"To enrich lives through effective and caring service"

Los Angeles County
Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

September 7, 2006

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan W.

SUBJECT: **COMMISSION AGENDA – SEPTEMBER 13, 2006**

Enclosed is the September 13, 2006 meeting agenda, together with the minutes from your meeting of August 9, 2006. Also enclosed are reports related to Agenda Items 3a, 3b, 5a, 6a and 6b.

Please feel free to call me at (310) 305-9522 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

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SMALL CRAFT HARBOR COMMISSION

AGENDA
SEPTEMBER 13, 2006
9:30 a.m.

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

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

2. Approval of Minutes: Meeting of August 9, 2006

3. **REGULAR REPORTS**

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

   b. Marina del Rey and Beach Special Events

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

4. **OLD BUSINESS**

   a. None

5. **NEW BUSINESS**

   a. Report by Commissioner Landini Regarding Proposed State Legislation Affecting Liveaboards (DISCUSSION)

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

   a. Ongoing Activities
      - Board Actions on Items Relating to Marina del Rey
      - Periodic Local Coastal Program Review – Update
      - Status of Dredging Project
      - Design Control Board Minutes

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b. Public Request for Information at August 9, 2006 Meeting
   - Boater Concerns about Dock Construction at the Parcel 20 Marina

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: marinadelrey.lacounty.gov

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

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

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

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

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

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Small Craft Harbor Commission
August 9, 2006
Minutes

Commissioners Present

Harley Searcy, Chairman
Russ Lesser, Vice-Chairman
Albert Landini, Ed.D
Christopher Chuang-I Lin, Ph.D.

Department of Beaches & Harbors: Stan Wisniewski, Director
Barry Kurtz, Traffic and Transportation Engineering Consultant

Other County Departments: Thomas Faughnan, Principal Deputy County Counsel
Lt. Greg Nelson, Sheriff's Department
Deputy Paul Carvalho, Sheriff's Department

Also Present: Beverly Moore, Executive Director, MdR Convention & Visitors Bureau

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

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:30 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

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

2. APPROVAL OF MINUTES

Vice-Chairman Lesser moved and Commissioner Landini seconded a motion to approve the July 12, 2006 minutes. The motion passed unanimously.

As Chairman Searcy had to leave early, he announced that he would take Agenda Items 4a and 5a out of order to that they could be discussed in his presence.

4. OLD BUSINESS

a. Follow Up to Memorandum Regarding Commission's Authority Relating to Liveaboard Issues; Effect of Policies Adopted by the Commission

Mr. Faughnan informed the Commission that at its June 2006 meeting he provided a report concerning the Commission's authority relating to liveaboard issues in the Marina. At that meeting, further questions were raised that pertained to liveaboard issues as well as the effect of policies adopted by the Commission. Mr. Faughnan's response to these questions is provided in the August 3, 2006 report to the Commission.

In the August report, Mr. Faughnan responds to the Commission's question concerning the name of the case that held that the County's liveboard eviction ordinance was unconstitutional. Mr. Faughnan indicated the case was Villa Del Mar Properties, LTD, et al. v. County of Los Angeles Superior Court Case No. WEC 059213 A, which was a 1981 case.

The report also responds to the Commission's request for information on the legal rights and obligations of liveaboards. Mr. Faughnan stated that generally speaking, liveaboards must

comply with County Code, Section 19.12.1110, which requires liveaboards to obtain a permit from the harbormaster.

As for liveaboard evictions, Mr. Faughnan explained that the courts upheld the use of unlawful detainer actions to evict slip tenants, including liveaboards, and have not extended any special rights and privileges to liveaboards. Generally, the notice of termination requirements for boat slip tenants and apartment tenants are now the same. Prior to January 2006, apartment tenants in certain situations were afforded a 60-day notice of termination. This is no longer the case. The statute sunseted January 1, 2006. It's no longer in effect and the legislature hasn't taken any action to renew it. The general termination provisions in the civil code would be 30-days when there is no contractual agreement specifying some other term. When the contract is over and the tenants are renting on a month-to-month basis, the term would be 30-days. This applies for both apartment and boat slip tenants. The only exception would be under the floating home residency law, which is a State law that provides a 60-day notice of termination for floating homes meeting State requirements. Generally speaking, Mr. Faughnan is not aware of any floating homes in the Marina that meet the State requirements nor any Marina leaseholds that can be considered floating home marinas for the purposes of State law. With respect to discrimination, State discrimination laws apply equally to all businesses; therefore, both apartments and boat slips are equally covered under State discrimination laws.

Mr. Faughnan continued, stating that the Commission had also requested County Counsel opinion on the effects of the height limitation policy adopted by the Commission. This policy was adopted at the October 2002 meeting and provided that the maximum height recommended for any new structure in the Marina should be no greater than 162 feet above grade, with the exceptions of Parcels 9, 10, FF and 145, which may proceed at a maximum height of 225 feet. Mr. Faughnan said that the Small Craft Harbor Commission is an advisory body only and a policy adopted by the Commission can only govern the Commission's recommendations. The policy does not alter the legal entitlements set forth in the Specific Plan or the authority of the Board of Supervisors or Regional Planning Commission to approve projects not consistent with the Small Craft Harbor Commission's policy.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Dorothy Franklin, Bar Harbor resident, informed the Commission that she is a member of POWER (People Organized for Westside Renewal), which is a local community organization that works on important issues in Marina del Rey, West Los Angeles, Culver City and Santa Monica. The organization has over 1,000 members who are committed to working on affordable housing, better schools and liveaboard rights. The organization recently wrote and won the passage of the California Reform Bill, which will reduce the amount of sugar, salt and fat served in cafeteria food in all 806 L.A. Unified School District public schools. In the past year, the organization also won over $30 million for affordable housing to be built in Venice and Marina del Rey. Simply put, POWER is an organization comprised of local community members who get things done to improve the neighborhood. She said that the organization attended today's meeting to represent hundreds of Marina residents and to support defined, clear and fair liveaboard rights that provide needed protection for Marina liveaboards.

Further, Ms. Franklin said that there aren't many rights and protections for liveaboards. Liveaboards have been under siege from dockmasters who employ intimidation tactics to force liveaboards out of the Marina. Dockmasters have raised rents, issued evictions and limited liveaboards to monthly leases. The result has been a sense of anxiety among Marina liveaboards. Liveaboards are outraged that their boats can be seized at any time leaving them with no place to live. This is unacceptable. She said that POWER is glad the Commission has taken the time today to discuss this important issue. She and other liveaboards took time to walk the docks and talk to liveaboards about this situation and what rights are needed to live a quality life in the Marina. The organization compiled the information and created a liveaboard bill of rights (Attachment A), which one of the members distributed to the Small Craft Harbor Commission.

Ms. Franklin said that the bill of rights addresses the liveaboard crisis head on. The organization wants fair leases, protection from unfair and no-cause evictions and reasonable fees. The group also wants the Commission to take a stand and support the bill of rights and adopt it as a resolution, make a recommendation to the Board of Supervisors to support the bill of rights and develop a policy for liveaboard rights and support and recommend to the Board that there be a moratorium on all no-cause evictions until a liveaboard rights policy is drafted.

Ms. Nancy Marino, Marina resident, said that Mr. Faughnan from the County Counsel's office found that not only will there be no support of liveaboards, but things will be made harder for landside tenants. She said that it is reprehensible. The County should and ought to use the best standard and most generous standard available in policy or law as it applies to any tenant.

Chairman Searcy clarified that Mr. Faughan does not make policy and had only informed the Commission of the status of the liveaboard ordinance.

Ms. Marino said that she understood Mr. Faughnan does not make policy; however, a policy could be established. She believes the standard language in the County leases require that individuals be of good character and that individuals who are either a lessee or have a ownership interest in the leasehold entity be of good character and not have a history of discriminatory employment practices or non-compliance with environmental laws, other legal requirements, ordinances or policies of the County. Ms. Marino believes there is an existing policy that provides protection for tenants rather they be on the water or on land. She thinks the lease provision provides the basis upon which the County can use its bully pulpit to advocate a 60-day or some reasonable period of notice for both landside and apartment tenants regardless of what sunset clause may have allowed a lesser consideration for tenants. The entire community is being subjected to tremendous upheaval and she thinks any consideration that can be given to community members should be given.

Mr. Tony Papa, boater and POWER member, informed the Commission that he and other group members dock-walked during the summer. Every boater the group encountered was responsive and interested in the liveaboard issue. The boaters are looking to POWER to make a difference and approximately 200 of them were registered. Mr. Papa said that morning Commission meetings are tough for most people to attend and he requested that the Commission conduct an evening meeting.

Mr. Chris Gabriele expressed his agreement with the other speakers. He said he understands that the Commission can't make policy, but he believes it can make recommendations, adopt resolutions and make statements. He requested that the Commission support the bill of rights, adopt it as a resolution and make a recommendation to the Board of Supervisors to support it and develop a policy for liveaboard rights and support and recommend to the Board a moratorium on all no-cause evictions until a liveaboard policy is drafted.

Ms. Pamela Hamar, Marina liveaboard, expressed her support for the liveaboard bill of rights. She said that liveaboards are under siege and are not protected. Her neighbors are being evicted and that's tough. The Marina was built for small craft and regular people and the County is trying to make it a mega yacht type thing. She said this is all fine, but questioned what happens to people who have lived in the Marina for 30-years. She said that the issue is about democracy, civil rights and freedom not to fear eviction. A lot of senior citizens live here. There are also people on her dock who lost their slips because they had a 22-foot vessel and they now have no place to go. Ms. Hamar mentioned that there are also boats that are homes and are hooked up to power and sewers.

Ms. Hamar requested the Commission to take a stand and fight for what is right and just. She asked for its support of the liveaboard bill of rights and that the Commission recommend Board support as well as a moratorium on all no-cause evictions until a liveaboard policy is passed.

Ms. Carla Andrus informed the Commission that she too is a member of POWER, which has been very effective. For example, the Goldrich and Kest project had no intention of fulfilling its housing obligations. POWER got involved and rectified the situation. The County is now reviewing the housing policy and has a real opportunity to help liveaboards, who are in a crisis. She read item number three of the policy, as follows:

> *Marina del Rey lies completely within the State coastal zone and is subject to the affordable housing requirements embodied in the Act. The Act mandates the creation of affordable housing if feasible whenever either existing affordable housing in the coastal zone is removed or when new additional housing is constructed. According to the Act feasible means capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social and technical factors. This affordable housing requirement is echoed in general terms in the Marina del Rey Land Use Plan.*

Ms. Andrus said that affordable housing could be provided in a reasonable manner and in a reasonable period of time. When affordable housing units are removed, they should be replaced. She questioned how they would be replaced.

