LOS ANGELES COUNTY
Caring for Your Coast
Beaches & Harbors

To enrich lives through effective and caring service

Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

AGENDA

SMALL CRAFT HARBOR COMMISSION MEETING
SEPTEMBER 8, 2004
9:30 a.m.
BURTON W. CHACE PARK COMMUNITY BUILDING
13650 MINDANAO WAY
MARINA DEL REY, CA. 90292

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

2. Approval of Minutes: Meetings of May 12, 2004, June 9, 2004, July 14, 2004, August 11, 2004

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

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

   b. Marina del Rey and Beach Special Events

4. **OLD BUSINESS**

   a. Approve the Release of Request for Proposals for Development of Fuel Dock Facilities on Parcel 1S in Marina del Rey (RECOMMEND TO BOARD OF SUPERVISORS)

5. **NEW BUSINESS**

   None

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

   a. Ongoing Activities
      - Board Actions on Items Relating to Marina del Rey
      - Design Control Board Minutes
      - Eviction Law for Liveaboards (verbal report by Tom Faughnan, Senior Deputy County Counsel)

   b. West Nile Virus Concerns

7. **COMMUNICATION FROM THE PUBLIC**

8. **ADJOURNMENT**

PLEASE NOTE:

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

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

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

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

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

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

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

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9546.

Small Craft Harbor Commission
Meeting of May 12, 2004
Minutes

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

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

1. CALL TO ORDER & ACTION ON ABSENCES

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

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

2. APPROVAL OF MINUTES

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

3. REGULAR REPORTS

a. Marina Sheriff Department Report

-- Crime Statistics

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

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

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

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

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

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

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

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

b. Marina del Rey and Beach Special Events

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

4. OLD BUSINESS

a. Marina del Rey Slip Replacement

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

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

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

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

Chairman Searcy opened the floor to public comment.

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

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

Mr. John Davis said:

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

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

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

Ms. Andrus then provided the following comments:

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

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

5. NEW BUSINESS

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

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

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

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

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

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

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

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

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

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

Chairman Searcy opened the floor to public comment.

Mr. John Davis said:

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

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

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

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

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

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

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

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

6. STAFF REPORTS

a. Ongoing Activities Report

-- Board Actions on Items Relating to Marina del Rey

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

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

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

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

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

Chairman Searcy opened the floor to public comment.

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

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

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

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

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

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

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

Mr. John Davis said:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Marina del Rey Convention and Visitors Bureau

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

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

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

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

Chairman Searcy opened the floor to public comment.

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

7. COMMUNICATION FROM THE PUBLIC

Chairman Searcy opened the floor to public comment.

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

He read aloud the following questions from his list:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. ADJOURNMENT

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

Respectfully submitted,

Toni Minor
Commission Secretary

Small Craft Harbor Commission
Meeting of June 9, 2004
Minutes

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

Department of Beaches & Harbors:	Stan Wisniewski, Director Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau Julie Carpenter, Planning Division
Other County Departments:	Tom Faughnan, County Counsel Captain Sam Dacus, Sheriff's Department Deputy Paul Carvalho, Sheriff's Department

1. CALL TO ORDER & ACTION ON ABSENCES

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

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

2. APPROVAL OF MINUTES

Commissioner Lesser moved and Vice-Chairperson Stevens seconded a motion to approve the April 21, 2004 minutes. The motion passed unanimously.

Chairman Searcy said that action on the May 12, 2004 minutes would be deferred to the July 14 Commission meeting since there isn't a quorum of Commissioners present who attended the May meeting.

7. COMMUNICATION FROM THE PUBLIC (Part 1) – Pertaining to the Kingswood Village Apartments

Chairman Searcy announced that he would pull "Communication from the Public," Item 7, from its agenda order and the Commission would hear it in two parts. Part 1 of the item would be heard early to allow the many Kingswood tenants attending today's meeting the opportunity to express their concerns regarding Kingswood Village Apartments. Some of the tenants had requested the opportunity to speak early so that they could go to work as soon as possible. The Commission would hear Part 2 of Item 7 in the regular agenda sequence.

Before requesting the first speaker to come to the podium, Chairman Searcy recognized former Los Angeles City Councilman Nate Holden as an attendee today and welcomed him to the Commission meeting.

Mr. David Hittelman, a tenant at Kingswood Village apartments, came to the podium and informed the Commission that he represents approximately four-dozen Kingswood Village Apartment tenants.

Chairman Searcy asked Mr. Hittelman whether he is the tenants' counsel. Mr. Hittelman responded "no" and explained that by "represent," he doesn't mean that he is the tenants' counsel, but is their spokesman at today's meeting.

Mr. Hittelman gave the following testimony:

> The issue that is at hand in the immediate sense are the current evictions that are going on and the potential for rent increases where nobody has a true understanding

of the rent increases and the impact that they're going to have on them monetarily. The issue right now is that they've started evictions on buildings. People are moving out. They're doing current renovations. There are no permits that we can see posted. There is essentially permitted work that is supposed to be going on as far as the deferred maintenance but I can see no permit posted. There is current demolition going on. There are dumpsters in the alleyway behind the property. There are no permits posted. Along with just the general issue with the evictions for the proposed improvements...on top of that, people are being asked to come back at unknown rents. They're being told you have to move out but your rent is now gonna be...and it seems to be a sliding scale. I'm not sure if Mr. Moliere or anybody in the County has seen what those rent increases are, but back in the...February 10 meeting minutes you were told by George Lloyd that there was a potential for rent increases and at that point I would have thought that that the County would have had discussions in that regard or at least the Commissioners or their appointed deputies would have done something in that respect.

The real issue does become the fact that people are not in any way trusting what Archstone says about the improvements, what the rent increases are going to be because they have been disingenuous in all their representations. As you know, also in the meeting minutes that are here, they have had a very disingenuous presentation where they say one thing to the County and to the Commission to get what they want. We have documents that people will present later or during the course of the meeting to show that they've done otherwise.

The concern is that, ultimately, what does the County or Small Craft Harbor Commission do? We don't see...there's no inspections. We haven't seen any in five years for the deferred maintenance for the building. What happened to those funds that were paid to the County? There are clear code violations right now that exist in the elevator lobbies and the towers. There's a life safety issue that's still not being addressed. The first thing that Archstone did was demo units to get potential rent increases as opposed to going after the life safety issues that should be the predominant concern of the County.

In that respect, we know that already one lawsuit has been filed and we don't know if the County or Commissioners have any response today. I don't represent a law firm in that respect. I just know that through publications and having tracked it down that I've got a copy of it that I'd like to submit to the Commissioners just so that I know it's been submitted for record and that you guys can see what they're talking about because ultimately it does come down to whether or not Archstone has the ability to recoup their investments in the renovation they're proposing right now. The terms of your lease extensions don't specifically...their ability to recoup their investment, not the County's investment in the property.

A separate concern is the County's fiduciary responsibilities to the tenants. It's not the business that manages these properties that should be your concern, it's how the tenants that are on these properties are being managed, being dealt with by these companies. Again, I go back to Archstone being very disingenuous in their representations. People do not like going to the office. People are fearful that if they complain there will be retribution. In that respect, when you look at the lawsuit regarding the actual Archstone purchase of this property, where is the County again in their fiduciary responsibilities to the people who are paying to you for that asset? Because this is a County asset. It does not become Archstone property. They did not buy it. They manage it for you, for us, and that's why we came.

We thought when Archstone came on board, being a reputable firm, that we would see improvements immediately. We actually saw a hardening of the stance in the management office about their openness to discuss things with the tenants. We see them being very flippant in their responses when people are seriously addressing concerns about rent increases.... Unfortunately, Kingswood failed in raising their

rents appropriately. You failed in getting that asset from Kingswood. You should have been saying, 'hey, we know what market rent is. Kingswood, we want to get that from you.' You have the ability to raise the rent anytime you please and you failed to tell them to do that. Archstone comes along, and these people, after the course of a decade, we've lived with the privilege of not having a rent increase, but also in some respects, have been paying for that.

There was no deferred maintenance going on. Somehow, those funds were still being paid to the County and deferred maintenance went away. I've been living there for five years and I've seen very minimal work except for the degradation of the water heating system. They've now put in either an energy management system that has considerably depleted the water supply or they've done something to just make sure that it's more economical. In that respect, that's why I asked you, who at the County is responsible for looking at these properties and inspecting them in the course of the work once the leasehold has taken over?

