

STATE OF ALABAMA                    )  
  :  
COUNTY OF BALDWIN                )(

The Harbor Board met in Special Session at 4:30 p.m.,  
Fairhope Public Library, Board Room, 501 Fairhope Ave.  
Fairhope, Alabama 36532 on Thursday, 16 March 2017

Present were Members: Bob Riggs, Skip Jones, John Henry, Tom Yeager, Kevin Boone, Margaret Meyers, Scott Douglass, Tony Chavers and Robert Rohm. Jennifer Olmstead took the minutes.

Bob Riggs called the meeting to order at 4:30 p.m.

The Special Session was called to discuss and develop recommendations to the City Council pertinent to the writing of a lease agreement between the City of Fairhope and lessor of the facilities at Fly Creek. Bob with the time restraints, this discussion may be carried over to the regular session meeting held April 12, 2017.

Scott Douglass provided recommendations for the property in question; shown as Exhibit A. He would primarily like to see better public access for the property. Also, he would like to maintain a “working waterfront” for commercial fisherman as well as a boat maintenance yard. Scott Douglass stated he would like to see a shorter lease term, address specific maintenance issues to improve aesthetics, the facility should be certified as a “Clean Marina”, and public access signage. Scott Douglass excused himself from the meeting at 4:45pm.

Skip Jones presented his suggestions for changes to the two lease agreements; shown as Exhibit B. Skip Jones suggested that the bay front portion of the property needs to be deemed public access and marked appropriately. The lease foot prints need to be reviewed and established.

Tom Yeager stated that the Boat Yard lease is a working boat yard and with that comes the “look” of a working boat yard. Making the boat yard more aesthetically pleasing would be difficult; most things put in place, fences and shrubbery, are destroyed during hurricanes or bad storms.

Tony Chavers questioned part of the leases regarding what the City would be responsible in paying the tenant for depreciated improvements that are part of the lease. Bob Riggs said the City Attorney, Marion Wynne has sent notice to the tenant to provide the sum of the original cost/value of the improvements and additions; no answer from the tenant had been given at this time. Skip Jones clarified that he understands the lease to allow the first right of refusal/acceptance of a new lease be given first to the current tenant. And, if after refusal, have the lease be let out for bid.

Skip Jones continued to explore the opportunities that the City would have with a lease; believing a ship yard is needed. The term of the lease was discussed. Scott Douglass would like to see a shorter term, however Tony Chavers, Margaret Meyers and Tom Yeager all thought a longer term should be required due to the initial investment of the new tenant. Numerous terms for the way rent should be calculated were presented and discussed. Skip Jones would also like to see the City maintain the buildings and slips instead of the tenant.

Mayor Karin Wilson wishes to maximize the City's profits to offset expenses and allow for the property to be an asset to more citizens than just people who have boats; opening the area to all types of entrepreneurs. The best interest of the City would not do a lease for the boat slips.

Bob Riggs went over the calculation of how the current tenant charges for slip rental and then explained the proposal that Skip Jones proposed. The calculations were applied to the current occupancy of 44 of the 62 slips based on the rate per foot charges. Tom Yeager stated that it would be hard to find a business man to enter into a lease with the City based off of the proposals for revenue Skip Jones brought forth.

Discussion regarding the maintenance of the buildings came up. Mayor Karin Wilson stated that the City would be responsible for maintaining the property. John Henry and other members had concerns regarding the City controlling the upkeep of the facility. John Henry noted that if the property is leased and the City maintains the building there would be questions on which entity would be allowed to recoup FEMA funds after a hurricane or other natural disaster. Leased operations should be maintained by the tenant.

Tom Yeager would like Fly Creek to maintain diversified as it is now; Sailing at Fairhope Yacht Club, Ship maintenance Yard, "Loopers" and recreational boaters at Fly Creek Marina and the city operated Commercial slips. Tom Yeager would like to see the Mayor press the Federal Government to dredge the Federal Channel of Fly Creek since it is the only protected public harbor on the Eastern Shore. Mayor Wilson did not believe that the Federal Government would place this high on their priority and stated that the City should be responsible for dredging with the other entities in Fly Creek.

Kevin Boone would like to see the Harbor Board to continue working on their recommendations for the new lease agreements. The City Council would need to notice the current tenant by the middle of June 2017.