Ms. Andrus also responded to Vice-Chairman Lesser's question (from the July meeting) about the number of slips that have been removed. She said that it's approximately 2,000 slips, which means 200 opportunities for affordable housing were lost. Many people have been displaced and many are homeless, which is a scandalous occurrence that shouldn't happen in the Marina.

Mr. Barry Norcross, Marina liveaboard and member of POWER, said that he has a lease that was instituted this year. Prior to the current lease, Mr. Norcross had no lease for three years but did have a lease for many prior years. He expressed his hope that other boaters are able to obtain one. He said that there isn't a big showing at the Small Craft Harbor Commission meeting because people are intimidated and afraid of being labeled troublemakers. The dockmasters take notice of that. Evictions are a real problem. There is no established precedent. He said evictions should be heard before a mediation board consisting of boaters and liveaboards that understand the issue, which is unique. Apartment tenants who are evicted have opportunities to find other apartments but liveaboards have fewer choices when evicted.

Mr. Norcross said that most liveaboards have good jobs, work, vote and are responsible people. The Commission should remember that liveboards are voters. He said that the liveaboard bill of rights echoes the U.S. Constitution and Article 4 of the bill of rights.

Ms. Pat Phillips, liveaboard and POWER member, expressed her concern about the boat owners on dock D-1700 at Holiday Harbor, who were all given eviction notices. The reason seems to be that the old dock is being removed and will be replaced with a new one. Some of the boat owners have gone, some are trying to sell their boats and some have no place to go and are extremely stressed. She is worried about them.

Ms. Phillips said that many months ago the Commission was shown articles published in 2005 in both The Log and The Sea magazines about dock replacement in Long Beach marinas. The tenants would be relocated to guest docks and welcomed to return after the project's completion. Ms. Phillips said that Chairman Searcy asked Mr. Wisniewski at a previous meeting whether similar arrangements could be made in Marina del Rey and Mr. Wisniewski indicated that he would look into the matter. Ms. Phillips asked the status of the research.

Mr. Wisniewski responded that discussions were held with lessees and staff explained to them that the County is willing to cooperate with transitioning slip tenants from dock to dock as docks are being replaced. The Department offered to assist the lessees and make the transient docks available if needed. The lessees were also encouraged to use some of the slip vacancies in other leaseholds.

As for a problem at Holiday Harbor, Mr. Wisniewski said that he is not aware of it, but will look into the matter and report back to the Commission. He also commented that there is a difference between transitioning tenants and evicting them. He hopes that the lessee is phasing the development to transition the tenants from a permanent space to a temporary space then back to a permanent space.

Mr. Donald Klein said that Beaches and Harbors has the duty, right and responsibility to tell the lessees what to do, as the lessees are agents of the County. The County is in control. The County and lessees are not separate entities. Public Law 780, which was in effect when the Marina was developed, required that the Marina be open to all on an equal basis. The fact that each lessee has a different policy flies into the face of the law.

Mr. Klein referenced Mr. Faughnan's August 3, 2006 report, which indicated that the name of the lawsuit challenging the former County Code 19.12.940 (liveaboard eviction ordinance) is Villa Del Mar Properties, LTD, et al. v. County of Los Angeles. The County did not appeal the Superior Court judgment. Mr. Klein said the County should have appealed the judgment based on the fact that the Derfus case pertained to affordable housing. Mr. Derfus was evicted and he challenged it on the basis that the eviction denied his right to affordable housing.

Mr. Klein said that if POWER and Beaches and Harbors can't come together and take action on boaters' rights, there's the possibility of a legal case. There is an issue of equal protection under the law. There is a serious problem here and he suggested that the Commission support the liveaboard bill of rights, adopt it as a resolution and make a recommendation to the Board of Supervisors to support the bill of rights and develop a policy concerning it. The Coalition to Save the Marina concurs fully with the POWER organization.

Vice-Chairman Lesser commented that he doesn't believe there to be full agreement on the accuracy of Mr. Klein's description of the County/lessee relationship.

Mr. Ruben Cardona, 14-year liveaboard in the Marina, informed the Commission that he is a good citizen and is a quiet tenant. He just received a 30-day Notice to Quit, which he doesn't think is fair, particularly as he's been a long-time resident. Mr. Cardona relocated his boat and is hopping around like a frog from Chace Park to different slips. He feels homeless. His 85-year old mother lives in the area and he sees her everyday. He can't afford to move away from her. Mr. Cardona requested the Commission's assistance in the matter.

Commissioner Landini said, as he understands it, the County's power resides within the leases, so if the County wanted to require a review process for evictions it would have to be included as a provision in the lease agreement.

Mr. Wisniewski commented that Commissioner Landini is correct.

Commissioner Landini asked how the floating home definition (per page 3 of Mr. Faughnan's report) is applied in the Marina.

Mr. Faughnan responded that floating homes are defined in the County code for the purpose of their limited exemption from the seaworthy ordinance. When the County adopted its definition of what is seaworthy, existing floating homes could not meet the standard and their owners were given a ten-year amortization period to use their homes without having to comply with the seaworthy ordinance. This ten-year period is over, but existing homeowners are okay. If they decide to sell, however, their homes would no longer be exempt and must comply with the seaworthy ordinance.

Commissioner Landini asked whether floating homeowners (who meet the County definition of floating homes) meet the affordable housing criteria.

Mr. Faughnan responded that he doesn't believe they meet the criteria because floating homes are owned by the boat owner and are not being leased by the lessee. They're in private ownership.

Commissioner Landini said it seems that the ultimate recourse for the people in power and those allied with their thinking is to seek and obtain change in State legislation to broaden the floating home residency law.

Mr. Faughnan agreed that the sure way to address the issue is with the legislature. He said that, clearly, at some point floating home advocates went to the legislature and obtained an exemption to the State law notice of termination requirements. The legislature approved the exemption because it found relocating floating homes to be difficult and costly. Floating homeowners were given additional time, which doesn't mean that they can't be evicted, but there are limits to the cause for evicting a floating home from a floating home marina. There's no reason why liveaboards could not petition the State legislature for changes in the law. The problem with the County doing so, as it attempted to do several years ago, is that the County has a contractual relationship with the lessees. As the liveaboards within Los Angeles County are limited to this particular area, the County can't simply legislate around its contract and contravene its contract through an ordinance.

Mr. Faughnan said it isn't as Mr. Klein asserts that the County has an agency relationship with the lessees and tells them what to do, but rather the County has a contractual relationship with the lessees. If the legislature adopted a statute governing liveaboards, the statute would be applicable throughout the State. The State legislature does not have contracts with the Marina lessees so it wouldn't run into interference with contract issues as the County would.

Commissioner Landini asked whether the Board of Supervisors proposes legislation to the State legislature.

Mr. Faughnan responded that the Board at times promotes legislation and initiates legislation.

Commissioner Landini asked whether the Commission is in the position to request or recommend that the Board consider initiating legislative change.

Chairman Searcy responded that he thinks it is within the Commission's authority to make such a recommendation and believes the matter to be important; however, he'd like the opportunity to first review the material presented to the Commission and further discuss the issue at a future meeting.

Commissioner Landini said that he would draft a letter (for the Commission) recommending that legislation be initiated to broaden the definition of liveaboards and allow them to have the same rights as renters. Commissioner Landini indicated that he would send the letter to Mr. Wisniewski for review.

Chairman Searcy requested that the letter be shared with the Commission after Mr. Wisniewski's review.

Commissioner Landini requested that members of the public not approach him privately to advocate for their position on the issue, as his intent is to try and open a path where their arguments could be heard and responded to. He doesn't want it to be misconstrued that he is either an enemy of or advocate for the POWER organization.

Vice-Chairman Lesser commented that the issue is complex and he said the Commissioners have heard at several meetings from members of the public that the County doesn't want liveaboards, which is a statement he doesn't believe to be true. He said the Sheriff Department's liveaboard report indicates that at the end of 2005 there were more liveaboards in the County than there ever had been, at least going back to the year 2000. Obviously, the lessees aren't

trying to eliminate liveaboards, as data indicates they are increasing. At the end of 2000, there were 492 liveaboards. At the end of 2005, there were 583, representing almost a 20% increase in liveaboards in a five-year period.

Vice-Chairman Lesser said that overall there's an increase in liveaboards; however, there is difficulty with individual cases. He agreed with the speaker's comment that when a tenant is evicted from an apartment, the tenant has many more apartments to which he could relocate. When a tenant is evicted from a slip, however, it's not that simple. Vice-Chairman Lesser expressed hope that tenants aren't being evicted without reason.

Further, Vice-Chairman Lesser commented that the Commission has been told at several meetings that liveaboards were being evicted; however, investigation revealed certain problems with them, such as their boats not being maintained. Consequently, the liveaboards weren't seen as desirable. This is similar to apartment tenants who are evicted because of their undesirability. He emphasized, however, that evicting tenants for no reason is inappropriate. As for what can be done about it, Vice-Chairman Lesser said that an attempt was made when State law was changed to require a 60-day termination notice. The statute sunseted and changed back to 30-days. He said that, apparently, there aren't a lot of tenant rights advocates in the legislature to support allowing the 60-day period to remain. The present legislature apparently is not as concerned as the prior legislature. He said the County could advocate and encourage, but can't legally do much of anything else at this point in time. The County tried to protect liveaboards by enacting an ordinance but it was declared unconstitutional. He doesn't have a good answer and hates to see people getting evicted. The Commission should encourage pressuring lessees to make every effort to find temporary slips for tenants when the docks are being repaired and Vice-Chairman Lesser believes the lessees try to do this to a great degree.

5. NEW BUSINESS

a. Approval of Option for Lease to Facilitate Redevelopment – Parcel IR (Marriott Residence Inn) – Marina del Rey

Mr. Wisniewski informed the Commission that the staff report proposes that a lease Option be granted to the prospective lessee to build the Marriott Residence Inn on County parking lot IR, which is at Marina Beach. The parking lot has approximately 200 public parking spaces all of which must be replaced either on-site or in the vicinity. The current proposal is to replace all but 88 of the spaces on-site. The 88 spaces will be put into a proposed low-level parking structure, which would be adjacent to Marina Beach.