I know you have other people here who are about to ask for approval for leaseholds, extensions or a takeover lease or improvements on a property. Does the County just say, 'hey, just go about your business. Just make sure you give us a check at the end of the month?' That's sure what it seems like to a lot of us here in the Marina. You're only concerned about the dollar that comes in. You're not concerned about the people who are paying. Ultimately, again, that's your asset.

Mr. Arthur Roberts, Kingswood resident for 20 years, came to the podium and said:

I had the good fortune last night to have a long phone call with Richard Fine, who is the lead attorney for the Marina Tenants Association and Coalition to Save the Marina. He told me that the lawsuit deals with the gift of public funds, that Archstone paid $87 million for the Kingswood Apartments. Our lawsuit says that they can't use $87 million as the basis to raise the rents, not $87 million. They can only raise rents, according to Section 16 of their lease based on their investment in the property and their claimed investment costs of $24 million. $24 million over twenty years is a little over $1 million a year. Divided by 700 apartments is $1428 per apartment a year or roughly $120 per month. I can give you all a copy of this after. That's what a fair rent increase would be.

Because the Marina is County land, the County has an obligation to control rents. If they don't, they've also given the property away, which is a violation of the California constitution and a gift of public funds to Archstone. There is nothing in the present lease, the one that Archstone took over from Kingswood, that allows for a lease extension. Beaches and Harbors approved the new lease. Under Section 16 of the present lease between Archstone and the County, the County is supposed to be supervising the rents. There is a cap. They are only supposed to get a reasonable return on their investments. The County has a responsibility to limit the rent increases and the County is not doing this.

Mr. Roberts pointed to one of his Kingswood neighbors sitting in the audience and said that this neighbor received a notice that his rent would increase from $1800 to $3070, which is a 71% increase.

Additionally, Mr. Roberts commented that he asked at the February 2004 Commission meeting whether the Kingswood tenants would be protected from such drastic increases and Chairman Searcy assured him that the increases would be reasonable. Mr. Roberts said that the increase from $1800 to $3700 is not reasonable, but atrocious.

Chairman Searcy requested Mr. Roberts to give staff a copy of the notice. Mr. Roberts responded that he would provide staff with a copy.

Mr. Roberts continued:

> The County has given Archstone a new 20-year lease and Beaches and Harbors has approved and recommended a new lease for no money compared to a lease that's worth $87 million over the last 18 years of the present lease that Kingswood had with the County.... Archstone paid $2.1 million; this is from a phone call with Richard Fine, our wonderful lawyer, this morning, for an option for a 20-year lease, which they will pay no money.
>
> Second and finally, Beaches and Harbors Commission is approving these horrendous rent raises at Kingswood for Archstone when there is no basis under the present lease for such a rent raise. So, in my phone call from Richard...he said to me, 'either someone is very dumb, or someone is getting paid off, or maybe there's a third reason and we have the right to know the answer why did this happen.' I mean, I question, do any of you live at Kingswood? Do any of you live in the Marina and how would you feel if your rent or mortgage was being raised 70%?

Ms. Julie Schaller, a Kingswood tenant, said to the Commission:

> I'm here basically to just ask for some help from the Commission. I moved to the Marina last August because the same situation happened to me in Hermosa Beach. My rent was raised 48%. I was not told of any renovation when I moved in. I came to the first meeting here and Archstone outlined how they were going to do the renovation and I listened. They said they were going to do the safety first, the elevators, the fire alarms and all of those things. Then they were going to go to the garden and the following year they would do the tower apartments. Well, that hasn't happened like that. I haven't seen any work in the elevators. We have a security guard that we weren't aware of that's walking around at night. He told me that he's required by the fire marshal to be there because the fire alarms are not working in one of the buildings.
>
> My rent personally is being raised 55%. It's a one-bedroom, going from $1400 to $2170. I'm a teacher. I work in the community. I took the day off today because I think this is important. I first made a call to the office and they told me after we came to the first meeting, 'oh you're a honey, don't worry, don't worry. I heard about you. You already had this happen to you once. Your rent is high enough. Don't worry, it will be a minimum increase.' When I went down to see her [office worker] two weeks ago, she pulled out a paper and said, 'oh well, it will be going up to $2170.' I said, 'excuse me.' She proceeded to tell me that there's a brothel going on, happening in our tower building. I said, 'I'm not a young person, but I appear to be one of the younger members in the building and I haven't seen anything like that.' She said, 'we have ten people living in one and two bedroom apartments.' She said, 'excuse me for saying this but we need to get out the people that don't belong.'
>
> Obviously, I took offense because I guess I'm one of the people that don't belong. I'm a teacher. I'm giving my 290th blood donation today. I work with an animal rescue group. [I said] 'Are you saying it's because of who I am or because I don't have the money? In that case, well then, the people in the brothel can probably stay.' I said, 'I do not ever begrudge a landlord for raising rents equitably.' I said, 'would it be possible to make some allowances for the people who are living there, raise them on a rate scale every year until they come up to current rate and then the vacant apartment, you can charge whatever you're charging?' She [office worker] said, 'that would be discrimination.'

Ms. Susan Thomas, Kingswood tenant, addressed the Commission, stating:

> We lived at Kingswood for about four years. I came to the meeting when I was pregnant and before all of this happened. I didn't know when we were going to have to move. We moved out February 2003 and I had her [Ms. Thomas' infant daughter] in March. We moved back in February. We have a one-year lease. I came to the meeting. They told us they weren't going to start the tower for a year. We got a letter that it was going to be July. I still have some stuff in boxes. Now it's August. We got our letter Saturday morning. Our rent is $2300. They want to raise it to $3700 and they said that because we are on a lease we can go to another apartment until our lease is up. If we want to stay and go back to our apartment it's $3700. We were planning to move to the penthouse and they want to charge $3900. I don't know what the law is. I haven't spoken to an attorney but I've asked them, if we want to leave Archstone, how they will compensate us, and they said nothing. I said, 'excuse me,' and they said that they would give us one-month's rent to move. I need to know what our rights are. We've already told them that we plan to move to another apartment. Hopefully, by the time they get to the other side of the building, they will have this under control. We can't go from $2300 to $3700. That is totally outrageous.

Mr. Hittelman returned to the podium and said:

> I had not known about the rent increases when I approached you and now hearing what they are, I was of the understanding, and also in correspondence with Roger Moliere, that the County approves these [rent increases] before they go out to the tenants, but I guess it comes out that we have to dispute the increase. The County then does a market survey and comes back and approves or disallows the rent increase or tells them what the market rate is. Again, this goes back to my item, that you were told back on February 10, which is part of the meeting minutes that say they were going to be raising the rents. The County at that point should have known what market rate is. The County should know everyday what the market rate is.

Chairman Searcy expressed the Commission's appreciation to the tenants for sharing their concerns and providing information on the rent increases. He requested the Department's staff or Tom Faughnan, County Counsel's office, to comment on the issues the tenants raised. Mr. Wisniewski asked Mr. Faughnan to comment since there is a lawsuit involved. Mr. Faughnan informed the Commission that the County was served with a lawsuit concerning Kingswood Village Apartments on May 25, 2004, which he and the County Counsel's office will handle. His review of the lawsuit indicates that it is without merit and, since the lawsuit is pending, he cannot further discuss its allegations at today's meeting.

Chairman Searcy said that the Commission is unaware of the lawsuit's allegations and whether or not it includes the issues raised today. He commented that the rent increases are rather steep and asked whether staff could discuss them as well as the renovation schedule.

Mr. Moliere responded that he could provide information on the rent review process that is available to tenants, however, before doing so, he wished to clarify that he did in fact tell Mr. Hittelman in several long conversations, some of which resulted in correspondence, that the County does not pre-approve rents.

Mr. Moliere informed the Commission that the rent review process, as he has explained to Mr. Hittelman in great detail, enables a tenant who believes a rent increase to be inappropriate to request a review from the Department. Staff will then determine whether the rental rates are within market range. Mr. Moliere said that for Mr. Hittelman to say that Mr. Moliere told him otherwise is inaccurate. Mr. Moliere added that Mr. Hittelman did not provide him with any facts about the actual amount of the rent increases.

Chairman Searcy said the Commission received specific rent increase information this morning that Mr. Moliere apparently did not have when speaking with Mr. Hittelman. Chairman Searcy encouraged the Kingswood tenants in attendance today to contact Mr. Moliere so that Mr. Moliere can obtain more information on specific rent increases. Mr. Moliere announced his telephone number for members of the public who wish to contact him.

Mr. Wisniewski commented that Mr. Moliere adequately described the County's rent review process and Mr. Wisniewski encouraged tenants to avail themselves of the process.

