 8:00 p.m.

For the first time, the annual Holiday Boat Parade will be expanded to a second day and held on Friday and Saturday evenings, December 10th and 11th. The Friday evening boat parade will be from 7:00 p.m. to 9:00 p.m. and the Saturday evening parade between 6:00 p.m. and 8:00 p.m. The "Preview Parade" is an informal parade on Friday without judges, entry fees or fireworks, where boaters can light up their boats and test their displays in the main channel for the "Main Parade" held the next evening.

Fireworks that note the beginning of the parade will be shot off the south jetty at 5:55 p.m. on Saturday, December 11. It is estimated that more than 70 beautifully lighted and decorated boats will participate in the event that is free to the public. The theme of this year's parade is "Sights and Sounds of the Holidays." Boat owners will compete for numerous prize packages on Saturday evening.

Parking is available at Los Angeles County public parking lots throughout Marina del Rey.

For additional information: call (310) 670-7130 or visit www.mdrboatparade.org.

## TALL SHIPS AT FISHERMAN'S VILLAGE

December 9, 2004 to December 26, 2004

The LADY WASHINGTON will dock at Fisherman's Village from December 9 through December 26. The ship will take part in the 42nd Annual Marina del Rey Holiday Boat Parade on December 10 and 11. Battle re-enactment sails and dockside tours are available to the public.

The HAWAIIAN CHIEFTAIN will join the LADY WASHINGTON on December 26 when the ships will offer Cannon Battle Reenactment Sails from 10:00 a.m. to 2:00 p.m.

For tour reservations and schedules: call (800) 200-5239 or visit their website at www.hawaiianchieftain.com.

## FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES

Sponsored by Pacific Ocean Management, LLC
All concerts from 1:00 p.m. – 4:00 p.m.

**Saturday, November 13**
Eric Vincent & the Diamond Cutters, Neil Diamond Tribute

**Sunday, November 14**
L.A. Bluescasters, playing Blues

**Saturday, November 20**
Phyllis Chang, playing Jazz

**Sunday, November 21**
The Lads, playing Irish Rock

**Saturday, November 27**
Higher Ground, playing Big Band, R&B and Latin

**Sunday, November 28**
Sullivan Hall Band, playing R&B, Blues, Pop & Rock

For recorded information call: (310) 823-5411.

## ***BEACH EVENTS***

There are no beach events this month.

SW:DC:mc

Los Angeles County
Beaches & Harbors
Caring for Your Coast

*To enrich lives through effective and caring service*

November 4, 2004

**Stan Wisniewski**
Director

**Kerry Gottlieb**
Chief Deputy

To: Small Craft Harbor Commission

From: Stan Wisniewski, Director Stan Wisniewski

Subject: **APPOINTMENT OF A MEMBER AND ALTERNATE TO THE MARINA DEL REY CONVENTION AND VISITOR'S BUREAU (MdR CVB) BOARD OF DIRECTORS FOR 2005**

Item 5a on your agenda addresses your Commission's appointment of a member and alternate to the Marina del Rey Convention and Visitors Bureau (MdR CVB) Board of Directors.

For the past four years, your Commission has appointed both a member and an alternate to the MdR CVB Board of Directors. During 2004, Commissioner Carole Stevens has served as the member and Commissioner Russ Lesser as the alternate; both of their current one-year terms expire at the end of this year.

By virtue of the MdR CVB by-laws, your Commission has the authority to appoint a member and an alternate to the MdR CVB Board of Directors for a one-year term. Any Commission appointee can continue to serve for an unlimited number of consecutive terms. The MdR CVB itself has recently written the Commission Chair, asking that your Commission make its appointments to the MdR CVB Board for 2005 (see attached letter). Therefore, your Commission should take this up as an order of business at your November meeting and appoint both a member and an alternate to sit on the MdR CVB Board of Directors during the calendar year 2005.