Mr. Wisniewski said that the contract results from a Request for Proposals dating back a few years. The terms of the lease are outlined in the report. Once the prospective lessee meets certain requirements, he will have the ability to exercise the Option for a 60-year lease. The project has been conceptually approved by the Design Control Board. It will be a 147-unit AAA Three Star destination extended stay resort, essentially a Residence Inn. The lessee will pay for the pro rata portion of the parking structure cost because it's a project that the County will be constructing not only for the Residence Inn lessee but also for a couple of other lessees in the area that will need off-site parking to facilitate their development around Marina Beach.

Mr. Wisniewski explained that the Option's economic terms, including information about percentage rents, are outlined in the Board letter, which are standard for a hotel lease. There is an Option fee of $100,000, which is payable immediately upon Board approval. The fee is non-refundable if the Option is not exercised. For standard provisions in long-term leases there is a participation in sale and refinance proceeds. Generally, it's 5% of the gross sale price or 20% of net proceeds. The Right to Recapture leasehold provision is included in all leases in the event that down the road if the County decides that when a lease is being sold the County needs the property, the County has the right to recapture it. An appraisal was done and it confirmed that the County is receiving at least fair market value in the transaction. The property is on approximately a 2.4-acre site. At the end of the day the County's revenue earned from parking will increase

from approximately $78,000 to approximately $703,000 annually, which will be a welcome addition to the County general fund.

Commissioner Landini expressed concern that by approving the lease the lessee will have the ability to go before the Design Control Board (DCB) and state that because he has a lease, the DCB can't alter the design plans. Commissioner Landini asked whether the lease, if approved, would tie the hands of DCB members on issues relating to design, height, etc.

Mr. Wisniewski responded that he didn't believe the Commission's approval would tie the DCB's hands, as the DCB already took a position and stated its concerns pertaining to height. The Department requested its consultant to provide an alternative plan, which was submitted and proposed a longer structure not more than 15' high. The Department will present the plan to the DCB. If the DCB isn't satisfied, the DCB's action will be presented to the Regional Planning Commission, then the Board of Supervisors.

Commissioner Landini asked what would happen if the DCB wanted more parking than what's stipulated in the lease.

Mr. Wisniewski responded that the Department would oppose this position; however, the DCB is welcome to make any recommendation it wants, which the Department would pass on to Regional Planning.

Commissioner Landini asked whether the leasehold has boat slips.

Mr. Wisniewski responded that it doesn't.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Mr. John Rizzo, president, Marina Tenants Association, informed the Commission about recent news articles that discussed San Diego's mismanagement and connection to Enron and Councilman Rosendahl's opinion that traffic problems should be fixed before allowing more development.

Mr. Rizzo said that a number of lawsuits have been filed and a judge will soon rule on them. He said it would be wise for the Commission to put a moratorium on any leases, as there is mismanagement of the highest degree going on in the Marina over the leases. He said that the Commission isn't protecting itself, Mr. Wisniewski or County Counsel by proceeding with the approval process and development in the Marina. He said that he's glad to see, "you're tuning up things. It's long overdue to clean up things here and give some protection to people and do this and that. It was just disgusting the way it was run. That's fine and I praise you for it. This thing is rotten and the best way to do it is to show you really mean business. No more leases, no more development until all of the courts rule because if these courts rule in our favor, and we are absolutely right, ...there is going to be a real...fallout. All this because one man, Supervisor Knabe, wanted campaign donations to pay off his debt because they put him into office."

Mr. Rizzo asked why should everybody sacrifice their good names and put themselves in danger for one man. He again requested that a moratorium be placed on development and commented that he doesn't like how the Parcel IR Option looks, as in the past such projects haven't been correctly administered. He asked that the contracts and development projects be placed on hold, otherwise, the Commission is endangering itself, Mr. Wisniewski and County Counsel for one man.

Ms. Carla Andrus agreed that a moratorium is needed. She said there are several reasons the Commission should deny the lease. She said that a Residence Inn is far from priority use. The certified Local Coastal Program (LCP) specifically mandates that each development project provide all required parking on-site. Until the County is successful in getting the LCP amended, the project has no validity. The Design Control Board has already rejected the proposed project.

Ms. Andrus questioned the authority of the Small Craft Harbor Commission to approve a project that clearly is not in compliance with the certified standards of development. Other alternatives that would satisfy the LCP requirements need to be considered first. It was Supervisor Don Knabe himself who invited public input. The public supports the alternative proposal to construct an Olympic-size swimming center at the location. This would not only expand public recreational opportunities but also preserve the panoramic view into the northern entrance, where a hub of activity will breathe new life into the Marina. Public workshops should be offered on the LCP, Land Use Plan, Asset Management Strategy and Coastal Act and they should be done to firmly reestablish the mandate because it is the mandate that provides the authority and guides the County's duty in governing the uses for this publicly owned Marina. This fact needs to be firmly established and hung on the walls of the library and entrance of the Visitors Information Center as a welcome. In conclusion she stated, "This is our Marina."

Ms. Nancy Marino respectfully requested that the Commission postpone consideration of Agenda Item 5a for two reasons. She said that, number one, Section 1.2.2 of the lease states that the County has the authority to enter into the lease. Section 3.2.2.2 requires that the premises should not be used or developed in any way in a manner inconsistent with permitted uses.

Ms. Marino said that the certified MdR Local Coastal Program specifically prohibits anything other than a park or parking on an existing public parking area. County Counsel made a statement to the contrary but failed to present adequate substantiation to the public for supporting this position. Ms. Marino discussed the matter with the Coastal Commission staff, which claimed that the LCP allows recreational buildings on an existing parking lot, but when she asked staff to identify the section that contains the provision, they admitted they couldn't find it. The language does not exist. The L.A. area supervisor offered some unconvincing amalgam of phrases and other sections, which permitted recreational development, but she remains convinced that this does not reflect either the actual language or the intent of the existing certified consensus agreement that is the Local Coastal Program. She said she doesn't believe the County has authority to enter into a contract that is not in conformity with the certified LCP. Until there is an LCP amendment that changes the language and intent, she doesn't believe the County will have the authority.

Ms. Marino stated that the second reason she requested that Agenda Item 5a be postponed is because the backlog of projects ahead of the Parcel IR project have so overburdened the County that it does not have adequate time to attend to the present workload. As a result the public opportunity to participate in the process has been curtailed or even thwarted. Public comment time is routinely cut from three minutes down to two minutes or even one minute at public hearings. On Monday around 4pm there was telephone notification advising the public that the LCP Review item had been removed from the Coastal Commission's Tuesday morning meeting agenda. Less than 24-hour notice was given because the County was not prepared and needed more time. Many members of the public had taken personal days, vacation days, and time off without pay in order to attend the meeting. Members of the public arranged carpools on their own time. The public spent its time after working full-time jobs preparing for the meeting only to find that it had no voice. The hearing has been postponed to an indeterminate time, but time is of the essence with the LCP Review. The LCP is the key to all Marina del Rey redevelopment and the public would like that attended to before any new projects proceed with the approval process. The County can barely keep up with the load that it has. There's no reason to add a new project to the workload.

Ms. Marino said that the lease she read indicated there would be 280 spaces on-site and 20 spaces off-site. She asked whether this number is correct.

Mr. Wisniewski responded that the number of parking spaces that require replacement depends on whether a traffic improvement measure is implemented on the corner of Via Marina and Admiralty Way. He believes that if the traffic improvement isn't done, the lessee's obligation will be approximately 20 spaces off-site. If the traffic improvement goes through, there would be an additional 60+ spaces that would have to be relocated off-site.

With respect to the lease, Mr. Faughnan clarified that the Commission was presented with the Option, which is conditioned upon the lessee obtaining all necessary entitlements that would preclude any necessary amendments to the LCP for the project to move forward. It would only be after the time that all the entitlements are obtained that the County would actually enter into the lease with the lessee. There is no reason to postpone action on the Parcel IR Option and wait to have the LCP amended.

Mr. Wisniewski emphasized that the lessee cannot exercise the Option for the lease until all entitlements are in line.

As for Ms. Marino's comment that the MdR Local Coastal Program specifically prohibits anything other than a park or parking on an existing public parking area, Chairman Searcy asked whether the LCP amendment relating to this issue is going forward.

Mr. Faughnan responded yes and added that the location is currently zoned for parking.

Commissioner Landini asked whether the categorical exemption could be granted because the agreement pertains to exercising the Option and is a step in the process to the entitlements.

Mr. Faughnan responded yes and explained that the County is entering into the Option agreement with the prospective developer. The Regional Planning Commission will undertake the environmental process.

Vice-Chairman Lesser clarified that Small Craft Harbor Commission approval doesn't mean the project could be built. Before construction takes place, the lessee must obtain the regulatory approvals.

Mr. Wisniewski commented that the Board letter confirms this fact. He referred the Commissioners to page seven, which states, "Execution of the Option does not authorize construction of any improvements on the parcel. The discretionary land use entitlements and corresponding environmental documentation necessary to implement the proposed development plan contemplated by the Option will be considered by the Department of Regional Planning."

Commissioner Landini commented that after hearing both Mr. Wisniewski's report on the lease terms and public testimony, he didn't see a reason to not take action on the Parcel IR item. The following motion was made.

Commissioner Landini moved and Vice-Chairman Lesser seconded a motion recommending approval of the Option for Lease to Facilitate Redevelopment – Parcel IR (Marriott Residence Inn) – Marina del Rey. The motion passed with Vice Chairman Lesser and Commissioners Landini and Lin voting in favor. Chairman Searcy abstained.

Chairman Searcy explained that he abstained because he was bothered not knowing whether the project would receive the zoning approvals.

Mr. Wisniewski explained that the Department's consultants advised staff that the development community wants some degree of certainty of a deal if they are going to go through the expense and time of the regulatory process.

Chairman Searcy announced that the meeting would continue in the regular agenda order. As he needed to leave early, Chairman Searcy turned the meeting over to Vice-Chairman Lesser, who proceeded to Agenda Item 3a.

3 REGULAR REPORTS

a. Marina Sheriff

-- Crime Statistics

Lt. Greg Nelson reported a slight increase in theft. He noted that, historically speaking, crime rates are way below normal compared to other summers. Some of this can be attributed to the presence of the bike team on weekends and Captain Campbell's motivational efforts to increase productivity.

Lt. Nelson reported that there's now signage at the library, which should alleviate the problem of bikes cutting through the parking lot. The bike team has also been alerted to keep watch.

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

Deputy Carvalho informed the Commission that this month's report shows one new liveaboard permit was issued. There were no new warnings or Notices to Comply issued for the month of July. There is a slight increase in the number of impounded vessels and they are being processed as quickly as possible.