Chairman Searcy assured the tenants that the Commission does not take their concerns lightly. He encouraged the tenants to remain after today's meeting to speak with Mr. Moliere if they need additional information or assistance.

Commissioner Lesser commented that, regardless of the pending lawsuit, allegations were made that should be addressed, such as work being done at Kingswood without permits and code violations not being corrected. In addition to staff responding to these concerns, Commissioner Lesser said that he would like to see specific examples of retribution against tenants who complain.

Commissioner Lesser said that several incorrect statements have been made about the County's responsibility and who the leaseholder is; however, he didn't want to address the inaccuracies at this time. He said that an Archstone representative discussed the Kingswood renovation schedule at the February 2004 Commission meeting. Commissioner Lesser requested staff to check whether Archstone has changed its schedule and whether the company told people one thing but actually did something else.

Further, Commissioner Lesser said that Archstone has a lot of experience and a very high percentage of satisfied tenants, however, something is going wrong with Kingswood and the Commission needs to know what it is. The Department has indicated that there is a rent review process in place to address the tenants' concerns about rental increases. However, Commissioner Lesser said that the Department needs to find out whether the allegations are true that work is being done without permits and people are experiencing retribution for complaining. He commented that it's the first time the Commission received the information that was shared today and important issues were raised that need to be addressed.

Mr. Faughnan informed Commissioner Lesser that the items he would like staff to address are not the subject of the lawsuit; therefore, staff is able to provide a report on these issues. Chairman Searcy requested that the report also include if the Department can look at whether a percentage of rent increase is unreasonable given in addition to just the total amount.

Chairman Searcy commented that he could be wrong but he believes an Archstone representative indicated that the rent increase would be within the 10% range. The representative also made statements about the deferred maintenance schedule for construction, etc. Chairman Searcy asked staff whether the Department approved an agreement or schedule for the new renovations, etc., that Archstone is now violating. He commented that the Commission does not like being lied to and needs to know what is going on since "there's an awful lot of smoke here."

Relative to the issue of rent increases, Vice-Chairperson Stevens referred to the Wolff/Lyon representative's statement at the May 2004 SCHC meeting that there would be a nominal rent increase of 10-15 cents per square feet at some of the Villa Venetia apartments. Vice-Chairperson Stevens asked staff to report at the July meeting on what the 10-15 cents per square feet amounts to in terms of the percentage that the rent would be increased.

3. REGULAR REPORTS

a. Marina Sheriff's Department Report

-- Crime Statistics

Lt. Greg Nelson reported that there were no significant changes in this month's crime statistics. There was, however, a significant decrease in grand theft and grand theft auto in the Marina. This decrease could be attributed to higher officer visibility in the area.

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

Deputy Carvalho reported that no new Notices to Comply were issued last month. The Department is working with the boat owners who received Notices to Comply in previous months. It appears that at least 50% of the owners will make the necessary repairs to bring their vessels in compliance with the ordinance. The remaining owners will receive citations if they don't make the necessary repairs by the deadline.

Deputy Carvalho reported that the Department has disposed of an additional six vessels since his last report to the Commission. There are still several vessels waiting for disposal but progress is being made.

b. Marina del Rey and Beach Special Events

Mr. Wisniewski noted that the report includes information on the MdR Concert Series, which begins the evening of July 8 and is sponsored by Arrowhead. Additionally, the Department is sponsoring a 4th of July fireworks over the main channel.

Mr. Wisniewski encouraged members of the public who want additional information to pick up a copy of the report from the public information table.

Mr. Wisniewski also informed the Commission that the Water Shuttle has had over 1,000 riders to date.

4. OLD BUSINESS

None.

5. NEW BUSINESS

a. Approve the Release of Request for Proposals for Improvements to Parcel 83S – Marina del Rey

Mr. Wisniewski said that staff is requesting the Commission's recommendation of the Parcel 83S Request for Proposals' (RFP) Board letter, which has been filed with the Board of Supervisors. He said that staff would inform the Board offices of the Commission's action today. Mr. Wisniewski asked Mr. Moliere to provide highlights of the RFP.

Mr. Moliere informed the Commission that Parcel 83S is the small parcel located at the corner of Fiji and Admiralty Way adjacent to the shopping center. It's approximately 14,000 square feet. The project scope proposed by the RFP is consistent with the goal of the Asset Management Strategy and Local Coastal Plan to create more visitor serving uses as a focus. The Department seeks the Commission's recommendation to release an RFP to solicit visitor serving uses for the parcel. The solicitation would include those who wish to make a proposal on a stand-alone basis or include proposals from adjacent or nearby leaseholds as long as the use itself is visitor serving. The Department is requesting that the proposals include landscaping surrounding the property since the area is now concrete and in need of improved landscaping.

Chairman Searcy did not receive any requests from the public to speak and entertained a motion on the item.

Commissioner Lesser moved and Vice-Chairperson Stevens seconded a motion to recommend Board approval of the Release of the Request for Proposals for Improvements to Parcel 83S – Marina del Rey. The motion passed unanimously.

b. **Consent to Assignment of Leasehold Interest and Amendment to Lease—Parcel 10R (Neptune Marina) – Marina del Rey**

Mr. Wisniewski said that sometime ago the Department issued an RFP soliciting development proposals for the Westside of Marina del Rey. Legacy Partners was recommended as one of the successful proponents and there have been negotiations with Legacy for some time. He said that Legacy Partners intends to purchase Parcel 10R, Neptune Marina, and subsequently complete its negotiation for a long-time lease extension to redevelop the parcel.

Mr. Wisniewski said that there also will be a redevelopment of Parcel 9U, which is adjacent to Neptune Marina. He explained that Parcel 9U is not a part of the Parcel 10 assignment, however, he wanted the Commission to be aware that Legacy previously proposed building apartments on Parcel FF, which is a County parking lot across from Parcel 10. Legacy also proposed building a public park as well as a hotel timeshare concept on Parcel FF. Mr. Wisniewski explained that these elements are not a part of the Parcel 10 transaction, however, he doesn't want the Commission to be blind-sided later on when it hears that the Legacy project is the subject of a lease extension, which the Department would be recommending, assuming the Department is able to come to terms with Legacy.

Mr. Wisniewski said that staff reviewed the terms of the assignment, believes it to be reasonable and consider it beneficial to bring outside interests into the Marina with the capability that Legacy has. Staff is pleased with the pace of the negotiations even though it is a little slow. He said that, hopefully, the negotiations will conclude within the next 30 days.

Chairman Searcy clarified that Mr. Wisniewski's reference to Parcel 9U and Parcel FF is informational only. These parcels are not tied to the Parcel 10 assignment before the Commission today.

Mr. Moliere explained that the Parcel 10 assignment is a transfer from the current lessee, Neptune Marina, to Legacy Partners Neptune Marina L.P. The parcel is now improved with 184 slips and 136 apartments. He said that the Department's review focused on three main issues: 1) the financial condition of the assignee; 2) the price to be paid as it relates to the improvements and for potential development; and 3) management of the leasehold.

Mr. Moliere said that staff investigated and concluded that the proposed lessee has demonstrated the financial ability to provide for the leasehold. The sale price is fair and reasonable and Legacy has the required experience to operate the leasehold, given the company has managed more than 30,000 multi-family units throughout the Western United States and, in fact, manages the Marina's Bay Club.

Mr. Moliere said that since the lease was developed at a time when there was no such thing as a limited liability company, it has been updated to clearly state that the transfer restrictions on certain kinds of entities, including partnerships, also extends to limited liability companies.

Chairman Searcy asked whether the ownership is entirely new. Mr. Moliere responded that it is an entirely new ownership. The prior owner-principal was Mr. Lou Weider and his company. Mr. Weider has a very minor trailing interest that will extinguish shortly. Mr. Moliere added that the new ownership is identified in the Board letter and is comprised of the principals of Legacy and AIG, which is a large financial company. These principals are also the equity partners.

Commissioner Lesser questioned whether in a few months the Commission would hear the Neptune tenants' concerns regarding escalating rents just as the Commission has heard from Kingswood tenants. Mr. Moliere expressed his hope that this won't be the case. Vice-Chairperson Stevens said that hoping isn't really enough. She expressed her concern about the extraordinarily large rent increases and suggested that the Department tell lessees upfront that staff

will examine proposed increases very closely. Mr. Moliere commented that a representative from Legacy Partners is at today's meeting and Mr. Moliere is sure that the representative got the message.