SW:wp
Attachment

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

COPY

October 20, 2004

Mr. Harley A. Searcy
Chairman, Small Craft Harbor Commission
c/o Metropolitan Water District of Southern California
Deputy General Counsel
700 North Alameda Street
Los Angeles, CA 90012

Subj: SCHC Appointment to Marina del Rey Convention & Visitors Bureau Board of Directors

Dear Harley:

As you may be aware, the Small Craft Harbor Commission makes one appointment (and an appointment for an alternate) to the Board of Directors of the Marina del Rey Convention & Visitors Bureau . We would like to inform you that the current term of appointments shall expire December 31, 2004.

The current appointee, Carole Stevens (alternate Russ Lesser), is an active member of the board and has indicated a willingness to continue to serve.

MdR CVB board appointments are for one-year terms, commencing January 1st of each year. There is no limit to the number of terms an appointee can serve.

At this point, we kindly request timely consideration of SCHC's appointment to our board and an alternate for the year 2005. We have asked that the Department of Beaches & Harbors add this to an upcoming Small Craft meeting agenda.

I'd like to take this opportunity to thank you and the Commission for your continuing support of our efforts.

Sincerely,

Beverly S. Moore
Executive Director

Los Angeles County
Beaches & Harbors
Caring for Your Coast

*To enrich lives through effective and caring service*

November 4, 2004

**Stan Wisniewski**
Director

**Kerry Gottlieb**
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan Wisniewski

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

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

At its September 7, 2004 meeting, the Board of Supervisors authorized the Chief Administrative Officer and the Director to proceed with exclusive negotiations with Caruso Affiliated Holdings LLC for the long-term ground lease and development of Parcel 83S (the addition of Parcel 83S to the Parcel 50T ground lease) that would enable the conversion of retail space to restaurant use on the adjacent Parcel 50T project, the Waterside Shopping Center. Also at its September 7, 2004 meeting, the Board of Supervisors approved and authorized the Chairman to sign an amendment to the Parcel 75 (Marina Professional Building) lease, which allows for the installation of wireless telecommunications and fiber optic cable apparatus and provides for adjustment of percentage rents.

At its September 21, 2004 meeting, the Board of Supervisors approved and authorized the release of the Request for Proposals (RFP) for Development of Fuel Dock Facilities on Parcel 1S.

At its September 28, 2004 meeting, the Board of Supervisors approved Supervisor Knabe's motion that authorized a Parcel 125R, Marina City Club, lease amendment, which will allow condominium sublessees to participate in the County-negotiated program that allowed them to modify their subleases to provide for a temporary freeze in shadow rent increases and fixed future rent increases, as well as mechanisms for utilization of accumulated rents to address funding of facility improvements and for repayment of all deferred and advanced funds, so long as they executed their sublease amendments prior to September 30, 2004.

## DESIGN CONTROL BOARD MINUTES

The draft minutes for the Design Control Board meeting of September 23, 2004 are attached.

## CONCERNS ABOUT PROPER HANDLING OF ASBESTOS MATERIALS

During the September 8, 2004 meeting, your Commission requested that staff investigate a resident's claim that plastic sheets, meant to contain asbestos materials, were loose on the windows of Unit 806 of the Archstone apartments (Parcel 102) and also that similar asbestos laden plastic and/or other materials were discarded in the outdoor waste bins at the complex. Commissioner Stevens also stated that there were concerns that during the demolition work at Deauville Marina (Parcel 12 - Ring project), the wind blew asbestos material into the garages of the adjacent Villa del Mar Apartments. The Commissioner further suggests that staff should inform Marina lessees of the rules and regulations for safely removing asbestos so that their tenants are protected.

Staff has investigated your Commission's concerns in both instances and has found the following:

Archstone's management has also assured staff that Archstone does not do any asbestos removal work in-house, but hires and relies on qualified outside asbestos removal firms to do this work. Further, investigation of AQMD's records shows that since the beginning of Archstone's construction, seven (7) complaints were filed by the public relating to this project. On each occasion, AQMD's inspector promptly visited the site, investigated each and every claim, and found no evidence that the asbestos was being improperly handled. The only issue raised was during the first visit when the contractor did not have its asbestos survey report. The contractor has since cured this infraction.