Commissioner Landini commented that from reading between the lines as well as reading Mr. Faughnan's report, he perceives that the reasons people don't apply for liveaboard permits is that they can't meet the safety vessel standards and they're trying to avoid increased dock fees. He asked whether his was a fair interpretation.

Deputy Carvalho responded that Commissioner Landini provided an accurate description of those individuals who don't apply for liveaboard permits. Their vessels are in such condition that they probably wouldn't pass or they don't want the fee increase.

Vice-Chairman Lesser referred to the seaworthy report, which indicates there are 554 reported liveaboards by the lessees and 432 total liveaboard permits issued. He said the dockmasters apparently know whether a liveaboard has a permit.

Deputy Carvalho explained that the report data fluctuates and reflects the lag time in notifying the Department of the changes in liveaboard status. For example, there are liveaboards who have permits but forget to renew them for several months and there are boaters who are no longer liveaboards who don't apply for permits. The report will probably never show a 100% compliance rate because of the lag time in notifying the Department.

Vice-Chairman Lesser questioned what would happen if nothing were done about the situation. Currently, there are liveaboards who don't have permits and it doesn't appear that anything is being done about it.

Mr. Wisniewski responded that the significance of requiring a liveaboard permit is that it enables the Sheriff's Department to ensure the liveaboard has a valid sanitation device on his/her boat.

Vice-Chairman Lesser asked, as it appears the dockmaster knows which liveaboards don't have permits, why the Sheriff's Department can't visit and require them to obtain a permit.

Deputy Carvalho explained that the Department does its best to follow up and check whether a permit is current or needs to be renewed. The Department is developing a database that would assist staff in notifying those individuals who have expired permits. This might help reconcile the data for reported liveaboards and permits issued.

Mr. Wisniewski commented that the Sheriff's Department is taking a step in the right direction. He is concerned about the water quality issue and explained that one of the principle reasons liveaboards were required to obtain permits was because they reside on their vessels and should comply with sanitation device requirements.

Mr. Wisniewski suggested that the Sheriff's data specify the number of liveaboards with valid permits, those with expired permits and those who fall into a different category. The lessee should be required to identify people who don't have permits.

Commissioner Landini asked whether Beaches and Harbors could assume responsibility for gathering liveaboard data.

Mr. Wisniewski responded that the Department doesn't have staffing to assume this responsibility. Lt. Nelson added that the Sheriff's database is now up and running but the data will probably not show 100% compliance, as there is a lag time because permits are renewed on an annual basis.

b. Marina del Rey and Beach Special Events

Mr. Wisniewski requested that the report be received and filed. He also requested the Argonaut reporter include the events in the newspaper.

c. Marina del Rey Convention and Visitors Bureau (CVB)

Ms. Beverly Moore informed the Commission that the bureau website, VisitMarina.com, has evolved into an important resource about Marina-related information, including lodging, boating, restaurants, weather, maps, etc. The site's popularity continues to grow significantly. In 2005, visits to the website increased over 37%. In 2006, the visits increased 43%.

Ms. Moore reported that staff continues to update and expand the site to improve content and be of the best use for residents, visitors and boaters. There's a section called "local information" that provides a simplified explanation about the community, which includes census information, governance and public services. While that sounds very simple, the fact is that it didn't exist before. It helps ease a tremendous amount of constant confusion that many local residents and businesses suffer when they do not understand the difference between the jurisdictional difference and the geographic boundaries between the unincorporated part of Marina del Rey and the greater area often defined by the zip code, 90292, which is also considered Marina del Rey, but includes sections of both the unincorporated part of the County and Los Angeles City.

Commissioner Landini said he heard discussion at a Design Control Board meeting that the Marina boundary includes the properties on the east side of Lincoln Blvd. He asked Ms. Moore whether this is true.

Ms. Moore responded that she isn't an authority, but her research revealed that Marina del Rey is the unincorporated side and is west of Lincoln Blvd.

Ms. Moore continued, stating that the website also has a section called, Living Here, which discusses the community from a residential perspective and lists options of places to live within the Marina. Staff is putting the final touches on a local business directory. Local businesses will soon be able to sign up with the Visitors Bureau and be listed on the website in their appropriate business category. The boating section of the website has evolved greatly in the last couple of years. It currently has seven sections that include yacht clubs, boating associations and private charter information. In the last month, a section on boating courses and instruction and funerals at sea were added. Staff is currently working on a boat dealers and marine services supply section, which will provide information on support systems in the community. They market the website address aggressively in every piece of printed information and promotional effort that

they do. Ms. Moore said that she would continue to share the bureau's progress along the way as staff develops the site.

Commissioner Landini asked whether staff is working on including maps on the "shell" brochures. At the July meeting, he suggested that staff consider adding the maps.

Ms. Moore responded that staff is working on Commissioner Landini's suggestion.

6. STAFF REPORTS

a. Ongoing Activities Report

- Board Actions on Items Relating to Marina del Rey

Mr. Wisniewski reported that at its August 1, 2006 meeting, the Board of Supervisors approved the process that starts the environmental documentation for the proposed Marina del Rey affordable housing policy. Staff is meeting this afternoon to try to discuss ways the County can ensure it receives public input on the policy.

At its July 25, 2006 meeting, the Board provided in Closed Session negotiating instructions relative to a proposed lease extension for the Del Rey Shores (Parcels 100S and 101S) apartment project as well as a new lease for the Dry Stack Storage Facility (Parcels 52/GG).

At its June 20, 2006 meeting, the Board authorized the Director of Public Works to execute a one-year agreement, with a one-year option, with Playa Vista for the operation of the Marina del Rey Summer Shuttle Pilot Service, which commenced on July 1, 2006.

- Periodic Local Coastal Program Review - Update

Mr. Wisniewski reported that on July 25, the County received the Marina del Rey Periodic Local Coastal Program Review (dated July 20, 2006), which is a 177-page report the California Coastal Commission (CCC) calendared for consideration at its August 8, 2006 meeting. County staff responded with astonishment that it would only be given two-weeks to review a 177-page report when CCC staff committed to provide a copy in ample time for County staff to review it and prepare a response. County staff communicated with the CCC's Executive Director and a decision was made to postpone the item to a future meeting. Mr. Wisniewski commented that he believes CCC staff recognized that it didn't give the County enough time to review the report.

Commissioner Landini asked whether the July 20, 2006 Periodic Local Coastal Program (LCP) Review is the same report that's available in the Marina del Rey library.

Mr. Wisniewski responded that the current LCP Review is available on the Coastal Commission website. He will make sure it's also available on the Beaches and Harbors' website.

Vice-Chairman Lesser asked whether staff knows on what date the item will be discussed by the Coastal Commission and whether staff will have ample time to respond by that date.

Mr. Wisniewski responded that he isn't aware on what date the Coastal Commission will discuss the LCP Review. However, from the date the CCC adopts its staff recommendations, the County will have one full year to respond.

Vice-Chairman Lesser commented that it would be incumbent on County staff to work with CCC staff and move the process along rather than take the entire year to respond. For example, if the County has 60-days to respond, that should be a sufficient amount of time.

Mr. Wisniewski said it wouldn't be the County's intent to take one full year to respond, but to respond within a one-year period.

Commissioner Landini requested a copy of the 2006 Marina del Rey Periodic LCP Review.

Mr. Wisniewski responded that he would provide him with a copy.

VICE-CHAIRMAN LESSER OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Donald Klein, president, Coalition to Save the Marina, informed the Commission that members of the public were upset that the California Coastal Commission postponed discussion of the MdR Periodic LCP Review. He said that the County has had 14-months to respond to the 2005 draft LCP Review, but he has never been able to find an official response to it. Mr. Klein questioned whether the County has an agenda to try to get all of the development projects approved before the LCP is approved.

Mr. Wisniewski commented that Mr. Klein has often alleged there's a conspiracy or agenda to slow the process down to facilitate development projects in the Marina. Mr. Wisniewski said that he's tired of the attacks on the Department and County, as they have no foundation. He's heard them for 30-years and wants them to cease and he wants members of the public to be constructive in their comments.

Mr. Klein explained that he feels the way he does because members of the Small Craft Harbor Commission, Design Control Board and Regional Planning Commission are appointed by the Board of Supervisors. [In the interest of time, Vice-Chairman Lesser interrupted and requested that Mr. Klein provide further comment on this issue during the "Communication from the Public" portion of the agenda.]

Mr. Klein expressed concern that within the last 15-months, eight Small Craft Harbor Commission meetings have been canceled due to various reasons. He said this is a violation of Public Resources Code 30006, which allows for public participation. He asked why two weeks isn't ample time for County staff to respond to LCP staff recommendations when the public is given much less time to review and address material distributed at Small Craft Harbor Commission meetings.

Mr. Wisniewski responded that the Department informed Coastal Commission staff that should the Coastal Commission proceed, the Department would comply with Coastal Act requirements and respond within one year. He reiterated that the Department was astonished the CCC would only allow Beaches and Harbors two-weeks to respond when CCC staff had committed to providing Beaches and Harbors with the LCP Review in ample time for review and discussion prior to it being calendared on the CCC agenda. The Department needs time to not only discuss the Periodic LCP Review internally, but also discuss it with other County offices.

Commissioner Landini requested that staff brief the Commission prior to providing a response to the CCC. Vice-Chairman Lesser said that he'd like staff to also place the 2006 LCP Review on the Department's website as soon as possible so that the public would have time to review and prepare to provide input at the September Small Craft Harbor Commission meeting. He asked Mr. Wisniewski to identify and address the CCC staff recommendations with which the County does not agree and discuss them at the September Small Craft Harbor Commission meeting.

Mr. Wisniewski responded that he wasn't sure whether staff could do the briefing in September, but he would definitely brief the Small Craft Harbor Commission before the item is scheduled for the CCC agenda.

Commissioner Landini asked whether the Local Coastal Program for the Marina has been adopted.

Mr. Wisniewski responded yes and explained that the Marina del Rey Periodic LCP Review evaluates whether the LCP is being implemented in conformity with the Coastal Act.

In response to Mr. Wisniewski's statement that the County did not receive the Periodic LCP Review until July 25, Ms. Marino commented that it was available on-line from July 20 for anyone who wished to access it. The public did not have the opportunity to say that more time was needed before the LCP Review went before the Commission because one year from the May 25, 2005 draft Review date was given for public comment, including any comments from the County. The period closed on May 25, 2006, after which time Coastal Commission staff prepared a final draft report to come before the Coastal Commission for review and adoption at a public hearing. The County had as much time as the public to prepare. The public did not have any say in whether or not the item was continued. The July 20, 2006 Periodic Local Coastal Program Review was on the Coastal Commission agenda and the public took whatever free time it had (after working a full-time job) to prepare for the meeting.