Commissioner Lesser requested the Legacy representative to comment on the company's plans. Mr. John Santry, Legacy's Development Manager, informed the Commission that the company's intention is to redevelop Parcel 10 as proposed in the RFP and as described by Mr. Wisniewski. Mr. Santry said the company is now in the entitlement process. Legacy will purchase the property and receive entitlements for its redevelopment. It will take approximately 2 to 2 1/2 years to complete the regulatory process. In the meantime, Legacy will maintain, manage and operate the property until it receives the necessary permits and requirements.

Commissioner Lesser commented that the Commission has seen an example of what is probably not a good landlord/tenant relationship, which doesn't seem to be a logical way to operate a business. He asked Mr. Santry whether Legacy has experienced these types of problems with any of its projects. Mr. Santry responded, "not typically."

Commissioner Lesser commented that spending funds on massive renovations typically necessitates increasing rents. Mr. Santry said that Legacy doesn't plan to renovate but to redevelop the property. The company plans to demolish and reconstruct Parcel 10R. As for Parcels FF and 9U, the plan is to develop Parcel FF and construct a park on Parcel 9U. The other development company (Woodfin), in conjunction with Legacy, will build the park and then construct a hotel on Parcel 9U.

Chairman Searcy asked Mr. Santry whether Legacy has a program to assist Parcel 10's existing tenants during the property's redevelopment. Mr. Santry responded that there would be a program to help existing tenants relocate and, if they wish, return when the units become available, which is estimated to be in approximately 20 months. The tenants have the option to return to the complex under the rental rates that would be proposed.

Chairman Searcy asked Mr. Wisniewski whether the County has a tenant relocation program or requirement with which the lessee must comply. Mr. Wisniewski responded that, as he understands it, the County ordinance does not require lessees to give tenants a relocation allowance. Such an allowance is at the discretion of the lessees. The Department encourages the lessees to work with their tenants because good tenants are very valuable and lessees should make an effort to retain them.

Chairman Searcy asked Mr. Santry whether Legacy is willing to share its relocation program with the Commission before the program's implementation. Mr. Santry responded, "yes we would."

Having received no requests from the public to speak on Agenda Item 5b, Chairman Searcy entertained a motion on the item.

Vice-Chairperson Stevens moved and Commissioner Lesser seconded a motion to recommend Board approval of the Consent to Assignment of Leasehold Interest and Amendment to Lease—Parcel 10R (Neptune Marina) – Marina del Rey. The motion passed unanimously.

c. **Joint Recommendation of the Chief Administrative Officer and Director of the Department of Beaches and Harbors to Approve and Authorize Execution of Amendment to Second Amended and Restated Lease No. 55624—Parcel 125R (Marina City Club) Marina del Rey**

Mr. Wisniewski informed the Commission that an agreement was reached after many years of negotiations between the County, the Marina City Club's (MCC) lessees and tenant groups. The Board letter before the Commission today represents the combined efforts of David Janssen (County's Chief Administrative Officer), Tom Faughnan (County Counsel's office), Mr. Moliere and the Department's consultants.

Per Mr. Wisniewski's request, Mr. Moliere provided the following history and summary of the terms and conditions of the Parcel 125 agreement:

Some years ago the Board directed us to work with the condo owners to try and address a couple of issues, one of which was the fact that there is in the current lease a built in methodology for increasing rents. Even though they are condos, the condo owners do still pay what is called a shadow rent and that is the amount meant to approximate the rent the County would have gotten had the building remained apartments rather than condos. The methodology in the current lease raises that rent in accordance with a combined index that is very voluble. The condo owners have for some time felt that this is a detriment to the value of their condos because it's very difficult to determine what the shadow rent amount will be. Secondly, they had issues with the original builders. There were some issues that they would like to have seen addressed earlier rather than later by way of infrastructure and capital improvements. In order to address those, there is a mechanism that is being proposed and been created, that is purely voluntary by the way.

This is a one-time opportunity, but it does not require that individual condo owners all join in. They have the ability to either join in this or not, but in either event, there must be at least a certain percentage, that is about 80% of the total joining, in order for the program to go into effect. Those that do not join will not be under this program but will be subject to the same kind of assessment that they would have been under the current lease. In all events, there will be a significant amount of work done to the apartments that would be paid for either by virtue of the mechanism created here or by assessment to the individual owners or a combination of both. As we all know, condo owners, even though in this case there is a super structure of a lessee who, in fact, is only a conduit to the individual condo owners who are, in fact, financially responsible for the upkeep and maintenance of the building.

What we have is a program that essentially does one or two things. Number one, we have, since 1999, accumulated the amount of shadow rent over and above the level of 1999. Those amounts of increase have not been applied to general funds but have been held in a separate fund and now total about $3 million. The program here would then also freeze the shadow rent at its current rate for another three years and those amounts would also be accumulated. All of that money would be made available to the lessee/condo association for specified repairs, actually for the reimbursement thereof.

What would happen in terms of the mechanism is that the condo association would complete the capital improvements and would present the bill showing it has been paid and there are lien waivers. If it is on the approved list of the kinds of things that would add value to the building and are part of the building infrastructure, which, by the way, the County gets the building back in 2067, then those would be reimbursed to the extent that there are people who have joined in the proposed amendment. That money is repaid, with interest, to the County by virtue of a separate mechanism. The County already gets a percentage of the sale price each time a condo is sold, which is 1%. That amount would be raised to 2½%. That extra money is used to repay the amounts that are advanced, which is, in fact, the rent money to start with, with interest, over time. Separately, in order to address the valuation question, instead of a variable rate, the rate of increase of the shadow rent will be fixed starting three years from now at 3.75%, which is an approximation of the average over the years.

There are various mechanisms to make sure that things keep pace. There are, what are called, 'lookbacks,' to make sure that the repayment actually comes to the County. They are two in number. In 2019, there will be a 'lookback' to see whether or not the 1½% has repaid the 'loss' to the County for the three-year freeze period that we are proposing, the present value of that. If that has not happened, there could be a raise in that percentage increase from 2019 onward through the end of the lease to make sure that the County is fully repaid that way. There is a second provision that takes place in 2022. If all of the money that has been reimbursed to the condo association for approved repairs has not been repaid through the

> mechanism of the excess sale participation payments, that money will be immediately due and payable via assessment of the owners. So, in two instances, there are fail-safes to make sure the County does not have a loss, that it is repaid in fact with interest for all amounts that it would have gotten under the lease.
>
> Emphasizing two things: It is a voluntary program. It is a one-time opportunity. The condo owners themselves may opt in or choose not to opt in so no one is bound by this unless they choose to go in.

Chairman Searcy commented that he is glad the condo owners have the option to opt in or opt out of the program. Mr. Wisniewski said this point is key as the Commission opens the floor to public comment and will probably hear from some members of the public who are not happy with this deal. Mr. Wisniewski said the Department is recommending the amendment since it allows the condo owners the opportunity to vote whether or not they want to participate in the plan.

Vice-Chairperson Stevens asked Mr. Moliere to explain the difference between the Category A Condominum and Category B Condominium (as referenced in the Board letter). Mr. Moliere responded that the Category A Condominiums will be those owners who opt to join the plan. Category B will be those owners who opt not to join the plan and choose to remain under their current lease. He added that it is probable the Category B owners would be separately assessed for their portion of the capital improvements not reimbursed under the plan.

Additionally, Mr. Moliere said that the County would receive a widening of the promenade in the deal. He explained that, currently, the promenade is not very useful. It starts at 3½' at each end and goes to 7½'. There will be a grant of an easement so that the promenade will be widened to a uniform 12 ½' and make it more usable.

Chairman Searcy asked whether the cost of the promenade widening would be passed onto the condo owners. Mr. Moliere responded that the construction cost would not be passed onto the condo owners; however, the maintenance cost is their responsibility.

Chairman Searcy opened the floor to public comment.

Mr. Raymond Olsen, representative for the master lessee, Marina City Portfolio, L.P., came to the podium and said:

> As you are certainly aware, the work on the 4th amendment began almost four years ago. Consistent with Mr. Wisniewski's comments, the multitude of individuals and parties that were involved in this complex effort, representing the County, the homeowners and the lessee, deserve high praise for their tenacity and vision, I would say, in crafting this creative and revenue neutral solution to the serious problems that we're facing, first the former lessee, and certainly now, the current lessee, Essex, the homeowners and the County. The amendment is, as I think Mr. Moliere pointed out, consistent with the strategic plan for the Marina and certainly furthers the Department of Beaches and Harbors' effort to develop strategic partnerships with the lessees, homeowners and others participating in the Marina. I would encourage you to favorably consider the amendment.

