

**SMALL CRAFT HARBOR COMMISSION MINUTES**  
**SPECIAL MEETING**  
**September 21, 2016**

**Commissioners:** David Lumian, Chair; Dennis Alfieri (excused absence), Vice Chair; Russ Lesser; Allyn Rifkin (excused absence); Vanessa Delgado

**Department of Beaches and Harbors (DBH):** Gary Jones, Director; Steve Penn, Division Chief -Asset Management; Michael G. Rodriguez, Chief Property Manager; Don Geisinger, Lease Specialist; Gloria Perez, Management Fellow

**County:** Amy Caves, Senior Deputy County Counsel

**Item 1- Call to Order and Pledge of Allegiance**

Chair Lumian called the meeting to order at 1:44 p.m., followed by the Pledge of Allegiance led by Commissioner Lesser. Chair Lumian read the Commission's policy on public comments.

**Item 2a – Parcel 10 Approval of Lease Assignment and Assignments of Options to extend existing lease for Parcel 10 and the lease for Parcel 14 (Neptune Marina)**

Don Geisinger presented the staff report.

Commissioner Lesser clarified that the project has already been approved by the Board of Supervisors (BOS) and the Coastal Commission. He further clarified that the configuration and physical attributes of the project are not open for discussion and the Commission is only discussing the assignments of the lease and options.

Dan Gottlieb spoke about the Coastal Improvement Fund and he is concerned that money has not been properly collected for these two parcels. He further added that Parcel 14 was designated as a site for a public park.

Jon Nahhas spoke about his concerns including the need for a public park on Parcel 14, overdeveloping the Marina, and toxicity in the water. He believes all lessees should be responsible for cleaning up toxicity in the water and suggested this requirement be added to all future leases.

Jeannette Vosburg objected to the project because she believes the project is in violation of Public Laws 780 and 389.

Peter Beale commented that people view the Commission as more in favor of increasing revenue for the County rather than protecting recreational boating. He also expressed his concern about the Mariner's Bay redevelopment project eliminating 35 – 40 ft. slips and replacing them with 40-45 ft. slips which will increase the dock fees for 35- 40 ft. boat owners. He also is upset with the low number of slips available throughout the Marina. He suggested that B Basin be completed to accommodate

displaced boaters and that Mariner's Bay redevelopment project be delayed because there are currently too many development projects scheduled for the same time.

Nancy Vernon Marino expressed her opinion that the project is not favorable to the County and she believes the County is not receiving ample funds for this project. She also believes the land can be used for recreational purposes.

Erick Preven spoke against the project and stated that the public's interest has to be protected. He believes the project limits public access to the water. He also asked that in the future, large lease documents be separated from other meeting materials and not packaged as one pdf file. The lease should have been a separate file.

Brian Golden expressed his opinions about the Commissioners' support of the project. He is not in favor of the project.

Commissioner Lesser asked staff to speak about the Coastal Development Fund requirement for this project.

Michael Tripp replied that developers must pay these fees to obtain building permits.

Commissioner Lesser also asked staff about the possibility of using Basin B for displaced boaters and to address the concern with the low number of slips available in the Marina. Commissioner Lesser further commented that he believed the opposite was true and that the Marina was experiencing a large number of vacancies.

Michael Tripp replied that he believed that the gentleman was actually referring to Basin C which has vacant slips; however, Basin C lacks landside resources. There are no restrooms, parking or power currently available in Basin C.

Commissioner Lesser asked about the financial benefits of the project.

Don Geisinger replied that there are social benefits as well as economic benefits including 84 affordable housing units. The Lessee is also constructing a transient dock in front of Parcel 9.

Commissioner Delgado reminded that even if the Commission did not endorse this item, the item would still be presented to the BOS.

**Motion to approve by Commissioner Delgado, seconded by Commissioner Lesser, unanimously approved.**

**Ayes: 3 – Chair Lumian, Commissioner Delgado, and Commissioner Lesser**

**Item 2b – Parcel 52/GG (Boat Central) Granting of a Lease Option Agreement**

Don Geisinger presented the staff report.

Chair Lumian asked when approval was granted for this project.

Don Geisinger replied that approval was originally granted in 2003 but the BOS asked for the reissuance of the RFP and Almar was approved again in 2005. The option agreement was approved in 2007.

Commissioner Lesser asked staff to explain the exception provided for dry stack percentage rent.

Mr. Geisinger replied that the dry stack percentage rent is based on a sliding scale for the first three years and is directly related to the minimum occupancy rate. After three years, the sliding scale will end.

Commissioner Delgado reminded speakers that the SCHC reviews the financial aspects of the project. Questions or concerns regarding the aesthetics of the project will be addressed at a future Design Control Board (DCB) meeting.

Gary Jones further clarified that one of the conditions of the agreement is that the developer must obtain a building permit. To obtain a permit, the plan must be approved by the DCB.

Tim Riley reiterate the Lessees Association's objections to the project, including the fact that there have been many changes in the Marina since the project was first approved. However, the plans for this project have not been updated. He further reminded the Commission that the DCB rejected the design of this project twice.

Andy Bessette expressed her concerns that the County and the Commission do not take public comments into consideration when voting on a project.

Ben Hamilton spoke about recreational boating and the need for another marina.

Dan Gottlieb spoke about the lack of a suitable wind study.