Archstone's management also has reassured staff that claims concerning asbestos-laden plastic sheets that were placed in common household trash receptacles and, sometimes, left on site for up to two weeks were without basis. The contractor always removes asbestos materials from the site in compliance with all appropriate laws and approved procedures. This includes prompt disposal of all asbestos materials to approved sites under contained procedures and never leaving asbestos materials in a common household trash receptacle or otherwise unsealed on-site.

Pertaining to the specific concern that asbestos-laden plastic sheets were falling off Unit 806, according to the lessee, no construction or asbestos work was being conducted on the specific day of complaint. The sheets were somewhat dirty, but that was not inconsistent with the appearance of materials at a construction

site. However, the plastic sheets did not contain any asbestos material and were not meant at that time to effect containment of asbestos materials.

In response to the expressed concerns relating to asbestos that was alleged to have been wind-blown from the Deauville Marina project to the adjacent Villa del Mar apartment garages, the lessee (The Ring Group) has issued the attached letter strongly protesting the claim and detailing for the record its asbestos handling procedures and its full compliance and approval by the appropriate agencies. As has been the case with all Marina lessees, it used a "Licensed Asbestos Abatement Contractor" to ensure that none of the debris ever left their job site in an inappropriate manner. The letter further states that in response to a complaint from an unidentified Marina resident, an AQMD inspector arrived at the job site the same day that the complaint was filed, inspected both the lessee's job site and records, and indicated that the lessee was "doing everything exactly correctly."

It has been our experience, gained during the negotiation process relating to the current Marina redevelopment, that lessees are acutely aware of the need to approach asbestos removal and/or renovations with extreme care. Both as a consequence of the size of the projects and the procedures required for obtaining building permits from the Department of Building and Safety, as well as the known expense and complex containment procedures necessitated in asbestos-related work, it has been invariably the case that specialized and specifically licensed asbestos sub-contractors have been employed to conduct such work.

As recounted in the attached letter, many Marina facilities were constructed during an era when the dangers of asbestos were not apparent. However, staff believes that Marina lessees are fully aware of the presence or absence of asbestos on their premises and are doing, and will continue to do, whatever is necessary to comply with proper procedures for its removal or containment. Also, given the amount of governmental oversight required for the permitting and operation of asbestos work, staff is confident that such work in Marina del Rey has been and is being performed in accordance with all appropriate codes and procedures without the need for further prompting from the Department. The severe legal and financial implications resulting from improper handling of asbestos material also operates to ensure that lessees strictly comply with rules and regulations for proper disposal of asbestos in order to appropriately manage risk and comply with their own insurance and bonding requirements. We will, however, continue to monitor to ensure that this is the case.

## WEST NILE VIRUS CONCERNS

Issues raised by the Commission have been discussed several times with representatives of the Los Angeles County West Vector Control District (District), including conducting a recent site visit with District staff to more fully understand

the existing conditions. These discussions and site visit sustained previous opinions that the Oxford Flood Control Basin does not constitute a major concern for harboring mosquito breeding because of its physical characteristics.

District and Department staff also inspected the two existing constructed freshwater ponds located on land within the fenced area and determined that these also do not constitute suitable breeding habitat for mosquitoes because they have running water constantly. Nonetheless, the District was instructed to introduce mosquito fish (*Gambusia spp.*) to the freshwater ponds and to the Oxford Basin to further reduce the likelihood that mosquito larvae can reach maturity in this area. It appears that the initial population of mosquito fish did not survive the transplantation, but efforts to successfully introduce them are continuing.

Finally, Department and District staff are continuing to work together to eliminate vector-related problems associated with standing water all along our County coastline. A representative of the District has been invited to attend your meeting to describe efforts underway to control disease-borne vectors throughout the County and to answer the Commission's questions.