Mr. Richard Oliver, Marina City Club Homeowners Association, informed the Commission:

> I didn't come here to renegotiate this thing. I think it's pretty well done and everything, but I did come to urge you to vote in favor of it. I can't, for the life of me, understand why it took four years to do this when Mr. Moliere just explained it so beautifully in about four minutes and I don't think that he left anything out. This is a triple win situation. It's a win for the County because, number one, at worst, the County is guaranteed to be revenue neutral and, at best, the County would be revenue positive because some 40 years before the end of the lease, this will be paid off and the County will still get the 1 1/2% extra transfer fee on the lease, so all of that money will be positive revenue to the County.

The HOA is very much in favor of this. They're going to benefit from having an intelligent increase to look forward to so they can plan their money matters. Also, the new master lessee, the Essex people, who we've had some very, very favorable experiences with so far, as a replacement to the Snyder Company, and I think that's a plus for the homeowners. They bring a lot of professionalism to the table and we're going to benefit from that. They will also benefit from this because their asset will be worth more as the deferred maintenance becomes attended to.

So far, we've mailed out these packages. There are 126 pages in these packages and it's a very complicated...extremely complicated thing. I was involved in almost all of the detail in this thing in one way or another and yet when I read it, I have to think back and look at my notes. I can imagine some of the people who are looking at it for the first time, what they're going through. We mailed out 600 of these packages, eleven days ago and, so far, we have received back, signed and notarized, over 300, about 305 as of Monday. They're coming at the rate of about 30 a day. Every one of them is in favor. Up until this morning, I had not heard of a single homeowner that was against this, not one...I understand that Councilman Holden was at the last board meeting and spoke against it. I'm kind of bewildered about that because he used to call me at home at all hours of the night encouraging me to continue on and make this happen. Two years ago, I stopped hearing from him and now we'll probably find out why he's against it.

Mr. Oliver expressed his and the other MCC homeowners' appreciation for the Department's efforts, particularly, the efforts of Mr. Wisniewski and Mr. Moliere.

Mr. Nate Holden came to the podium and said to the Commission:

This gentleman [Mr. Oliver] said that I called him day and night to get him to work on some amendments, not true. Just for the record, ...as a member of the California State Senate formerly and City Council, and having owned at least one building there for 16 years and another condo for a little less period of time, they called me and said, 'what can I do to help them?' I arranged a meeting with the Board of Supervisors and sat down and met with him and we were beginning to make some progress when he went off and hired an attorney and spent a million dollars to come up with something that's totally unacceptable.

There's no provision for voting 'no' on this proposal. If you sign it, it's a 'yes.' If it's a 'no,' you just abstain and don't send it back at all. What was left out of the initial report is that the lenders also require, 80% of them, where there is an outstanding loan on the property, they too have to concur with the amendment, which was not shared with the public here. It requires 80% of them as well.

Let me say that there is a problem here and the condo owners are reacting to it and rightfully so. From the very beginning, deferred maintenance, escalating costs of the shadow rents, outrageous. For a 2-bedroom, I pay $1300 a month just to be able to pay my lease.... Also the 1-bedroom, which I just sold, I'm gonna liquidate both of them if I have to. If I do, it's because you're forcing me out, not because I don't want to live there. The individuals who believe they're going to benefit from this, it's not true. They say it's revenue-neutral, well, in the year 2016, 2017, 2018, when they have to come up with the total amount of money where the shortfall is, they're going to pay.

Just the other day at the meeting a young lady stands up and says, 'you should have shared the information with me before I bought the place because I can't get DSL here.' It's not wired for that. There are other things that aren't there and not provided for the people who live there.

Now, for deferred rent, the California State law says that when you set up a condo program, the developer for a period of time is required to fix the problems which occur for a period of time. You have to buy insurance for that. The County of Los Angeles...shall implement the laws as established in Sacramento, we all know that. When you have a condominium conversion you have no less rights to penalties as a condo owner and you have the expectation that the repairs that are made or about to be made on the lease, you should be told what they are and what are needed, as Essex was told. I'm sure before they closed this deal they had the County and also the previous owner identify the deferred maintenance problems, what needed to be done, and what problems needed to be corrected...none of that was provided to the homeowners who bought at the time that I bought. This is something that's required. Then I could elect whether or not I was going to buy into a property that was going to require me to pay a certain portion every time they assessed me a fee for fixing the roof, putting in the air conditioner and the list of things that went on and on.

What they're reacting to is the fact that they're burdened with this deferred maintenance program. They're burdened with these additional fees and the shadow rent that goes on ad infinitum. That's what they're concerned with and they don't really know how to react to it. This board is a very sensitive board as it dealt with those tenants. The Board of Supervisors is a very sensitive board. In fact, they address the issue of the welfare of the constituent when you go down there to talk to them. I worked there for 12 years. I know how they react. If you talk to them, let them know what your concerns are, let them know what the law is. Let them know what they should have done. They should have known what the condo conversion law is. They should have not denied that information from the property owners.

Mr. Holden referred to a document [he did not give the name] and commented that he first saw the document last Thursday. Mr. Holden read, "each individual condo owner, whether or not they select a new...rent program will remain responsible for payment of all other fees and assessments pursuant to the terms of the condo sublease."

Mr. Holden then continued speaking:

They're going to have to pay anyway but is it clear and understandable to those who signed 'yes'? So, I view it as a vehicle. You talk about the promenade, well, public safety is going to be a problem. Will granting the easement to the County to widen it also provide for public access? If it does, then some...citizens...are going to be concerned about public safety. The list of concerns goes on.

As for legal challenges, they're suggesting that this may not be totally legal so they want to indemnify the County, Essex and the Homeowners Association for anything they may or may not have done wrong and the side letter, the side letter can correct the problem. It needs to be amended. I think I would support something if it was amended for clarification and understanding. That would really solve the intent...that the condo owners are in fact protected. That could be taken care of in the side letter. Well, I talked to a board member who indicated the side letter had already been signed. How can you do that and not let us know the contents of the side letter?

The real problem here, which they don't know, but I'm sharing with you now, is that the Essex Company is going to assume all of its rights and privileges to disburse the ...for repairs. They have owned lots of properties. Who's going to control the money? Where is the accountability? The homeowners won't know what's happening to them until it's done. They have no accountability. The County of Los Angeles has the responsibility to share that with the homeowner so that when they sign 'yes,' there is no provision for 'no,' but when they sign 'yes,' they should know what they're signing 'yes' to.

Yes, I'm in favor of some change. This could be a vehicle for this. You do not have 80% of the homeowners and lenders saying, 'let's go with this'.... If you're going to

send this down to the County and say, 'we're ready to go,' fine. You have to go and let the County know that they do not have 80% of the homeowners. They do not have 80% of the lenders at the time that you voted to concur with this amendment to the master lease and the condo lease.

Mr. Holden concluded by thanking the Commission for allowing him to express his concerns and for showing sensitivity to Kingswood tenants.

Dr. Sheila Ruby, Marina City Club resident, said to the Commission:

I had no intentions of speaking to you. I just came here to listen. However, I do want to tell you that having seen and having heard Nate Holden Thursday night, since I'm a board member, have been a board member last year and have also been an active board member a year before. All of those years I did not see Mr. Nate Holden at our board meetings. Yes, he does own a condo or two and he's been around.

When I heard Mr. Holden last Thursday night being very, very upsetting to all of us, speaking about negatives in relation to something we have worked on for four years, worked very, very hard, and working right now even harder to get the 80% back. By the way, let me tell you, that every one that comes back, those packages that have lenders, will definitely be approved, because unless they are approved, we're not getting them back. It's definite that we have over 300. I think right now, while I'm speaking, it's about 320.... Because we have people who live outside, who are owners away, it's not an easy task, as all of you can understand.

When we saw Mr. Holden Thursday night and when he spoke, everyone in the audience, every one of the board members was aghast, 'where were you before?' I think Mr. Holden, you heard me say to you, 'where were you 2 years ago?' The others said, '3 years ago.' They corrected me.... now that we've worked so hard and want this to go through. Every one of the board members is very positive about this. We really don't need negativism. We don't need what could have, what should have and what would have been.

Mr. Daniel Gryczman, Manatt, Phelps, Phillips, informed the Commission:

Mr. Holden is correct that the documents are very complicated and there are a lot of questions, probably, that the layman will need answers to. We have provided to all of the homeowners a hotline phone number that they can call. We have received hundreds of phone calls. We have spent many, many hours going through the documents and answering every question so that the County would not have to do it and Essex would not have to do it. The homeowners have decided to serve their members by answering all of their questions. We have not received a call from Mr. Holden to my knowledge. We would be happy to answer any questions that he has and go through it with him if there is any confusion.