Jeannette Vosburg spoke about the TMDL in the harbor and encouraged the County to resolve the issue. She also questioned the financing of the project and asked what type of guarantee would be offered to protect the public and ensure the project is completed. She also questioned if there would be sufficient demand to make the project financially sound. She believes the project is not following the spirit of the Public Law 780 which requires reasonable rates and equal access to all.

Jon Nahhas spoke against the project and he believes the facility will be cost prohibitive for most boaters in the Marina. He asked for more information on anticipated costs for boat storage.

Eric Preven spoke about his concerns of the functionality of the project and compares it to an existing facility in Florida which cost \$225,000 for ownership. He stated it's like buying a condo for your yacht. He further commented that the public does not express an interest in this project. He believes there are vacancies in the Marina and it is easy to find a vacant slip. He asked Commissioners to refrain from voting on this item.

Nancy Vernon Marino spoke against the project. She believes that boaters and recreational users of MdR are not interested in this project.

Commissioner Delgado inquired if the project must be approved by the DCB before it can move forward.

Gary Jones replied that it does have to be approved by DCB and satisfy other conditions stated in the option agreement.

Commissioner Delgado asked if SCHC could review this item after it has been approved by the DCB.

Gary Jones replied the item could not be delayed because the developer needs the rights to the property to move forward.

Commissioner Lesser stated that the dry stack storage project can be beneficial if it makes boating more affordable. He referenced existing facilities that he saw in Brazil and other countries and said the facilities were cheaper than a standard slip, making boating more affordable. He would like to know if this will be a similar case for MdR. He also asked about the County's protection should the developer abandon the project.

Gary Jones replied that there are clauses in standard County agreements that put restrictions on charging exorbitant prices. However, the agreement does not stand in the way of a business setting prices to recoup its expenses. Mr. Jones commented that there are requirements in place to demonstrate the developer's ability to finish the project. He further reminded the public that the developer has already shown a commitment to this project. After all these years, the developer has not abandon the project.

Chair Lumian expressed his dislike for the project. He asked if a wind study had been conducted and also asked what size boats can be stored.

Gary Jones replied that there was a wind study completed. The facility will have the ability to change compartment sizes to accommodate a range of boats.

Don Geisinger added that he believed the slips can be configured to accommodate boats up to 40 ft.

Commissioner Lesser requested to have the lessee speak about the economics and projections of the project.

Tom Hogan stated that the average boat size will be between 25 to 28 ft. and the maximum length would be about 34 ft. He added that there is a difference between the dry stack storage and a boat in the marina because the dry storage is enclosed and height is a consideration. He further stated the facility will charge a market rental rate and it is projected that rates will be approximately the same as boats slips in the water. He also mentioned that the DCB's objection to the project was not the project but the over-the-water design and the lack of a promenade. The plan did not include a promenade because the developer believes it would create safety issues. Mr. Hogan believes these concerns have been addressed. He further announced that his firm has been selected to build a dry stack storage facility in San Diego.

Commissioner Lesser stated that the goal of this project was to make boating more affordable and it is disappointing to hear that the rates will be close to the water slip rates. He also asked about the Coastal Commission requirement for the preservation of smaller slips.

Gary Jones replied that the Coastal Commission requires certain thresholds of small slips particularly in the 30 ft. and under and 31-35 ft. that need to be maintained regardless of any development in the marina. There is also a Local Coastal Program requirement regarding the availability of dry storage. This project was envisioned to help fulfill this mandate.

Chair Lumian asked what would happen if the construction of the project failed or if the project is completed but is unsuccessful.

Gary Jones replied that the lease would fall into default and the County would gain back control of the site. He further commented that if the project were completed and then abandon, the County would RFP for a management company to run the facility or RFP to lease the property. This would be the same as any other project in the Marina. He added that the financial component also creates an additional layer of protection. Lenders are also concerned with the viability of a project. If the developer abandons the project, the lender may step in and complete the project and offer the facility to a different lessee.

Tom Hogan reminded that the County requires bonds to guarantee the completion of the project. If for some reason they were unable to perform, the County would receive the property, less that equity or the bank would take over the property and make arrangements for operations. If the bank decided to forgo the project, the County would receive the project for free. The lease specifically requires a completion guarantee.

Commissioner Delgado asked the lessee if they were seeking this project because they viewed it as financially viable.

Mr. Hogan replied affirmatively.

Commissioner Lesser asked what are the next steps after SCHC reviews the item.

Gary Jones replied that it will go before the BOS, then the developer will work on meeting the conditions listed to exercise the lease option, including providing the County evidence of satisfactory financing. The project will have to be approved by the DCB, obtain building permits, and receive approval from Building & Safety.

Commissioner Lesser asked about the Coastal Commission's approval.

Gary Jones replied that Coastal Commission already approved the project, within its jurisdiction, in January 2015. A component of this project will be constructed above the water.

Commissioner Lesser stated that he would like to approve the financial aspects of this project and mentioned that he's in favor of the project. He believes the project will increase small boat owners' access to the water.

**Motion to approve by Commissioner Lesser, seconded by Commissioner Delgado, motion denied.**

**Ayes: 2 – Commissioner Delgado and Commissioner Lesser**

**Nos: 1 –Chair Lumian**

#### **Adjournment**

Quorum was lost due to Commissioner Delgado departure at 3:17 p.m.