Ms. Marino said that the County has no excuse, as it is Beaches and Harbors full time job to address the Coastal Commission staff recommendations. The County's staff should have had adequate time to prepare comments. The County had as much time as the public. The public prepared itself and took whatever time off it needed and at extreme cost. The public found out less than 24-hours before the Coastal Commission meeting that it would not have an opportunity to speak. Many people who planned to attend the Coastal Commission meeting won't be able to take additional time off in October or whenever the Coastal Commission agendizes the item. Attending the meeting could mean having to take a whole day off from work and risking the meeting's postponement again at the last minute. The recent postponement denied the public its voice. The County could have responded to the recommendations, which were not all 177-pages, within two weeks and done as adequate a job as a member of the public could do. The public is asking for fairness and an equal opportunity to be heard and it is not being given that.

Vice-Chairman Lesser asked why Ms. Marino didn't bring her concerns to the attention of the Coastal Commission, as the Small Craft Harbor Commission did not have anything to do with the postponement.

Ms. Marino responded that when Mr. Al Padilla, Coastal Commission staff, contacted her at 4:56 p.m. Monday afternoon, he informed her that the Commission decided to continue the item because the County informed him that it did not have time to prepare a response to the CCC staff recommendations. That is the reason given for the postponement and it is the reason Ms. Marino accepts.

Ms. Carla Andrus commented that the benefit of having had the LCP Review meeting before the approval of today's Parcel IR Option would have been invaluable. She said it would be fair to the public to have a moratorium on any leases and lease options or any further over-development of the Marina and to establish the mandate once and for all. The Commission is off-course. There is a mission statement and a vision. The vision thus far does not include anything of the mandate that has been established for the Marina. If the Commission is going to change the mandate, the Commission should take it and give it title and summary. Put it in front of the electorate and change the mandate that way. Don't keep doing what's been done. It creates hostility between the governing body and the public and it needs to be resolved. The matter is simple to resolve. All that is needed is a clear mandate, identification of what it is and to take direction from there.

b. <u>Registered Liveaboard Slips in Marina del Rey Harbor – 6 ½ Year Period</u>

c. <u>Public Requests for Information at June 14, 2006 Meeting</u>

Per Mr. Wisniewski's request, Vice-Chairman Lesser received and filed Agenda Items 6b--Registered Liveaboard Slips in Marina del Rey Harbor and 6c--Public Requests for Information at June 14, 2006 Meeting.

VICE-CHAIRMAN LESSER OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Dan Gottlieb requested that staff identify and put in writing the differences between the 2005 draft Marina del Rey Periodic LCP Review and the 2006 Marina del Rey Periodic LCP Review. He couldn't find any differences when he reviewed the documents and Mr. Gottlieb would find it helpful for staff to pinpoint them.

Mr. Gottlieb informed the Commission that he represents Marina Strand Colony Two, which did not receive notification that the Strand project was scheduled for the Design Control Board meeting. He'd like to know who was responsible for notifying the public. Additionally, he didn't receive any notification about the Neptune development. Homeowners who should be informed, such as those who live at Marina Strand Colony Two, are not being provided information and the opportunity to provide input.

Mr. Gottlieb said that around page 100 of the Periodic LCP Review is discussion about the meaning of design and whether it should protect visual resources. Coastal Commission staff indicated one problem is that the LIP changes the definition from the LUP and LIP's definition should rule. Via Marina is a scenic highway of first priority, but unfortunately nowhere in the County is the meaning of scenic highway described. Words are being twisted around. He questioned how there could be a democracy if words don't mean something.

Ms. Nancy Marino said that at its July meeting the Small Craft Harbor Commission was informed that the EIR/EIS for the Admiralty Way/SR90 Project was moved up from 2011 to 2007. She asked how the County could do an adequate job of an EIR/EIS in four years less time than originally planned. Ms. Marino expressed her belief that projects are being rushed through to allow the approval of development before the public has opportunity to lodge the appropriate appeals and protests and lawsuits to stop them. Once the projects are built, it is impossible to un-build them. The only possible remediation would be a monetary or in-kind replacement. The Marina would be a goner from its mandate and the vision of the people.

Ms. Marino requested that the Commission not participate in the process and help the public abide by the current LCP until such time as there is a new mandate for an amended LCP that allows the projects to continue. She requested the Commission to not facilitate the destruction of the one document that sets the standard for development. The planned developments don't comply. None of them. They all say they need an amendment. The EIR being moved up is one means of pushing projects through to approval and permitting stages before the public has an opportunity to go through the established process.

Mr. Barry Kurtz, Beaches and Harbors' Traffic and Transportation Engineering Consultant, explained that the SR90 project was moved back rather than forward. The 2011 date was a completion date for construction of the project. Because of unavailable funding a decision was made to use the EIR completion date (which was moved from 2006 to 2007) rather than the construction completion date. He emphasized that the 2007 date is not for completion of construction but completion of the EIR/EIS. There is no target date for the completion of construction.

Mr. Kurtz took a moment to respond to the assertion from a member of the public at the June meeting that the Admiralty Way traffic improvement projects were mitigation measures for Playa Vista. He mentioned that a response was provided in the report for Item 6c-Public Requests for Information at June 14, 2006 meeting; however, Mr. Kurtz wanted to further clarify the matter at today's meeting. He explained that three projects: 1) Marina Expressway (State Route 90) Connector Road to Admiralty Way Project; 2) Admiralty Way Improvement Project; and 3) Reconfiguration of the Intersection of Admiralty Way and Via Marina Project, are listed in the Marina del Rey Local Coastal Program as mitigation for redevelopment within the Marina and development in the surrounding area and have nothing to do with Playa Vista's mitigation. The EIR and EIS are planned so that they can advance independently or together. The projects are set up so that one consultant can handle three projects in one document because they're inter-

related. Having one traffic study and one consultant enables the projects to be considered more defensible and they have a better chance of being reviewed in totality rather than independently. Further, Mr. Barry Kurtz informed the Commission that three public meetings were held at the Burton Chace Park Community Room to discuss the scope and content of the information to be included and analyzed in the EIS/EIR. The presentation and project information is available on the projects' website at: www.sr90admiraltyway.org. The expected EIR/EIS completion date is mid to late 2007.

Ms. Carla Andrus referenced a letter dated June 2, 2005 from the Department of Public Works (Attachment B) regarding traffic circulation and street lighting on Admiralty Way. She commented that the public has heard no more on the subject for over one year. The public deserves a response, given that recently an accident occurred on Admiralty Way where someone went through the Oxford Flood Basin. She didn't see the accident but someone from the Marina City Club informed her of it.

Ms. Andrus said that she'd like a federal government representative invited to a Commission meeting so that the public can appeal to him/her in person for traffic improvement funds. She said that the SR90 project and Admiralty Way widening project don't satisfy federal code Title 23, Chapter One, and Subchapter 1128-A. Ms. Andrus explained that when the federal government considers funding a project, it has to be consistent with what the area is mandated for.

With respect to the letter from Public Works, Mr. Kurtz explained that the Department of Public Works received a complaint with a request for a traffic signal at the Marina City Club. Public Works found that traffic flow could accommodate a traffic signal at the location; however, it wasn't a black and white issue. Typically, when there is a public street and private driveway, it's up to the lessee to pay for any traffic improvements connected to access to and from the driveway. Public Works staff attended a meeting at the Marina City Club and the homeowners association decided not to fund the traffic signal. If in the future the homeowners association decides to fund the signal, Public Works will work with the Marina City Club to install it.

7. COMMUNICATION FROM THE PUBLIC

In response to an earlier comment during the meeting about the change from the 60-day to 30-day eviction notice to tenants of residential units, Mr. Donald Klein informed the Commission that AB 1169 proposes to reinstate the 60-day eviction notice and is currently winding its way through the Assembly.

As for the definition of floating homes, Mr. Klein clarified that floating homes are not powered, can't move around and are subject to seaworthy inspections. Also, contrary to a statement made earlier that there are no floating homes in the Marina connected to sewers, Mr. Klein said that there are four floating homes in front of the Chart House Restaurant. They're operated by Dolphin Boat Works. A corporation owns them.

Mr. Klein also wanted to comment on the County's power structure. He said that the Board of Supervisors appoints the Small Craft Harbor Commission, Design Control Board and Regional Planning Commission members. They don't have members of the public who have a vote and actual voice, which is a situation he finds reprehensible.

Mr. Klein responded to Mr. Wisniewski's objection made earlier to Mr. Klein's comment that the County has an agenda to proceed with development despite public opposition. Mr. Klein said that Marina lessees have donated well over $1 million in campaign contributions over the years and the more than 400 judges in the Superior Court system are being paid flex payments (or some such name), but it's actually cash money approved by the Board of Supervisors. The way the money is changing hands makes a nice circle, which the public is concerned about.

Ms. Nancy Marino, Marina resident, reminded Commission members that they were told during Mr. Wisniewski's report that Agenda Item 5a, which pertains to the Parcel IR Option for Lease,

was contingent upon an LCP amendment. She said this is tacit admission by the County that the project doesn't comply with the existing certified LCP. The certified LCP is the consensus agreement of all interested parties, the County, developers, residents of the Marina, as well as the general public as to establishing the standards that govern Marina del Rey. She asked the value of having an LCP when County projects that are non-compliant are allowed to proceed. If an amendment is needed for a project to proceed, the lessee should obtain the amendment before presenting the project to the Commission and other bodies for approval. The lessee is putting the cart before the horse and establishing contractual obligations that may be costly to the County later on if they're found to be invalid. Lessees might sue if they find the County can't fulfill conditions. The public doesn't believe the Commission or any other body should approve projects that don't already have a basis in law, policy, etc.

Ms. Marino said the public is extremely angry that options and leases are being railroaded. The Commission approved the Parcel IR Option and this is the first step in the process. She requested that the Commission not approve the Option, but honor the existing certified LCP until the County succeeds in obtaining an amendment. There is not a consensus as to what might or should be done. She requested that the Commission support the public's position and follow what exist on paper so that it might mean something.

Commissioner Landini asked Mr. Faughnan whether the Commission acted lawfully when it approved the Parcel IR Option even though the proposed project might not be in conformance with the LCP.