Also, with respect to a 'yes' or 'no' vote, Mr. Holden is correct that in order to vote 'yes,' you sign the papers and send them in. 305 people have in effect voted 'yes.' We anticipate that we will reach the 80% and surpass it. Just so you know, on the forbearance agreement, which you approved earlier this year, we had close to 96% of the homeowners participate, which is entirely a precursor to this deal. We can expect that 96% of the homeowners at least at the property will participate. We're very hopeful that they will.

Again, just to reiterate, everyone has worked very hard on this deal. We also went on the property many times, had meetings with over 300, 400 homeowners on the property to go over all of the details. We did presentations, audio-visual presentations of the program. We had our economist with us to answer questions. We've been available all along to answer any questions that any homeowner has. I wanted to make sure that you all were aware of that.

Chairman Searcy thanked Mr. Gryczman for his information, particularly regarding the assistance that is available to Mr. Holden and other MCC residents.

Chairman Searcy said that Mr. Holden raised an interesting question and a valid concern regarding how the disbursement of funds is controlled. Chairman Searcy requested that Mr. Gryczman provide this information to Mr. Holden and other homeowners if it hasn't already been provided. Mr. Gryczman informed Chairman Searcy that there are safeguards in place and all the documents are open to public review and are on file in the Marina City Club's office. Mr. Gryczman said that he would be happy to share the information with Mr. Holden.

Mr. Holden requested to speak again because he took exception to Dr. Ruby's comment that he hasn't been seen at homeowners' meetings.

Mr. Holden came to the podium and said:

> The former president of the association and I, within the past 2 years or so, and before that, met with the Supervisor of the district. I've been trying to assist the homeowners over a period of years.
>
> If there are any safeguards in the proposal before you that deals with Essex appropriating the funds as they see fit, then it should be in the report before you that you're voting on. It should be so specified. I am going to submit, without even looking, that it is not a part of the report and the safeguards are not there. You are voting on a report that does not include the safeguards.

Mr. Moliere informed the Commission that the Board letter submitted to the Commission does include information regarding safeguards and details the fact that there has to be approved repairs (refer to Schedule W in the lease). Mr. Faughnan added that, most importantly, the letter specifies that there would be no reimbursements until the repairs are completed. There are no payments unless the repairs are completed.

Commissioner Lesser moved and Vice-Chairperson Stevens seconded a motion to recommend Board approval of the Joint Recommendation of the Chief Administrative Officer and Director of the Department of Beaches and Harbors to Approve and Authorize Execution of Amendment to Second Amended and Restated Lease No. 55624—Parcel 125R (Marina City Club) Marina del Rey. The motion passed unanimously.

6. STAFF REPORTS

a. Ongoing Activities Report

In the interest of time, Mr. Wisniewski requested that this report be received and filed.

Since the Commissioners indicated that they did not have any questions regarding the report, Chairman Searcy said the report would be received and filed.

7. COMMUNICATION FROM THE PUBLIC (Part 2)

Members of the public spoke earlier during the meeting and the Commission did not receive any other requests from the public to speak under this item. Therefore, Chairman Searcy proceeded to Agenda Item 8 -- Adjournment.

8. ADJOURNMENT

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

Respectfully submitted,

Toni Minor
Commission Secretary

Small Craft Harbor Commission
Meeting of July 14, 2004
Minutes

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

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

1. CALL TO ORDER & ACTION ON ABSENCES

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:45 a.m. in the Burton W. Chace Park Community Room, Marina del Rey.

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

2. APPROVAL OF MINUTES

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

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

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

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

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

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

3. REGULAR REPORTS

a. Marina Sheriff's Department Report

-- Crime Statistics

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

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

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

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

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

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

b. Marina del Rey and Beach Special Events

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

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

4. OLD BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Schaller continued her testimony:

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

Mr. David Hittelman gave the following testimony:

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Klein said to the Commission:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. NEW BUSINESS

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

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

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

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

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

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

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

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

6. STAFF REPORTS

a. Ongoing Activities Report

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

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

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

b. Marina del Rey Convention and Visitors Bureau

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

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

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

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

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

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

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

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

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

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

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

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

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

7. COMMUNICATION FROM THE PUBLIC

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

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

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

Ms. Rich said to the Commission:

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

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

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

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

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

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

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

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

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

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

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

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

Further, Dr. Vrebalovich said:

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

Ms. Schaller came to the podium and said:

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

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

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

8. ADJOURNMENT

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

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

Respectfully submitted,

Toni Minor
Commission Secretary

Small Craft Harbor Commission
Meeting of August 11, 2004
Minutes

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

Department of Beaches & Harbors:	Kerry Silverstrom, Chief Deputy Director Roger Moliere, Deputy Director, Asset Mgmt & Planning Bureau Joe Chesler, Chief, Planning Division Dusty Crane, Chief, Community & Marketing Services Division
Other County Departments:	Tom Faughnan, Senior Deputy County Counsel Captain Samuel Dacus, Sheriff's Department Sgt. Gary Thornton, Sheriff's Department Deputy Paul Carvalho, Sheriff's Department
Also Present:	Beverly Moore, Executive Director, Marina del Rey Convention and Visitors Bureau

1. CALL TO ORDER & ACTION ON ABSENCES

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

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

2. APPROVAL OF MINUTES

Vice-Chairperson Stevens announced that the Commission would not vote on action items, including the May, June and July 2004 minutes, since it lacked a quorum.

3. REGULAR REPORTS

a. Marina Sheriff's Department Report

-- Crime Statistics

Sgt. Thornton reported an increase in thefts of opportunity occurring during restaurant and hotel functions. Thieves are primarily stealing cameras left on tables. Vice-Chairperson Stevens noted the presence of the Convention and Visitors Bureau staff at today's meeting and expressed hope that they would alert the hotels/restaurants about the camera thefts.

Sgt. Thornton also reported that Sheriff Deputy Steven Propster was instrumental in the arrest of a motorcycle theft ring that steals high-end motorcycles, many of which haven been stolen from the Marina area. While on patrol several weeks ago, Deputy Propster stopped a suspicious looking van that had three occupants. The driver was detained but the two passengers escaped. Officer Propster discovered an unreported stolen motorcycle inside of the van, which had been altered and equipped

with hydraulics to lower it to ground level. A ramp would be used to load the motorcycles. The Sheriff's Department believes this arrest made an impact on the theft ring and there is currently a search for other suspects.

Vice-Chairperson Stevens referred to the Sheriff's crime report and asked Sgt. Thornton to explain the heading "Lost R.D." Sgt. Thornton responded that the heading is the Department's term for identifying a 4-block residential unincorporated area located off Centinela and Jefferson Blvds.

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

Deputy Carvalho reported that the Sheriff's Department continues to work with boat owners who receive Notices to Comply. There has been a good response from several boat owners; however, a few of them will probably be issued citations for violating the ordinance. Additionally, the number of impounded vessels has decreased and 12 vessels remain. He explained that the decrease is not because of the vessels' disposal but because they were released to owners who paid the impound fees. The Department is continuing to work on disposing the remainder of the boats.

Vice-Chairperson Stevens asked whether boat owners have to make their returned boats seaworthy. She also questioned whether the Sheriff's Department re-inspects a boat after it is made seaworthy. Deputy Carvalho responded that when vessels are impounded the reason may not be unseaworthiness but because the boat was illegally moored. In most cases this is the reason a vessel is impounded. However, there are vessels that are impounded for being illegally moored and are unseaworthy. In these cases, if the owner picks up the vessel and pays the impound fee, the Sheriff's Dept. will issue a Notice to Comply at that time.

b. Marina del Rey and Beach Special Events

Ms. Silverstrom encouraged everyone to attend the two remaining concerts in the Marina del Rey Summer Concert Series, which are scheduled for 7:00 p.m. on Thursday, August 19 and Saturday, August 28. She commended the Sheriff's Department for its assistance at the concerts and thanked officers for their efforts.

Further, Ms. Silverstrom reported that the Fisherman's Village Concert Series is continuing on Saturdays and Sundays for the remainder of August. Vice-Chairperson Stevens added that Santa Monica Pier is now showing movies in its drive-in theatre on Tuesdays through September 28.

4. OLD BUSINESS

a. Report – Kingswood Village Apartments – Issues Raised at July Meeting

Ms. Silverstrom informed the Commission that the report responds to the three questions raised at the July meeting: 1) whether a building permit is required for interior work that exceeds a certain dollar amount; 2) whether the sewer and utility fees that Archstone plans to charge tenants under the new lease should be included in the Department's rent analysis; and, 3) how the County would ensure that the lessee actually spends the $24 million to renovate the property.