SW:tm
Attachment

ATTACHMENT


# THE RING GROUP

100 Wilshire Boulevard
Suite 1625
Santa Monica, California 90401
Telephone: (310) 587-1987
Facsimile: (310) 587-1988


Department of Beaches and Harbors

SEP 21 '04

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

cc: Scttc

September 20, 2004

Commissioner Carole Stevens
**L.A. COUNTY DEPARTMENT OF BEACHES & HARBORS**
**Small Craft Harbor Commission**
13837 Fiji Way
Marina del Rey, CA 90292

**RE: The Argonaut**

Dear Commissioner Stevens:

The September 16, 2004 issue of The Argonaut carried an article, which if it accurately quoted you, is very disturbing. The article stated that you had accused me and my contractors of tearing down asbestos containing buildings in violation of Federal, State, and local laws.

If the reference to your comments is accurate, then I can only presume that it was made without researching the facts first.

It is true that the Deauville Apartments, which have now been demolished, were built 40 years ago when the dangerous properties of asbestos were not known. By the time we acquired the units in the 1980's, the nature and danger of asbestos was coming into public awareness.

As we prepared to demolish Deauville, recognizing the asbestos in the building, we prepared a complete asbestos removal procedure in compliance with AQMD Rule 1403.

Our procedures fully approved by the appropriate agencies and we used a Licensed Asbestos Abatement Contractor to ensure that none of the debris left our site in an inappropriate manner.

While the demolition was taking place, some unidentified Marina resident called AQMD to make a complaint remarkably similar to the accusation that was attributed to you in The Argonaut. Appropriately an AQMD Inspection Officer arrived at our site the same day that the complaint was filed. She inspected both the site and our records, and indicated that we were doing everything exactly correctly. We have not heard further from AQMD on that matter since that inspection. Copies of the procedures that we followed are on file.

Yours truly,

Doug Ring

DR:tad

**cc:** Small Craft Harbor Commission
Stan Wisniewski
The Argonaut

**MINUTES**
**OF**
**MARINA DEL REY**
**DESIGN CONTROL BOARD**
# *SPECIAL MEETING*

**September 23, 2004**

**Department of Beaches and Harbors**
**Burton Chace County Park**
**Community Building – 13650 Mindanao Way**
**Marina del Rey, CA 90292**

| | |
|---|---|
| Members Present: | Susan Cloke, First District, Chair<br>David Abelar, Second District<br>Jackie Ignon, Fourth District, Vice-Chair<br>Katherine Spitz, Third District |
| Member Absent: | Tony Wong, Fifth District (Arrived after meeting was adjourned) |
| Department Staff Present: | Stan Wisniewski, Director<br>Roger Moliere, Deputy Director<br>Joseph Chesler, Chief, Planning Division<br>Julie Carpenter, Planner<br>LaTrina Hancock-Perry, Secretary |
| County Staff Present: | Kevin Johnson, Regional Planning<br>Tom Faughnan, County Counsel |
| Guests Present: | Jack Irish, Irish Design Studio<br>Karen Anderson Bittenbender, Marina Pointe II<br>Allen Chebow, Lightvision, Inc<br>Michael Pashaie, Admiralty Apartments<br>Jack Hollander, Jack Hollander and Associates<br>Brenda Gammie, Villa Venetia<br>Pat Younis, The Bridge Group<br>Hance Etter |

1. **Call to Order & Absences**

Ms. Cloke called the meeting to order at 8:22 a.m. Ms. Cloke advised that Commissioner Tony Wong would arrive late to the meeting (possibly 9:30am). Ms. Ignon led the Pledge of Allegiance.

2. **Approval of Minutes of August 19, 2004 which Includes Confirmation of the Following Actions:**

**Ms. Ignon (Abelar) moved to approve the Minutes of August 19, 2004 as submitted. Motion passed unanimously.**

Ms. Cloke then moved onto design review approvals. Mr. Wisniewski advised the Board that Staff has taken a new approach to approving the minutes and DCB Reviews as one item. Ms. Cloke advised Staff that the decision to combine the reviews and the minutes was not discussed with the Board. She explained the usual procedure of the Board is to approve the minutes and then to look individually at each of the Board Reviews.