Mr. Faughnan responded that the Commission acted lawfully, as it is an advisory body. He clarified that the Commission approved an option agreement for Parcel IR. The actual lease agreement is conditioned upon the lessee receiving all his entitlements, among which would be any amendments to the LCP necessary for the project to move forward. If the LCP amendment is not received, the project would not move forward and the County is not required to enter into a lease agreement with the lessee.

Vice-Chairman Lesser commented that changes and amendments are made to local planning documents on a regular basis. When he was the mayor of Manhattan Beach there was an area zoned for heavy manufacturing and a pottery factory was there. It was absurd to keep a heavy manufacturing plant at the location, so the general plan and zoning were changed. He doesn't believe there's a project that's been built in Marina del Rey that violates the LCP. The LCP is a flowing document and is not cast in stone for eternity.

Ms. Carla Andrus said the Coastal Commission found that the County is not in compliance with the LCP. Additionally, she commented that the public has a problem with not being included in the Request for Proposals process. There are alternative plans for Parcel IR and this issue hasn't been addressed. The public attended the Design Control Board meeting and offered full support on alternative plans that were submitted there, one of which is for an Olympic size swim center at the location. She questioned how the public has any real input in the plans for the Marina Beach area and Ms. Andrus commented that the public is being dismissed again.

Further, Ms. Andrus said there needs to be a Periodic LCP Review hearing and moratorium on any development projects that need amendments. She said, "we're amending ourselves right out of a marina that is here for the benefit of general public use recreation small craft harbor. It has already been so eroded and it needs to stop now."

Mr. Gottlieb commented that the projected EIR completion date for the SR90 project wasn't changed in the documentation. The public has no chance to make its voice heard and is being denied notification. Notification for the scoping meeting to discuss the EIR/EIS arrived in the Venice Library on the actual meeting date. He encouraged the Commission to look around page 100 of the MdR Periodic LCP Review to see how staff describes the process.

8. ADJOURNMENT

Vice-Chairman Lesser adjourned the meeting at 11:50 a.m.

Respectfully submitted,

Toni Minor
Commission Secretary

POWER

ATTACHMENT A

PEOPLE ORGANIZED FOR WESTSIDE RENEWAL
235 Hill Street, Santa Monica, CA 90405
(310) 392-9700 (310) 392-9765 FAX
www.power-la.org

People Organized for Westside Renewal (POWER) and its community leaders seek to work with Los Angeles County Department of Beaches & Harbors, Small Craft Harbor Commission, Board of Supervisors and the California Coastal Commission to address the growing problems facing live-aboard residents in Marina del Rey. Live-aboard slips serve as one of the few remaining affordable places for people to live in the Marina. Furthermore, live-aboards have been an essential part of the Marina community since its inception and have provided a sense of security on their docks.

Over the past several years, live-aboard residents have come under fire from dock masters who employ intimidation tactics to force live-aboards out of the Marina. Dock masters have raised rents, issued evictions, and limited live-aboards to monthly leases. The result has been a sense of anxiety among Marina del Rey live-aboards. Live-aboards are outraged that their boat slip could be seized at any time, leaving them with no place to live.

To address these problems, live-aboards, boaters, and other concerned community members have proposed the following actions be taken by Los Angeles County.

1. **Leases**
   a. The County ensures that all live-aboard residents in Marina del Rey have the option to sign "Live-Aboard Leases" with a term of one year.

2. **Evictions**
   a. The County limits the grounds for Live-Aboard evictions to those grounds consistent with landside rental agreements and leases (see California Code of Civil Procedure Sections 1161(2)-(4)). Also:
      i. The County eliminates discriminatory eviction practices based on boat age, length, or material of construction.
      ii. The County ensures that leaseholders provide substitute slips to those displaced for the purpose of rebuilding docks or any other maintenance. The County ensures that Live-Aboards are offered "First Right of Refusal" upon completion of the rebuilding process or other maintenance.
   b. The County ensures that the Marina del Rey Mediation Committee has adequate Live-Aboard representation. The Mediation Committee will be responsible for the initial hearing of all eviction appeals from Live-Aboards in Marina del Rey.

3. **Fees**
   a. The County ensures that Live-Aboard fees are equal to or less than 55% of normal boat slip fees.
   b. The County ensures that electricity and water meter fees are not added to Live-Aboard fees. However, electricity and water meter fees, if consistent with landside electricity and water meter fees, can be used in-lieu of Live-Aboard fees.
   c. The County ensures that Live-Aboards receive documentation of the amenities (such as toilets, showers, parking, and laundries) they receive that justify Live-Aboard fees.

COUNTY OF LOS ANGELES

ATTACHMENT B

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

Submitted Initially @ June 8, 2005 SCHC mtg by Carla Andres

Department of Beaches and Harbors
JUN 08 '05

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

IN REPLY PLEASE REFER TO FILE: T-4

June 2, 2005

Ms. Carla Andres
14025 Panay Way, HM9
Marina del Rey CA, 90292

Dear Ms. Andres:

TRAFFIC CIRCULATION ADMIRALTY WAY MARINA DEL REY AREA

In response to your concerns regarding traffic circulation along Admiralty Way near Palawan Way, we reviewed the accident history for the Admiralty Way and conducted a field check to see if the roadway, signs, and pavement markings in the area were visible and in good condition. The street lighting in the area was also reviewed to ensure that the lights in the median followed current County standards.

Based on our review of the accident history and our field visit to the area on March 15, 2005, the roadway, signs, and pavement markings were appropriate, visible, and in good condition. Visibility along the roadway was also good in all directions.

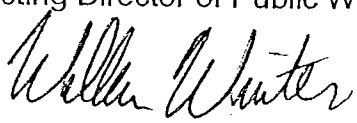
We also conducted a study in order to determine whether traffic signal controls were warranted for the intersection of the main driveway of the Marina City Club at Admiralty Way. This study revealed that traffic circulation may be enhanced with the installation of traffic signal controls at this intersection. We anticipate sharing and coordinating our findings with the Marina City Club and the Department of Beaches and Harbors.

In regard to your concerns about street lights in the median, it was found that two light poles located within the center median along Admiralty Way could be moved. These light poles are under the jurisdiction of Southern California Edison Company and we have sent them authorization for their relocation.

If you have any questions regarding this information, please contact Ms. Lani Alfonso of our Traffic and Lighting Division, Traffic Studies Section, at (626) 300-4748.

Very truly yours,

DONALD L. WOLFE
Acting Director of Public Works



WILLIAM J. WINTER
Assistant Deputy Director
Traffic and Lighting Division

JC:cn
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cc: Department of Beaches and Harbors (Joseph Chesler)

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- AUGUST 2006

Part I Crimes	MARINA AREA (RD'S 2760-2763)	EAST END (RD'S 2764-2768)
Homicide	0	0
Rape	0	0
Robbery: Weapon	0	3
Robbery: Strong-Arm	0	4
Aggravated Assault	0	1
Burglary: Residence	4	6
Burglary: Other Structure	3	4
Grand Theft	13	8
Grand Theft Auto	5	7
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	6	4
Boat Burglary	1	0
Petty Theft	5	4
Total	37	41

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

Source- LARCIS, **Date Prepared – September 1, 2006**
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES- AUGUST 2006

	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						1		2		3
Robbery: Strong-Arm								3	1	4
Aggravated Assault									1	1
Burglary: Residence	3			1	1		2	2	1	10
Burglary: Other Structure	1	2				1		2	1	7
Grand Theft	6	2		5	1		3	2	2	21
Grand Theft Auto	4	1				1	2	2	2	12
Arson										0
Boat Theft										0
Vehicle Burglary	3	2	1		1	1	1		1	10
Boat Burglary				1						1
Petty Theft	4			1				1	3	9
REPORTING DISTRICTS TOTALS	**21**	**7**	**1**	**8**	**3**	**4**	**8**	**14**	**12**	**78**

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

Source- LARCIS, **Date Prepared – September 1, 2006**

CRIME INFORMATION REPORT - OPTION B

MARINA DEL REY HARBOR ORDINANCE
SEAWORTHY & LIVEABOARD COMPLIANCE REPORT

	July	August
Liveaboard Permits Issued	1	2
Warnings Issued (Yellow Tags)	0	0
Notices to Comply Issued	0	0

Total Reported Liveaboards By Lessees - 554
Total Liveaboard Permits Issued - 434
Percentage of Compliance - 78%

No new Warnings were issued in the month of August.

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

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 August.

Number Of Impounded Vessels Demolished

To date, one hundred and ninety seven (199) vessels have been removed from the marina for disposal. Currently, four (4) vessels are ready for disposal and six (8) are awaiting lien sale procedures.

"To enrich lives through effective and caring service"

Los Angeles County
Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

September 7, 2006

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan W.

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

MARINA DEL REY

DISCOVER MARINA DEL REY DAY 2006

Sponsored by the Los Angeles County Department of Beaches and Harbors
and Arrowhead Mountain Spring Water
Burton Chace Park
Sunday, October 8
11:00 a.m. to 4:00 p.m.

Discover Marina del Rey Day 2006 is a community event that can be enjoyed free of charge to the public, featuring games, music, face painting and a children's marionette show. Visitors who wish to use the popular inflatable games can pay $5.00 for a wristband. Food and soft drinks are also available for purchase at the park's restaurant, Café Lorelei, throughout the day.

Displays and demonstrations will be provided by Los Angeles County health and environmental agencies, as well as safety displays by the Los Angeles County Fire Department, Fire Department Lifeguard Operations Division, and the Sheriff's Department.

Parking at a reasonable rate is available in County Lot 4 near the venue and in County Lot 5 on Bali Way.

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

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

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

Saturday, September 9
Eric Vincent & the Diamond Cutters, playing Neil Diamond Tribute/50's & 60's

Sunday, September 10
Bob Desena, playing Latin Jazz

Saturday, September 16
Bobby Griffin, playing Blues

Sunday, September 17
William Nathan & The Elements, playing R&B

Saturday, September 23
Michael Haggins Group, playing Smooth Jazz

Sunday, September 24
Upstream, performing Caribbean/Reggae

Saturday, September 30
Javid, playing Flamenco/Jazz

Sunday, October 1
Kid & Nic, playing Americana/Pop

For more information call: Dee Lavell Gilbert at (310) 822-6866.

BEACH EVENTS

CITY OF LOS ANGELES TRIATHLON
Venice Beach
Sunday, September 10

1.5K swim begins at 6:45 a.m. at the Venice Beach Pier between Washington Boulevard and Venice Boulevard, followed by a 40K bike race and a 10K run, which winds through Hollywood ending in downtown Los Angeles.