Vice-Chairperson Stevens opened the floor to public comment.

Ms. Schaller, Kingswood Village Apartment resident, read aloud from a letter she wrote to the Department's director, Stan Wisniewski. (A copy of Ms. Schaller's letter is attached to these minutes.) The letter, which includes pictures, informs Mr. Wisniewski that she reported to Beaches and Harbors' staff a possible asbestos violation in Kingswood Apt. #806. She was angered after discovering that the staff member referred the information, including Ms. Schaller's name, to the "developer without so much as the County inspecting the premises" itself. Ms. Schaller wanted the staff member to keep her

name confidential because she fears possible retaliation from the developer for having reported a possible asbestos violation.

Vice-Chairperson Stevens expressed concern that there could be a threat to public health and asked staff to request the appropriate agency to investigate Kingswood's Apt# 806 as well as other apartments in the complex.

Commissioner Lesser asked Ms. Schaller whether she has been threatened with eviction and whether she knows people who have been threatened with eviction as a result of their complaints. Ms. Schaller responded that there have been evictions but she doesn't know anyone who has been threatened. She added that she is aware of people whose names were given to Archstone after the people contacted agencies, like AQMD and the EPA.

Commissioner Lesser asked whether there are any documented cases of people who were evicted because of their complaints. Ms. Schaller responded that she is not aware of documented cases but she is concerned that she could be evicted. Commissioner Lesser requested that Ms. Schaller inform the Commission if she becomes aware of any retaliatory evictions.

Commissioner Lesser asked whether staff is aware of any other incidents involving asbestos at Kingswood.

Mr. Moliere responded:

> Practically all of the apartments of this era have popcorn ceilings that have asbestos. They have them in the garages. It's all encapsulated. At times, if there is an accidental or other breakthrough, that has to be handled. There was in fact an incident in the garage at Archstone and AQMD went out there. We went out there ourselves. We also followed up with AQMD to make sure that it was properly taken care of and disposed of. I would guess that we might find similarly that this was the case here.... This happened on July 20 and someone may wish to bring it up or is planning to bring it up. AQMD went out there and did check. It was disposed of by a licensed contractor who has to be specially licensed for that purpose. We followed up to make sure independently with AQMD that that was taken care of as well. They seem to be doing what they're supposed to be doing.
>
> We will in fact check this. To answer your question, I'm sure that there is asbestos there, as there are in almost all Marina apartments, but it is encapsulated. Only if there is a break, which usually people are very careful of, is there a problem and then they have to appropriately take care of it.

Ms. Schaller informed Mr. Moliere:

> They are breaking through and putting in new lighting, new lighting fixtures. They are breaking through ceilings. Also, the container that you're mentioning was not disposed of in a timely manner. It was outside. I have pictures and I have the newspaper that dates it. It was outside for over a week and a half. Big dumpsters, they put things in plastic bags. Some of the plastic bags were hanging out of the dumpsters and it said 'asbestos,' and it was taped off. It sat on the property for 1½ to 2 weeks.

Mr. Moliere told Ms. Schaller that her comments are contrary to the AQMD report. He said that the agency immediately investigated after the garage incident was reported.

Carole Stevens asked Ms. Schaller whether she has the pictures mentioned in her testimony.

Ms. Schaller responded:

> I don't have the picture with the asbestos container cause I have it dated with the USA Today newspaper. I had already handed them to Mr. Fine, the first set of pictures, at one of our meetings. Then a week and a half later, when my parents were visiting, we were walking and we had the newspaper and took another picture. I called the AQMD that Thursday morning and it was still sitting there. When I called again on Friday morning, it was removed earlier that morning. Like I can't see it from my apartment so I waited until 10:00 to call and it was removed at that time.

Vice-Chairperson Stevens reiterated the need for the Department to follow up on Ms. Schaller's allegations since the matter is a public health issue. Vice-Chairperson Stevens suggested that if the Department "doesn't get the right answer from AQMD, then maybe it needs to go to the Department of Health Services." She also commented that it's outrageous that Archstone would label the bags "asbestos" but leave them sitting for two weeks.

Mr. Moliere commented that the Department would prefer for members of the public to inform the Department of problems when they happen rather than wait for staff to hear about the problems for the first time at Commission meetings. He said the Department does take the public's concerns seriously. In fact, when the Department received information that there might be an asbestos problem in the Kingswood garage area, it took action, contacted AQMD, and sent staff to accompany AQMD.

Ms. Silverstrom assured the Commission and the public that there are severe consequences for any developer or property owner who does not deal with the asbestos issue properly. She said that Mr. Moliere is right about the need for the public to immediately inform the Department about these problems.

Ms. Schaller said that she did inform the Department about her asbestos concerns but became angry after learning that staff referred her name and information to Archstone.

Ms. Silverstrom explained to Ms. Schaller that Archstone should have been informed about her concerns since Archstone is Ms. Schaller's landlord. The County is the landowner rather than the landlord. As a tenant, Ms. Schaller's contract is with Archstone, her landlord, and Ms. Schaller's relationship is with Archstone. Ms. Silverstrom said that, while the Department, because of the importance of the issue, is concerned, the Department does not have a direct relationship with the tenant. That is why staff informed Archstone of Ms. Schaller's concerns.

Ms. Schaller asked Ms. Silverstrom whether it was appropriate for Beaches and Harbors' staff to tell Archstone that Ms. Schaller was the person expressing concern about the asbestos; after all, the issue is not about her but is a public safety issue. Ms. Silverstrom assured Ms. Schaller that she understands Ms. Schaller's concern about revealing her identity and staff would consider a more sensitive way to deal with this issue in the future. Ms. Silverstrom added that it might not always be possible to conceal the identity of a tenant when a landlord requires additional information that only the tenant can provide.

Mr. Donald Klein, president, Coalition to Save the Marina, informed the Commission that he is a contractor and knows that removal of asbestos requires a specific license. In addition, removing asbestos is a rigorous process that involves transportation to a specific toxic landsite rather than a regular dump.

Additionally, Mr. Klein said that when a member of the public submits a complaint to the Department of Beaches and Harbors about a possible public safety violation, staff should immediately request an investigation from Building and Safety, HazMat or other appropriate agencies. He expressed disagreement with the idea that the complainant should initially notify his/her apartment's management. Commissioner Lesser informed Mr. Klein that, according to Mr. Moliere's earlier

statement, the Department immediately acted after hearing of a possible asbestos violation at Kingswood.

Mr. Klein also informed the Commission that he's heard that Kingswood's units are being re-rented by new tenants before the units have actually been remodeled. He suggested that there might be a problem when the owner begins the Ellis process. Mr. Klein explained, "The Ellis Act is a process that involves filing intent to withdraw serving the tenants. As a result, some tenants move out and the owner rescinds his intent and never completes the withdrawal and re-rents the vacant unit at market rates."

Mr. Moliere requested Mr. Klein to provide the Department with specific information about the units to which he is referring. Mr. Moliere commented that the Department could inform the Commission of the law in the abstract but staff needs specific information before the next meeting to respond to Mr. Klein's allegations. Vice-Chairperson Stevens and Commissioner Lesser both agreed that staff needs specific information in order to respond.

5. NEW BUSINESS

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

Since there was no quorum, Vice-Chairperson Stevens deferred action on the Parcel 1S Board letter to a future meeting when there is a quorum. She said that, "Staff assured me they would not go forward with this until such time as we do have a quorum."

Commissioner Lesser requested staff to include in next month's mailing the letter (regarding the Parcel 1S RFP) that Ron Warrington submitted to the Commission at today's meeting, as well as staff's response to the letter. Commissioner Lesser added that it would be helpful to include in the staff report information regarding the "comparative prices of fuel costs in this Marina vs. some of the other marinas under the existing rental structure."

b. Authorize the Chief Administrative Officer and Director of the Department of Beaches and Harbors to Enter into Exclusive Negotiations for a Long-Term Ground Lease and Development of Parcel 83S in Marina del Rey

The Commission could not take an action since there was no quorum. However, Vice-Chairperson Stevens and Commissioner Lesser commented that this Board letter should go forward and staff "could pass this on to the Board of Supervisors even though we can't take an official action."

Having received no request from the public to speak on this item, Vice-Chairperson Stevens proceeded to Agenda Item 6a.