Mr. Abelar expressed that surprising the Board with a new procedure was not a good idea. Mr. Faughnan, County Counsel, was asked by the Board if there should be a motion for reconsideration of the Minutes. Mr. Faughnan agreed that it would be appropriate to reconsider the earlier approval of the minutes, which included the confirmation of the actions, and take the matters up separately because of the way they are listed on the agenda.

**Ms. Ignon (Abelar) moved to reconsider the approval of the August 19, 2004 Minutes with the above noted objections. Motion passed by 3 out of 4 DCB Commissioners. Ms. Spitz abstained as she was not at the August 19, 2004 meeting.**

DCB #03-016-D – Archstone-Smith
Approval of the record of the DCB's August 2004 action for a conditioned conceptual approval. **Ms. Ignon (Abelar) approved DCB #03-016D as submitted. Motion passed unanimously.**

DCB #04-014 – Neptune Marina
Approval of the record of the DCB's August 2004 action for a conditioned conceptual approval. **Item held until the end of the meeting.**

DCB #04-016 – Marina Beach Mixed-Use: The Waterfront
Approval of the record of the DCB's August 2004 action for a conditioned conceptual approval. **Item held until later in the meeting.**

3. **Old Business**

A. Parcel 102 – Archstone Communities – DCB #03-016E
Consideration of revised secondary signage and provision of a lighting schedule.

**Item held because the applicant was not at the meeting at the time the item was called for discussion.**

B. Parcel 9 – Woodfin Suite Hotel and Vacation Ownership – DCB #04-015
Consideration of the development of a 20-story building, including 178 suite Woodfin Suite Hotel on the first 11 floors and 108 luxury timeshare units on floors 12 through 20, a parking structure and a 1.854 acre public park.

**Item was at the request of Commissioner Wong who advised he would be late to the meeting.**

C. Parcel 44 – The Cove at Pier 44 – DCB #04-013-B
Consideration of revised landscaping improvements.

Ms. Bittenbender advised that the County changed their minds on needing the ADA area as previously indicated. When the final occupancy permit was issued the County decided that the applicants proposal was adequate and the sidewalk needed to be added. Jack Irish, landscape architect, explained in detail the proposed landscape changes.

Public Comments
None

**Mr. Abelar (Spitz) moved to approve the application as submitted. Motion passed unanimously.**

D. Parcel 140 – Admiralty Apartments – DCB #02-025-B
Consideration of post-entitlement design details.

Ms. Cloke asked the applicants to limit their presentation to the lighting and other specifics of the project because the Board has seen the project previously.

Allen Chebow, explained in detail the lighting and illumination for the project. Mr. Abelar asked how many light fixtures are being used for this project. Mr. Chebow advised there will be 20 post-lights, some of which will be uplights. Ms. Spitz was concerned about the uplights for the palm trees, which tend to flood the night sky. Ms. Cloke asked if all of the palms could be lit with the halo light facing downward. Mr. Chebow explained that using downward lighting does not light the tree itself, but lights the ground area. Mr. Abelar asked for the spacing between the palm trees. Mr. Chebow explained that the spacing for the palm trees varies and only 10-20% of the trees will be lit. In conclusion, Jack Hollander, architect, gave a synopsis regarding the landscape architecture.

Ms. Spitz noted that the ground floor 5-gallon plants, *Laurus Nobilis* and *Xylosma senticosa* are too small and suggested they both be 15-gallon size plants. Ms. Spitz also suggested that the County should set a precedent, which states that if uplighting is considered environmentally insensitive it should not be considered for a project. She also suggested that the applicant use several downlighting fixtures in the canopy trees or another alternative for lighting the palm trees; regardless, uplighting should not be used.

Public Comments
None

Board Comments
Ms. Cloke asked if the Board could have a review process for the lighting for this and other projects, in which the Board would review the lighting once it is installed to make sure the illumination is not excessive. Mr. Chebow explained that the wattage for the lighting fixtures sometimes is not interchangeable. Depending on the type of fixtures, other options may be available. Mr. Faughnan advised Staff and the Board that as long as the Board does not revoke a prior approval that the applicant has relied upon, the Board Review would be acceptable.