For more information call: Pacific Sports at (714) 978-1528 or email your questions at Info@LATriathlon.com. Please visit website www.latriathlon.com for online registration.

COASTAL CLEANUP DAY
Heal the Bay
Saturday, September 16
9:00 a.m. to noon

Coastal Cleanup Day is a great opportunity for you, your family, friends and neighbors to join together to take care of our fragile marine environment. Show community support for our shared natural resources, learn about the impact of marine debris and how we can prevent it, and have some fun! ***If you volunteer just one day a year, this is the event!***

For volunteer registration and information call: (800) HEALBAY or visit www.healthebay.org.

DRIVE-IN AT THE PIER
Santa Monica Pier
Tuesday Evenings through September 26 at Sunset

You won't need your car to enjoy the classic ambiance of this very special event. Just bring something or someone to keep you warm as the Pier screens a fun, family-oriented film on a huge screen under the night sky every Tuesday evening through September 26 for a great cause, The Cancer Relief Fund. Admission is FREE but tickets will be required for entry. Get your tickets at the Santa Monica Visitor's Center location at 1920 Main Street and Santa Monica Convention and Visitor's kiosk at 1400 Ocean Avenue. Doors will open at 7:00 p.m.

The remaining line-up, featuring fun family classics and some new favorites, is as follows:

- September 12 - Viva Las Vegas
- September 19 - Grease
- September 26 - An Inconvenient Truth

For tickets and further information call: The Santa Monica Pier at (310) 458-8900 or visit website www.smff.com.

2006 NAUTICA MALIBU TRIATHLON
Zuma Beach
September 16 – September 17, 2006

Saturday Festival Gears Up for the Triathlon! See you at Zuma Beach, the Nautica Malibu Triathlon site, September 16, for a spectator festival with a sandcastle demo and instructional clinics. Marvel at the sandcastle sculptors, take in an instructional clinic and enter to win exciting prizes! ALL activities FREE to the public, great for the whole family. Clinic subjects to include:

Triathlon Biking
Wellness and Nutrition
Training and Motivational Tips

Schedule of events:
10:00 a.m. Start of Sandcastle Demo
1:00 - 5:00 p.m. Interactive Booths
1:00 - 5:00 p.m. Triathlon Registration

Nautica Malibu Triathlon, Zuma Beach, September 17, 2006 proceeds go to the Elizabeth Glaser Pediatric Aids Foundation. The Elizabeth Glaser Pediatric AIDS Foundation is the leading worldwide nonprofit organization dedicated to identifying, funding and conducting pediatric HIV/AIDS research, preventing mother-to-child transmission of HIV, and promoting global education, awareness and compassion about HIV/AIDS in children. Triathlon begins at 7:15 a.m. and registration is required. The parking lot will close at 7:00 a.m. to not disrupt the course, so please arrive before then to ensure you don't miss anything! It is highly recommended that you arrive before 7:00 a.m., but if you arrive late, there will be very limited parking available at Malibu High School, located at 30215 Morning View Road.

For registration and further information call: Michael Epstein Sports Productions (818) 707-8867 or go to www.mesp.com.

FREE FISHING DAY
Saturday, September 23

The Department of Fish and Game offers a "Free Fishing Day" Saturday, September 23. There is no fishing license required to fish in California on this day. This is a great, low-cost way to give fishing a try.

For more information call: The Department of Fish and Game at (916) 227-2245 or visit http://www.dfg.ca.gov/licensing/fishing/freefishdays.html.

SW:DC:mc

"To enrich lives through effective and caring service"

LOS ANGELES COUNTY
Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

September 7, 2006

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan W.

SUBJECT: **AGENDA ITEM 5a – REPORT BY COMMISSIONER LANDINI REGARDING PROPOSED STATE LEGISLATION AFFECTING LIVEABOARDS**

At your August 9, 2006 meeting, Commissioner Landini indicated that he would draft a memo for the Commission's consideration requesting that the Board of Supervisors consider proposing new State legislation to grant residential renter status to liveaboard boat owners. As instructed, item 5a has been agendized to discuss Commissioner Landini's attached draft memo.

Please feel free to contact me at (310) 305-9522 if you have questions or need additional information.

SW:tm
Attachments

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

September __, 2006

DRAFT

TO: The Honorable Board of Supervisors

FROM: Harley Searcy, Chairman
Small Craft Harbor Commission

SUBJECT: **REQUEST FOR CONSIDERATION OF PROPOSING NEW STATE LEGISLATION TO GRANT RESIDENTIAL RENTER STATUS TO LIVEABOARD BOAT OWNERS**

The Small Craft Harbor Commission continues to hear concerns from Liveaboard boat owners regarding their lack of renter status and how this lack of status denies them lease protection and eviction rights normally accorded to residential renters.

The primary group voicing this concern to your Commission is called POWER (People Organized for Westside Renewal). A copy of POWER's recent communication to us is attached (Attachment A) for your consideration.

We have been informed by Mr. Thomas J. Faughnan, Principal Deputy County Counsel, in a memorandum dated August 3, 2006 (Attachment B) that: 1) A prior attempt by the County to establish a liveaboard eviction ordinance was overturned by the court; and, 2) the Floating Home Residency Law, Civil Code Section 800, has no application at this time in Marina del Rey because of how the statutes define a "floating home" and "floating home marina."

Thus it appears that if a kind of residential renter protection is to be extended to liveaboard boat owners, new legislation must be adopted by the State of California. The thrust of this legislation would be to extend the application of statutes specifically governing residential real property to boat slip rental agreements involving liveaboards.

It is our understanding that it is not unusual for the County to prepare appropriate legislation for submission to the State for consideration. We do not know what route such an effort would take, but we are sure you have knowledge of it.

Thank you for your kind consideration of our concerns for the liveaboard boat owners in Marina del Rey. We look forward to working with you in the future to develop this new proposed legislation.

HS:tm
Attachments

POWER

ATTACHMENT A

PEOPLE ORGANIZED FOR WESTSIDE RENEWAL
235 Hill Street, Santa Monica, CA 90405
(310) 392-9700 (310) 392-9765 FAX
www.power-la.org

People Organized for Westside Renewal (POWER) and its community leaders seek to work with Los Angeles County Department of Beaches & Harbors, Small Craft Harbor Commission, Board of Supervisors and the California Coastal Commission to address the growing problems facing live-aboard residents in Marina del Rey. Live-aboard slips serve as one of the few remaining affordable places for people to live in the Marina. Furthermore, live-aboards have been an essential part of the Marina community since its inception and have provided a sense of security on their docks.

Over the past several years, live-aboard residents have come under fire from dock masters who employ intimidation tactics to force live-aboards out of the Marina. Dock masters have raised rents, issued evictions, and limited live-aboards to monthly leases. The result has been a sense of anxiety among Marina del Rey live-aboards. Live-aboards are outraged that their boat slip could be seized at any time, leaving them with no place to live.

To address these problems, live-aboards, boaters, and other concerned community members have proposed the following actions be taken by Los Angeles County.

1. **Leases**
   a. The County ensures that all live-aboard residents in Marina del Rey have the option to sign "Live-Aboard Leases" with a term of one year.

2. **Evictions**
   a. The County limits the grounds for Live-Aboard evictions to those grounds consistent with landside rental agreements and leases (see California Code of Civil Procedure Sections 1161(2)-(4)). Also:
      i. The County eliminates discriminatory eviction practices based on boat age, length, or material of construction.
      ii. The County ensures that leaseholders provide substitute slips to those displaced for the purpose of rebuilding docks or any other maintenance. The County ensures that Live-Aboards are offered "First Right of Refusal" upon completion of the rebuilding process or other maintenance.
   b. The County ensures that the Marina del Rey Mediation Committee has adequate Live-Aboard representation. The Mediation Committee will be responsible for the initial hearing of all eviction appeals from Live-Aboards in Marina del Rey.

3. **Fees**
   a. The County ensures that Live-Aboard fees are equal to or less than 55% of normal boat slip fees.
   b. The County ensures that electricity and water meter fees are not added to Live-Aboard fees. However, electricity and water meter fees, if consistent with landside electricity and water meter fees, can be used in-lieu of Live-Aboard fees.
   c. The County ensures that Live-Aboards receive documentation of the amenities (such as toilets, showers, parking, and laundries) they receive that justify Live-Aboard fees.

ATTACHMENT B

COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL
648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1853
FACSIMILE
(213) 687-7337
TDD
(213) 633-0901

RAYMOND G. FORTNER, JR.
County Counsel

August 3, 2006

TO: SMALL CRAFT HARBOR COMMISSION

FROM: THOMAS J. FAUGHNAN
Principal Deputy County Counsel
Property Division

RE: **AGENDA ITEM 4a - FOLLOW UP TO MEMORANDUM REGARDING COMMISSION'S AUTHORITY RELATING TO LIVEABOARD ISSUES; EFFECT OF POLICIES ADOPTED BY THE COMMISSION**

At the April 12, 2006 meeting, your Commission requested a report from County Counsel on the Commission's authority relative to concerns raised by members of the public over asserted evictions of liveaboards from marinas in Marina del Rey. At your meeting of June 14, 2006, further questions relating to liveaboard concerns and the Commission's policy authority were raised by the Commission and the public. This memorandum is in response to those questions.

1. Lawsuit Challenging the County's Liveaboard Eviction Ordinance.

Our June 5, 2006, memorandum referenced a legal challenge to former County Code § 19.12.940 (the "liveaboard eviction ordinance"). The name of that lawsuit was *Villa Del Mar Properties, LTD, et al. v. County of Los Angeles,* Los Angeles Superior Court Case No. WEC 059213 A (1981). The County did not appeal from the Superior Court judgment; however, the decision is discussed briefly in the appellate decision relating to its companion case, *Interstate Marina Development Co, et al. v. County of Los Angeles,* 155 Cal.App.3d 435, 202 Cal.Rptr. 377 (1984).

2. Legal Rights and Obligations of Liveaboards.

The Commission requested further information on the legal rights and obligations of liveaboards. The following is intended to provide the Commission with general information on the legal rights and obligations of liveaboards, not to provide specific legal advice on any particular matter, and is not intended to be an exhaustive discussion of all laws which may be applicable to liveaboards.

Liveaboards must comply with County Code §19.12.1110, which prohibits a person from using a vessel as an abode in excess of three days within any one-week period, unless authorized by the lessee and issued a liveaboard permit by the Harbor Master. A permit will only be issued upon compliance with the following: (1) compliance with the requirements of seaworthiness as described in County Code § 19.12.1060; and (2) installation of a federally approved marine sanitation device of self-contained portable toilet approved by the Harbor Master. Liveaboard permits are valid for a period of one year.