6. STAFF REPORTS

a. Ongoing Activities Report

Ms. Silverstrom informed the Commission that the report provides an update on Daniel Freeman Marina Hospital. She said that, basically, the Tenet Healthcare Corporation plans to sell the hospital in conjunction with its Inglewood sister hospital; however, Tenet is seeking a buyer that will keep the hospital open and in operation. Tenet has also made capital investment in the hospital with the intent to keep it open.

Commissioner Lesser commented that Tenet's actions exemplify the benefit of public involvement. Many people were extremely concerned about the closure of Daniel Freeman Marina Hospital and became very active in an effort to keep it open.

In response to a public concern at the August meeting, the Department included in the Ongoing Activities Report information regarding the Marina City Club's (MCC) electronic gate system. Ms. Silverstrom informed the Commission that the MCC's fencing is sturdy and its electronic gate system is functional. The gates cannot be opened without a key. Slip renters and residents are provided with keys as are condominium owners who request keys.

Vice-Chairperson Stevens questioned whether the Department has prioritized the need to provide access to the promenade. Ms. Silverstrom responded that there is currently access along the promenade exterior to the gate system; however, in this area, the promenade is not as wide and the Department hopes to improve access at that location.

b. Marina del Rey Convention and Visitors Bureau

Ms. Moore informed the Commission that Andrew Zephirin, president, MdR Convention and Visitors Bureau Board of Directors, enjoyed his participation at the July meeting.

She reported that the spring launch of the consumer magazine ad program boosted the bureau's exposure. The program reached approximately 7 million people and resulted in hundreds of inquiries per month concerning the Marina. Hotel occupancy is up 8% so far this year over last year. The ad program also helped to promote the bureau's website. Interest in the website continues to soar.

From January to July 2004, the number of hits to the bureau's website numbered over 2 million, which is exactly double from last year's hits. In late spring, on-line hotel reservations were added to the website. Ms. Moore believes that approximately $22,000 has been generated in gross hotel sales up to this point, which the bureau expects to increase. In addition, offering a free wedding site information kit to on-line visitors has generated 2-3 dozen inquiries for Marina wedding location information per month. Staff passes this information on to the private sector.

A business-to-business trade campaign that targets meeting planners will begin in the fall. Ms. Moore will share more information on this campaign at a future meeting.

In conclusion, Ms. Moore informed the Commission that the Chamber of Commerce recently awarded the bureau a special award for helping to improve the community.

7. COMMUNICATION FROM THE PUBLIC

Vice-Chairperson Stevens opened the floor to public testimony.

Mr. Donald Klein informed the Commission that boaters are receiving 30-day eviction notices. He said that some of these boaters are liveaboards. He questioned whether the 30-day notices for the liveaboards are actually legal pursuant to the recent law, which, he believes, increases the notification period from 30-days to 60-days for people evicted because of slip construction and remodeling.

Additionally, Mr. Klein expressed concern that the dockmasters have so much power that they can evict people for as little reason as not liking a boater's hair color. He said that dockmasters don't even have to give a reason for evictions. Commissioner Lesser expressed skepticism that a dockmaster could evict a boater just because the dockmaster doesn't like a boater's hair color. Mr. Klein clarified that he meant, "A dockmaster can, for no reason whatsoever, issue a 30-day notice to any boater and have that come about and be removed from the marina. There are no rules and regulations."

Vice-Chairperson Stevens asked Tom Faughnan, Senior Deputy County Counsel, whether the law changed from a 30-day to a 60-day eviction notice. Mr. Faughnan responded that he would look into the matter since he isn't aware of the change.

Commissioner Lesser asked whether there is evidence of boaters being evicted for no reason. Mr. Moliere responded "no" and added that he is not aware of any boater who isn't given ample notice of an anchorage's construction plans.

Mr. Moliere requested Mr. Klein to ask the boaters to provide staff with specific written information about their evictions so that staff could investigate. Mr. Klein asked whether staff prefers that he not discuss this concern in a public forum. Commissioner Lesser explained that the Department needs specific examples of boaters being evicted for "no reason" in order to check the facts and investigate.

Mr. Klein said the problem is that there is nothing in writing to show the specific parameters or requirements for evictions. Vice-Chairperson Stevens informed Mr. Klein that staff would look into the matter.

Ms. Helen O'Neil expressed concern about the recent deaths due to West Nile Virus and she requested an update on control measures in the Marina area. Vice-Chairperson Stevens said that she's particularly concerned the bird sanctuary could be a danger zone. Ms. Silverstrom informed them that spraying is done judiciously and it is not automatic that every single area is sprayed. She said that staff would report on the issue in September.

Ms. Dusty Crane mentioned that the Agricultural Commissioner has provided the Visitors Center with informational material concerning the West Nile Virus and she encouraged interested persons to drop by the center to obtain the information.

8. ADJOURNMENT

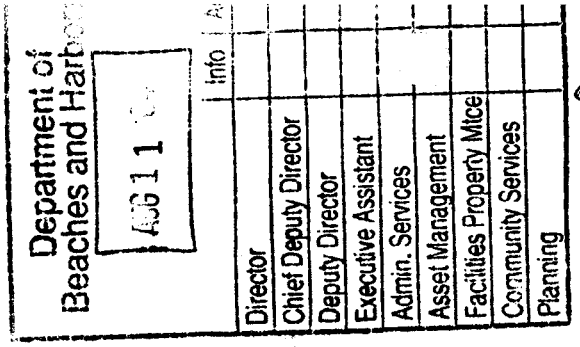
Per Commissioner Lesser's request, Vice-Chairperson Stevens adjourned the meeting at 10:50 a.m. in the memory of Mr. Jimmy Miller, a County lifeguard and surfing instructor who tragically died last weekend.

Respectfully submitted,

Toni Minor
Commission Secretary

Julie Schaller
4139 Via Marina #708
Marina del Rey, CA 90292

August 9, 2004



Department of Beaches and Harbors
AUG 11
Info | Director | Chief Deputy Director | Deputy Director | Executive Assistant | Admin. Services | Asset Management | Facilities Property Mtce | Community Services | Planning

Submitted to Joni @ 8/11/04 SCHC mtg for the RECORD. Julie SHE READ THE LTR ALOUD

Dear Mr. Wisniewski,

On July 21st I phoned the Harbor Commission and asked to speak with you regarding a concern that I had about a possible asbestos violation at the Kingswood property. I was told that you were not in and was referred to Steve Penn. I told Mr. Penn that a nearby apartment had been "plasticed off" (windows and doors were covered in plastic to create an airtight atmosphere conducive to producing negative pressure as air cleaners were being used because areas containing asbestos were being touched. I determined this through research online.) I explained that the plastic was falling off the window and I was concerned about an asbestos safety violation. Mr. Penn suggested that I call and inform the Archstone management. I explained to him that I did not feel comfortable calling them, as they are not open to hearing concerns and if there was a violation I was reporting it and I wanted it cited.

Approximately and hour later, I received a call from an employee in the Archstone office on the property. She asked for me by name and told me that if I had any concerns about the property, I should call the office and not involve the County because Archstone was there to help. She then proceeded to tell me that a "walk through" of the apartment in question had been done and that everything was "fine." I asked her to hold on for a moment. I went to my livingroom window and saw that nothing was done. I told her that the plastic still was hanging in the window. She answered this by asking, "What apartment was that?" I told her, "#806.." Her response was "Is that in the tower?" (Since the other buildings only go as high as the 4th floor and given the fact that a "walk through" was supposedly just done, I knew that her statement about a "walk through" was not true.

I later called Mr. Penn and left a voicemail expressing my displeasure of having my name and complaint turned over to the Archstone office, as I feared possible retaliation including eviction based upon the fact that I had reported a possible asbestos violation requested it be cited. I told Mr. Penn that I was greatly displeased with his handling of this situation and that unless I heard his side of this, I would be left to draw my own conclusions. Shortly thereafter, Mr. Penn phoned and explained that he didn't understand that I had wanted to keep my concern confidential and that I should not be worried because there are laws that protect tenants from retaliation. Even though these laws exist, they still require me to fight the eviction in a lawsuit and hire an attorney and incur thousands of dollars of expense to fight the retaliatory eviction which I believe will now occur.

Mr. Wisniewski, I am more than angered by the disclosure of my name and complaint but the fact that the information I supplied the County was freely given to the developer without so much as the County inspecting the premises is abominable, particularly when asbestos is involved. I truly hope that this was an isolated instance and not the representation of collaboration between the County and a developer when the lives of tenants are threatened by asbestos and other dangerous conditions.

Sincerely,

Julie Schaller

Julie Schaller
Cc: Richard I. Fine
Don Klein