**Ms. Spitz (Ignon) moved to approve the submittal with the following conditions:**

- **The 5-gallon *Laurus Nobilis* and X*ylosma senticosa* must be changed to 15-gallons;**
- **Uplighting be deleted from the project;**
- **The Board will review the final brightness of the project lighting but also give the applicant the choice of lighting that can be changed if needed.**

**Motion passed unanimously.**

## 4. New Business

A. Parcel 64 – Villa Venetia – DCB #04-017
Consideration of two signs and four signage flags.

Brenda Gammie advised the Board that she would like a 6-month temporary permit for the existing signage to allow time to prepare a new signage proposal and to come back to the Board.

Public Comments
Ms. Pat Younis, The Bridge Group, was very supportive of this project.

Board Comments
Ms. Spitz asked how long Lyon Management Group, Inc. has been in control of the property and how far the management group is along in their plans. Ms. Gammie advised that Lyon has been in control since June 1, 2004 and is currently scheduled to meet with the County within a couple of weeks regarding the property. Ms. Spitz also asked if there are any other elements aside from signage that are being considered for changes, and if the signage would be related to what the architecture and landscape architect would provide. Ms. Gammie advised that there would be other changes, but nothing has really been decided upon, and that the changes would be reflected on what has been received from both architects.

**Ms. Ignon (Cloke) moved to approve a 6 month temporary signage permit with the exception of the pennant flags, which are to be removed. The applicant must also write a letter to Staff in 4 months updating the Board on the progress of the signage for the project. Motion passed unanimously.**

The applicant was advised by the Board that decorative pennant flags that reflect the Marina environment could be used, but that a proposal for them would have to be submitted separately.

3. A. Parcel 102 – Archstone Communities – DCB #03-016E
Consideration of revised secondary signage and provisions of a lighting schedule.

Mr. Chesler spoke with the applicant and advised the Board there was a scheduling conflict. The applicant asked that the item be continued.

**Ms. Spitz (Ignon) moved to continue this item until the October 21, 2004 meeting. Motion passed unanimously.**

B. Parcel 9 – Woodfin Suite Hotel and Vacation Ownership – DCB #04-015
Consideration of the development of a 20-story building, including 178 suite Woodfin Suite Hotel on the first 11 floors and 108 luxury timeshare units on floors 12 through 20, a parking structure, and a 1.854 acre public park.

Ms. Cloke advised Staff that she received a map by email, not from Staff, indicating that portions of Parcel 9U are a wetland. Ms. Cloke questioned Staff as to why the information was not submitted with the application for the proposed development. Mr. Wisniewski advised the Board that Staff submitted, at today's meeting a supplement of the staff report, dated September 23, 2004, regarding Parcel 9U, which discusses the wetland issues. Mr. Wisniewski advised it was not included in the original report because Staff determined that it was not within the Boards purview.

The report confirms that there is a 0.85-acre wetland located on the Parcel 9U, which is the reason for the supplemental staff report. The report also acknowledges the work that has been completed with the State Department of Fish and Game and the U.S. Army Corps of Engineers (USACE) as well as with the Department's consultants.

Mr. Chesler gave an overview of the supplemental staff report, which indicates the history of the matter over the last four years. The only agency taking jurisdiction is the USACE, as a federal isolated wetland. The map that Ms. Cloke referred to is attached to the supplement and indicates the 0.85-acre wetland. Mr. Chesler further advised the Board that the wetland is considered a low value habitat wetland and the Corp is only taking jurisdiction because of the proximity to open Marina waters where a foraging seabird may land or nest by convenience. Mr. Chesler noted that the Department does believe that through the regulatory process (that has not yet begun, but has been reviewed by the agencies), the wetland is permitable. In other words, if the development as approved by the LCP could proceed under proper mitigation and evaluation, which is covered under Section 404b and Section 401 of the Clean Water Act permit provisions. The Department fully intends to properly complete the regulatory process. Mr. Wisniewski added that in addition to the supplemental report, attached are some frequently asked questions along with Staff

responses related to the development proposed for Parcel 9U. The hotel is actually going to be on the 0.85-acre wetland area, and for this reason it would have been appropriate to have been included in the original staff report.