Margaret Meyers wanted clarification on the "Franchise Agreement" that individual businesses can hold if they use any city property to generate revenue. Jennifer Olmstead stated that if a business would like to use public property they must have a Franchise Agreement with the City of Fairhope and with that franchise agreement, the business must remit to the City of Fairhope 20% of their Gross Revenue generated while using public property. Margaret Meyers also asked for clarification from Mayor Karin Wilson as to whether the two leases should be combined or left separated. Mayor Karin Wilson stated that the two leases should be left separate.

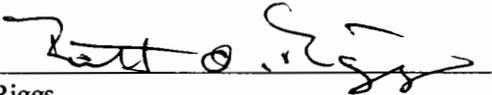
Skip Jones stated that a huge deciding factor on what needs to take place is still missing. Once the figures from the current tenant have been received by the City Attorney, better decisions can be made at that time.

Bob Riggs recapped the meeting by stating the bay front area needs to become a public park area, the ship yard lease needs to be separate from the marina lease. The term of the lease needs to be addressed as well as what should be charged for rent and how it should be calculated. The next Harbor Board meeting will be on April 12, 2017 and additional ideas should be thought about and be brought up then. Recommendations should be made to City Council some time in May.

Skip Jones did give a brief update on the status of the seawall project. Robert Rohm gave a timeline of the bid process. Bids should be opened on April 10, 2017 and be on the City Council Agenda on April 24, 2017.

Tony Chavers went on record stating that the City of Fairhope should not be in the marina business.

There being no further business to come before the Harbor Board, the meeting was duly adjourned at 5:35pm.



Bob Riggs

## Exhibit A

Scott Douglass' Comments on the City's Fly Creek Lease (Harbor Board. 3/16/17)

### GOALS:

- IMPROVED PUBLIC ACCESS – This is #1 and should be our overriding goal. This is access to the waterfront for citizens.** This land should not be tied up in long-term leases that require payments to private entities for use/enjoyment. Much more than 2/3<sup>rd</sup> 's of the Fly Creek waterfront will always be private property and this property should be the exception.
- Maintain “working waterfront”...** primarily shrimpers but perhaps boat maintenance yard too

### SUGGESTIONS:

- Shorter term lease.** 1-yr, 2-yr or 5-yr. if any lease at all... why is the City leasing this in the first place and not making this a City-run marina and park facility? (What made sense 30 years ago may not now)
- “Clean Marina”** certification should be a minimum requirement in any lease. This facility should be certified as a “Clean Marina” by the Mississippi-Alabama Sea Grant Consortium’s Clean Marina Program.
- Improve aesthetics.** The area near the waterfront should be kept cleaner. The “junkyard-look” gives a negative impression to visitors to the marina – particularly those who arrive by boat and live-aboard at this facility for short periods of time. Provisions for periodic cleanliness/appearance reviews should be included in any lease.
- Public Access Signage.** Any new lease should include signage that tells the public that is public land and indicates where the public is permitted (everywhere safety allows).

# Exhibit B

March 16, 2017

## Fairhope Harbor Board

### Renewal of Fly Creek Leases Initial suggestions for changes to leases

**These suggestions are for Harbor Board discussion purposes only. Provisions of any lease between the City and any lessee would be determined by the Mayor and City Council.**

It has been discussed and suggested that the two leases currently in force for the City property on Fly Creek be combined into a single document covering both the shipyard and the 62 boat slips. Based on this assumption, the following changes are suggested.

#### Paragraph 1, Premises & Term:

The premises be re-surveyed and defined as the present location of the boatyard and the 62 slips currently under the marina lease, but excluding the bayfront property (approximately 220 feet on the bay). This would allow the use of the bayfront area as a park available to the citizens of Fairhope. The area north of the westernmost slips and just adjacent to them would be included in the lease area for parking for the slip tenants. An appropriate area adjacent to the "shrimp boat docks" would be excluded from the lease property for the use of and parking for the lessees of those slips. In addition, it is suggested that the property adjacent to the shipyard buildings on the north and east be better studied to better utilize those areas for shipyard activities. A re-alignment of the use of these areas could provide for the creation of more attractive area adjacent to the covered slips.

Term of the new lease would be 10 years with an option, subject to City approval, for 10 years.