Boat slip rental agreements are generally negotiated by and between the vessel owner and the lessee. The County is not a party to these contracts. Most rental agreements are terminable on 30 days' notice. The termination of a boat slip rental agreement on 30 days' notice has been upheld in both State and federal court. See, *Smith v. Municipal Court,* 202 Cal.App.3d 685, 245 Cal.Rptr. 300 (1988); see also, *Derfus v. Far West Villa Del Mar, LTD, et al.,* 471 F. Supp. 1082 (C.D.C.A. 1979). These cases treat a boat slip as real property, but they do not treat a boat slip as residential real property. In *Derfus,* which involved a liveaboard in Marina del Rey, the District Court held that: "The right to dock one's boat at a particular berth or marina cannot be equated with the right to decent low-cost housing even if one chooses to live aboard the boat. The nature of the right for which plaintiff seeks protection simply does not rise to the level entitled to constitutional protection which would override traditional landlord-tenant relationships in leases allowing, as here, for termination on thirty (30) day written notice by either party." In other words, the Court held that a person's liveaboard status did not entitle him or her to greater protection from eviction under the law than a tenant in any other real property lease.

Neither of the above cases directly raise or address the application of statutes specifically governing residential real property to boat slips rental agreements involving liveaboards. We find it unlikely, however, that a court would extend most statutes governing residential real property to boat slip rental agreements involving liveaboards because of the fact that the lessee is only renting

the slip and not a habitable structure. The slip tenant is actually providing the habitable structure, namely, the vessel. Thus, many of the legal obligations of a lessee of residential real property would not be applicable to a boat slip rental because of lack of control over the habitable structure. Since there are numerous statutes that may be applicable to various circumstances, however, the applicability of each statute must be determined based upon the specific facts of the case.

It should be noted that, as of this year, the minimum notice requirements for termination of a residential real property lease is the same as for real property leases generally. California Civil Code section 1946 requires no more than 30 days' notice of termination for real property leases. Leases of shorter duration than 30 days may have shorter notice; parties may also provide by agreement for lesser notice, but not less than seven days. Former Civil Code section 1946.1 had provided for notice of 60 days for residential real property leases of one year or more; however, that provision by its terms only remained in effect until January 1, 2006. The provision has not been renewed by the Legislature. Thus, 30 days' notice of termination is generally the requirement for both apartment and liveaboard tenants in the Marina, except as set forth in the Floating Home Residency Law, as discussed below.

Civil Code section 800, *et seq.*, the Floating Home Residency Law, provides certain protections for owners of floating homes, including limitations on the reasons for terminating a floating home tenancy, and 60 days' notice of termination. However, the Floating Home Residency Law has no application at this time in Marina del Rey because of how the statutes define a "floating home" and "floating home marina". For the purposes of the Floating Home Residency Law, to be a "floating home" a vessel must be designed as a stationary waterborne residential dwelling, have no mode of power of its own, have a continuous utility linkage to a source on shore, and a permanent continuous hookup to a shoreside sewage system. To be a "floating home marina" under the Floating Home Residency Law, the marina must have five or more berths rented or held out to rent for floating homes as defined, but that does not include a marina with 10 percent or fewer berths rented out or held out to rent for floating homes as defined. It also excludes certain marinas managed by non-profit corporations. We are not aware of any vessels or marinas in Marina del Rey that currently meet these definitions, primarily because there are no permanent continuous sewage system hookups in Marina del Rey at this time.

It should be noted that the County's definition of a "floating home" in County Code § 19.12.345 does not include the utility and sewage system linkage requirements of State law, and therefore, there are floating homes in

Marina del Rey that meet the County's definition of a "floating home," but not the Floating Home Residency Law definition. The County Code definition of a "floating home" does not alter the non-applicability of the Floating Home Residency Law to vessels that do not meet the State law definition.

With respect to discrimination, the same State laws would apply to businesses offering apartment rentals as would apply to the rental of boat slips. Civil Code section 51, *et seq.*, the Unruh Civil Rights Act, provides that: "[a]ll persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." As such, legal protection against discrimination is the same for any business in the Marina, whether it be a hotel, restaurant, boat slip rental or apartment rental.

3. Effect of Policies Adopted by the Commission.

The Commission has requested our opinion on the effect of a policy adopted by the Commission that is intended to govern the Commission's own actions. The request was raised with respect to a policy adopted by the Commission in October, 2002 that provided that the maximum height to be recommended for any new structure in Marina del Rey be no greater that 162 feet above grade, with the exception that Parcels 9, 10, FF and 145 may proceed at a maximum height of 225 feet.

As discussed in our June 5, 2006, memorandum, your Commission is an advisory body created by the Board of Supervisors ("Board") to make recommendations to the Director of Beaches and Harbors ("Director") and to the Board. Your Commission may publicly express its collective opinion by adopting a statement or resolution on issues within its jurisdiction. However, your Commission has no independent authority to adopt its own policies directly regulating the County's small craft harbor areas, and your Commission has no enforcement authority independent of that which may be delegated to the Commission from time to time by the Board.

Since your Commission is advisory only, a policy adopted by your Commission to govern your recommendations to the Board or Director serves to put the public and the lessees on notice of your Commission's position on a particular matter, and may serve as guidance for the Commission when considering individual projects in the future. Your Commission's policy, however, does not alter the legal standards that govern the Board's proprietary

decisions or the regulatory entitlement process, or limit the discretionary authority of the Board or Regional Planning Commission within the parameters of those legal standards. While we believe that the Board values your recommendations and advice on Marina matters, neither the Board nor the Regional Planning Commission is legally bound by your recommendations. Indeed, your Commission's policy would not even alter each individual Commissioner's right to take a contrary position on a project on a case-by-case basis.

With respect to the height limitation policy, the Specific Plan sets forth maximum heights for most parcels and provides general height requirements for those not expressly set. Certain height limitations are dependent on the size of the view corridor provided. Rejection of the maximum height allowable for a particular parcel by the Regional Planning Commission or the Board would need to be justified on a case-by-case basis. County Code §22.46.1060(E)(5) provides that: "[m]aximum heights may be reduced during the coastal development permit process to preserve public recreation, solar access to the beaches, parks and boat basins and wind for sailing or as otherwise required in all other policies of the certified Land Use Plan and this Specific Plan." Thus, while your Commission may not recommend approval of a project based upon your Commission's height limitation policy, incorporation of that limitation in the entitlement process of a particular project would require specific findings by the Regional Planning Commission or the Board that the height is being reduced for one or more of the specified purposes.

TJF:ss

c: Stan Wisniewski,
Director of Beaches and Harbors

"To enrich lives through effective and caring service"

Los Angeles County
Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

September 7, 2006

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan W.

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

BOARD OF SUPERVISORS ACTIONS ON ITEMS RELATING TO MARINA DEL REY

There are no action items to report since your August 9, 2006 meeting.

PERIODIC LOCAL COASTAL PROGRAM REVIEW – UPDATE

On his own initiative, the Executive Director of the Coastal Commission decided to postpone consideration of the Marina del Rey Local Coastal Program revised periodic review staff report rather than have it heard at the Coastal Commission's August meeting. The postponement occurred in order to give time to the County to prepare comments to the 177-page report, not shared with the County in advance of its publication and only received two weeks before the August meeting. We are presently awaiting word back from Coastal staff about which meeting they anticipate the matter will be re-calendared for Coastal Commission consideration.

STATUS OF DREDGING PROJECT

The United States Army Corps of Engineers (Corps) is planning to perform a dredging of an estimated 225,000 cubic meters of clean sediment out of the Marina's north entrance in the 2006 fall and/or winter months. The Corps has bid packages out, and bids are due on September 13, 2006. Based upon the bids, the Corps will determine where the dredged material will be placed, either on the sand or just offshore of Dockweiler State Beach in the Kilgore area. In order to dredge as much clean sediment as possible, the County is considering providing funds to the Corps in addition to the $1.4 million the Corps has allocated for the project. The dredging operation will be a 24/7 operation in order for the work to be completed by March 15, 2007 to avoid environmental impacts.

DESIGN CONTROL BOARD MINUTES

The draft minutes from the August 30 and 31, 2006 meetings have not been finalized.

SW:tm

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Caring for Your Coast
Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

September 7, 2006

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director Stan W.

SUBJECT: **ITEM 6b – PUBLIC REQUEST FOR INFORMATION AT AUGUST 9, 2006 MEETING**

The following item responds to a public request for information at your August 9, 2006 meeting.

Boater Concerns about Dock Construction at the Parcel 20 Marina

During the August 9, 2006 Small Craft Harbor Commission meeting, a concern was expressed regarding the eviction of slip tenants due to dock replacement work, specifically on dock D-1700 at Panay Way Marina (the speaker referred to Holiday Harbor Marina, but D-1700 is in Panay Way Marina). Staff looked into the matter and reports the following:

New docks are being installed at Parcel 20, Panay Way Marina. Docks D-2300, D-2100, and D-1900 have already been completed and reoccupied. The subject D-1700 dock has been completely vacated and replacement activities are imminent. Notices to vacate have been issued to slip tenants at docks D-1500 and D-1300.

As advised by the lessee, to minimize the impact to boaters during dock replacement, the lessee chose to stagger dock replacement so that only one dock at a time is out of service. Additionally, the lessee begins to assemble docks and fingers on land before an old dock is fully vacated so as to shorten the time a dock is out of service. Finally, to the extent a slip tenant is going to be invited back after dock replacement, the lessee takes steps to accommodate the tenant by finding a temporary slip in its own anchorages (Dolphin on Parcel 18 and Holiday Harbor on Parcel 21) or others within Marina del Rey, for transition back to a reconstructed slip once the dock replacement work is completed.

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The lessee is neither temporarily accommodating nor inviting back to a reconstructed slip those boaters it considers problem tenants. According to the lessee, such tenants have histories of late payments, have failed to maintain their boats as per their slip agreements, or have allowed individuals to unlawfully live aboard their boats (sneak-aboards). This is consistent with our findings when investigating complaints received directly by our office from boaters who were not being accommodated. For example, one boater who came to us to complain about being evicted from Panay Way Marina was late paying rent eleven times, twice to the extent lien proceedings were initiated. In another complaint brought to our office by an evicted boater, the dockmaster explained that the tenant allowed sneak-aboards on his vessel.

Based on our review of the matter, Panay Way Marina assists boaters in good standing in relocating while dock replacement is under way.

SW:tm