Mr. Wisniewski noted that there are a couple of other issues that the Department has addressed that are new to the staff report. The Department noted in the original staff report that trading out Parcel FF park area for the park area that was proposed for Parcel 9U left the Department short approximately 0.194 acres. What the Department has worked out with the applicant is that the 0.194 acres would be made up by 0.194 acres of water so that there would be 10 to 12 transient slips operated by the Department available to the general public. Ms. Spitz asked for clarification on the acreage that is missing. Mr. Wisniewski clarified that Parcel FF, which is designated as a park in the LCP, is 2.048 acres of land with no water area. The applicant is proposing that this area be replaced by 1.854 acres of landside park which would leave 0.194 acres of land.

The Department and the applicant have agreed to give the Department 0.194 acres to add to the park on the water portion of Parcel 9U so that the Department can control the 10 to 12 transient boat slips. There will be a total of approximately 36 boat slips in front of the hotel. The applicant is not adding the boat slips on water that is in front of the hotel; thy are taking over the area of the 36 slips from an adjacent lessee. Pursuant to an old condition in the lease, Parcel 9U was always designated to be a hotel and at one time there was a condition on the lease of Parcel 8 that in the event that the lessee of Parcel 9 wanted a certain amount of water area, they had the option to acquire it tom Parcel 8. Therefore, the lessee of Parcel 9 intends to pick up that option and build 36 boat slips. The Department has said that to mitigate the loss in landside park, the lessee must make up the difference in square footage on the water, and give the Department the transient boat slips. The lessee will have to maintain the boat slips. The Department will operate them as it does with the Burton Chace Park transient slips.

Mr. Wisniewski concluded by advising the Board that if there are any questions on the wetland issue the Department or Staff would be happy to go over the answers given for a better understanding.

Mr. Abelar asked why the wetland information was not given to the Board when the applicant first submitted their proposal. Mr. Wisniewski answered that the Board is now being made aware of the situation before the vote. Mr. Wisniewski added that the information should have been in the original staff report, but it wasn't, which is the reason for the supplemental report. Mr. Abelar asked Mr. Wisniewski what was meant by the comment he made earlier regarding Staff not submitting the wetland information prior to today. Mr. Wisniewski advised that the Department and the community are aware of the wetland issue because it's been before the Small Craft Harbor Commission (SCHC). He further stated that the oversight was in thinking that, because the SCHC was aware of the issue, there had been general discussion and awareness before the DCB meeting. Even though the DCB may not have the jurisdiction to consider the wetland, it is certainly an issues that is very important for the DCB to be aware of when they are making their decision on the project. Mr.

Abelar and Ms. Cloke asked which Staff member decided not to include the wetland information in the original staff reports. Mr. Wisniewski advised that he signs all the staff reports but the oversight applies to everyone involved.

Public Comment

Haus Etter, local boater in Marina del Rey, expressed concern about the wetland area and believes that the parcel is 2/3 wetlands. He advised that a lot of birds and endangered flowers are also located in that area. Mr. Etter believes that the entire area should be kept as a park and not a hotel. He also advised that sailing and the wind would be blocked by the project. He was concerned that money was the only issue being considered for the project, which means that there is no concern for the boaters or the boat slips that would be lost. Mr. Etter thinks the Marina should stay a marina and not be used for hotels.

Board Comments

Ms. Cloke advised that she was very concerned when she received the information on the wetland from another agency and not from the Beaches and Harbors Staff, and was also concerned about the process that Staff uses for reporting on these projects. She believes that the wetland issue is a serious matter and advised the Staff that the facts of the issue are substantial enough for her to move for a reconsideration of the approval that was given at the last meeting for Parcel FF and 10. She believes that this information is greatly relevant to that approval. Ms. Cloke added the plan to move the open space and Parcel FF into this area has to be completely recalculated, unless the Department is going to retain this area as a wetland. The wetland makes the proposed project sites completely inappropriate for either project as they are currently configured. There may be another way to approach the wetland issues, where protecting the wetland become the theme of this area and the development that takes place is organized differently and is sensitive to the wetland.