#### Paragraph 2, Rent:

Rent would be as follows:

**\$36,000.00 per year**, payable monthly, and intended as compensation for use of the shipyard buildings and property associated with the operation of the shipyard operations, and;

**\$48,000.00 per year**, or 65% of income from boat slip rentals, whichever is greater, payable monthly, and;

**Seven cents per gallon** for fuel sales, either gasoline or diesel, made from the leased property.

**Late Charges** would be assessed as described in prior lease on payments over 15 days late.

An effective method of confirming the accuracy of the boat slip rental income and fuel sales would be established (similar to provision in current "Boatyard Lease").

**Repairs and improvements:**

The City of Fairhope would turn the facilities over to the tenant in good condition.

The City of Fairhope would be responsible to maintain the marina facilities and exteriors of the buildings in the shipyard facilities and major systems such as HVAC, plumbing and electrical in good condition during the term of the lease. This could be described as capital maintenance.

Tenant would be responsible for maintaining the property in clean and orderly condition and for changes or improvements deemed desirable for the tenant's operations, and for any repairs necessitated by the tenant's misuse or neglect. Any permanent additions would be deemed to be leasehold improvements and would revert to the City at the termination of the lease.

More precise language describing these duties would be developed as the lease is drawn.

**Use of Premises:**

The premises would be used solely for the purpose of a boat sales, repair, maintenance and overhaul business, and as more particularly described in the current boatyard lease.

**Special equipment:**

The tenant would be responsible to provide a boat lift such as a travel lift in at least the capacity of 20 tons and would maintain that equipment in good condition.

**Utilities:**

Tenant would pay all the charges for all utilities used in and about the leased premises.

**Public facilities:**

Bathrooms for the public and separate facilities for slip tenants and transient boaters will be provided by tenant and maintained in good condition by the tenant.

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**Environmental Protection:**

**Environmental protection measures, as defined by the City Environmental Advisory Committee and required by federal and state environmental agencies, will be included in the lease and be adhered to by the tenant. In addition, practices and conditions to achieve the "Clean Marina" designation would be required in the lease.**

**Language for these clauses and other legal provisions of the lease such as insurance, default, prohibition of transfer and other necessary provisions to be determined by the City Attorney.**

**It is also suggested that the City continue to operate and oversee the 30 slips on the east side of the property and to provide special consideration to fishing and commercial vessels that want to have berths in the Fairhope harbor.**

**Analysis of Eastern Shore Marine Slip Lease Revenue**

A calculation of potential revenue from a total of 62 slips using current rate schedule published by Eastern Shore Marine. This assumption is based on all slips occupied by 30' boats except for covered slips, and at the lowest rate of \$8.00 per ft per month for 12 months. It does not include the small premium for power boats, or the additional revenue that is realized from short term rentals, which are at a considerably higher rate.

Covered Slips:	Monthly	Annual
4 @ \$650.00 per month	2,600.00	31,200.00
4 @ \$575.00 per month	2,300.00	27,600.00
54 slips @ \$8.00/foot average per month w/ average boat length of 30'	12,960.00	155,520.00
	<u>17,860.00</u>	<u>214,320.00</u>

**Analysis of revenue using occupancy at March 13, 2017: 44 boats representing 71% occupancy.**

**Under terms of existing lease, primary term expiring October 14, 2017 :**

Current revenue split: 95% to lessee, 5%, with a minimum of \$1,100.00/month, to Fairhope.

		Fairhope	Lessee	Total
Assumed Revenue	Monthly	1,100.00	11,580.00	12,680.00
	Annual	13,200.00	138,960.00	152,160.00

**Proposals for Revenue Split under possible new lease (at 71% occupancy)**

A Proposal with slip revenue split 50% to Fairhope, 50% to lessee:

		Fairhope	Lessee	Total
Assumed Revenue	Monthly	6,340.00	6,340.00	12,680.00
	Annual	76,080.00	76,080.00	152,160.00

A Proposal with slip revenue split 65% to Fairhope, 35% to lessee:

		Fairhope	Lessee	Total
Assumed Revenue	Monthly	8,242.00	4,438.00	12,680.00
	Annual	98,904.00	53,256.00	152,160.00

**This analysis is for Harbor Board discussion purposes only. Provisions of any lease between the city and any lessee would be determined by the Mayor and City Council.**