Ms. Cloke advised that the Board would consider another approach because the wetland covers 2/3 of the area. Mr. Chesler clarified that the jurisdictional wetland area is actually only 24% of the total parcel size. Ms. Cloke indicated that her visual observation of the site showed that the wetland covers a greater portion of the area.

Ms. Cloke advised Staff that all of the wetland information needs to be carefully examined if there is going to be development and a different proposal must be submitted. She further advised that she would be making a 2-part motion regarding the proposed projects in the wetland area.

**Motion #1** **Ms. Cloke (Spitz) moved for reconsideration of Parcels FF and 10 based on new information which shows Parcel 9U as a wetland site. Motion passed unanimously.**

**Motion #2** **Ms. Cloke (Spitz) moved for a continuance of both the Woodfin Hotel (Parcel 9U) and the reconsideration of the Neptune Marina (Parcels 10 /FF) until the wetland issue has been resolved to a satisfactory level. Ms. Cloke advised that Staff would determine if a new application including mitigation would have to be submitted. Motion passed unanimously**

Mr. Wisniewski asked for clarification on the motion, asking if it means that the applicant cannot develop on the southerly half of Parcel 9U, and if this is the direction of the Board. Ms. Cloke advised that the Board does not have enough information to be that specific. Mr. Wisniewski added that the 0.86-acre that has been identified by EDAW sits on the hotel site. If the Board is trying to protect that site, there will not be a hotel. If this is the Board's direction, Staff will explain this to the next approval level involved. Ms. Cloke stated that there is also the question of transfer of Parcel FF, which was given in the last approval. Ms. Cloke advised that the Board needs to see all of the information again, which could result in a new way of taking the property into consideration, i.e., making the wetlands a thematic center and developing it in other ways.

Ms. Cloke advised that the Board is leaving the motion open-ended to give the Department the opportunity to discuss with both applicants what new approaches can be taken and how the wetlands can be handled, because there are many issues to be discussed.

Mr. Aaron Clark asked for clarification if both items were continued for future discussion. Ms. Cloke advised that both items were continued and that coming back to the Board is something that should be left up to both the applicant and the Department. The Board has made it clear that they are distressed about the wetland issue. Ms. Cloke added that bringing the transient boating slips to the site is an excellent idea. However, she advised that water that would be counted as parkland may not be legally appropriate. Ms. Cloke thinks that it is more appropriate to replace land area with land area at 1:1 ratio, which is her understanding of what the LCP intended. Mr. Wisniewski advised that the information would be included in further staff reports and recommendations to the Board. He also apologized for the oversight, which should have been included in the original staff report, but did not blame staff because he may have forgotten to raise the issue of the wetland area.

2. Approval of Minutes of August 19, 2004

**Ms. Ignon (Abelar) moved to approve the Minutes of August 19, 2004 and DCB #04-016 as corrected. Motion passed unanimously.**

County Counsel advised the Board that the changes can be accepted as an addendum to the minutes, but the changes will have to be verified from the actual recording of the last meeting to make sure the changes were mentioned at the last meeting.

5. Staff Reports

All staff reports reported and received for the record

6. Comments from the Public

None

**Presentation to Ms. Jacqueline Ignon, who is resigning from the Board, in honor of her Design Control Board service.**

Mr. Rick Velasquez presented Ms. Ignon with a scroll from the Board of Supervisors Office. Mr. Chesler also advised that Ms. Ignon will be moving on to an expanded role with the Palos Verdes Peninsula Rotary Club and the new incoming President. Refreshments were served in Ms. Ignon's honor.

7. Meeting adjourned in appreciation of Commissioner Ignon at 10:10 a.m.

Respectfully Submitted,

*La Trina Hancock-Perry*
Design Control Board Secretary