

Harbor Commission

Regular Meeting Minutes

Tuesday, April 21, 2015, 5:30 p.m.
Council Chambers, South Haven City Hall



City of South Haven

1. Call to Order by Arnold at 5:30 p.m.

Present: Pyle, Reineck, Silverman, Stegeman, Stephens, Arnold
Absent: Sullivan

Also present: John Marple, Marina Manager

2. Approval of Agenda

Motion by Stephens, second by Silverman to approve the March 17, 2015 Harbor Commission regular meeting agenda as presented.

All in favor. Motion carried.

3. Approval of Minutes: March 17, 2015 Regular Meeting

Motion by Silverman, second by Stephens to approve the April 21, 2015 Harbor Commission regular meeting minutes as written.

All in favor. Motion carried.

4. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

5. Marina Reports

VandenBosch reviewed the Marina Reports.

6. Tour Boat

VandenBosch noted that the City Council voted to send this item back to the Harbor Commission for a recommendation. At the last meeting the commission was unable to come to an agreement on a recommendation. VandenBosch stated that in his memo he attempted to answer some of the questions that came up at the last meeting.

VandenBosch explained that to expand the marina operation on the South Marina public deck, the Zoning Ordinance requires that three (3) parking spaces would have to be created. Because of that staff recommends the withdrawal of the transient marina expansion at this time.

Silverman requested clarification that if the facility is expanded to permit docking of transient boats where presently there is that red metal barrier, which is eighty (80) feet long, to add two (2) boats, you would have to add three (3) parking spaces, but for the tour boat, with forty-nine (49) passengers, there is no city requirement to create parking.

VandenBosch said this is a fairly old Zoning Ordinance change and noted that city staff did not want to get caught in a situation where a cruise ship would come into town and that cruise ship would kick in a parking requirement. Silverman said this is an unintended consequence, then. VandenBosch noted that the Zoning Ordinance explicitly states four boats in the Water Based Business definition.

Discussion ensued regarding whether staff could create three (3) parking spaces; whether staff could request a waiver of that zoning requirement and last year's discussion about changing that area from B-3 – Waterfront Business which requires parking to CBD – Central Business District which does not require parking.

VandenBosch noted that regarding restrooms, for comparison, he asked the Building Official if there were a restaurant how many restrooms would be required. The Building Official responded that generally you want two (2), one male and one female, but the Zoning Ordinance requires one (1) restroom per seventy-five (75) people occupancy.

VandenBosch reminded that there was some discussion at the last meeting regarding the boarding ramp and railing modifications. Staff recommends that the tour boat operator purchase and install the boarding ramp itself. "The marina would like to manage cutting the railing and putting a gate in place and we did find some older railing that has gates on it, so we think with some fabrication we can get that done fairly cheaply." VandenBosch noted that staff recommends adding to the license agreement that the tour boat operator purchase and install the ramp and marina staff deal with opening the railing and installing a gate.

Regarding signage, VandenBosch noted that the charter boat had permission to use a sandwich board sign; the Zoning Ordinance requires City Council to approve it. If a sandwich board sign is desired, VandenBosch recommends it should be added to the license agreement, allowing City Council to approve that.

VandenBosch pointed out the recommendations from staff included in the handout to the board.

VandenBosch noted, as a clarification, that the Department of Environmental Quality (DEQ) permit would still have to be acquired; it is only zoning that may prohibit us from expanding the transient marina or add a tour boat. VandenBosch pointed out that talk about withdrawing the request only refers to the withdrawal of the transient marina expansion.

In response to a question by Silverman about whether the expansion of the marina, if it were recommended, be any different if the tour boat was also recommended, or be the same recommendation VandenBosch said the two are not connected. "Originally, last month, I

would have said even if they turn down the tour boat, we want the expansion. But due to the Zoning Ordinance parking requirement, I don't recommend that now."

Silverman asked if the marina were expanded, would those slips be occupied to which VandenBosch responded that on weekends and holidays they would be. Silverman expressed that he does not understand staff's reluctance, and would like to hear from the Marina Manager, John Marple, of his thoughts. VandenBosch thinks he could find three (3) parking spaces, but until he is he sure would rather not move ahead with that.

Silverman asked if the marina could use those extra spaces to which Marple responded that on the weekends we are jammed full. "We've overflowed with seasonal boats; so potential expansion of the Transient Marina would probably be a good idea. I also think the dockage area would be advantageous to the city and business community for big boats that could come in. I have a guy with a seventy-five (75) foot boat on the waiting list for a ten (10) day stay. That's good money for the marina and for the city." Marple thinks the economy is coming back; there is more travel; there are still challenges. "If you were to ask, is it a good idea on a Tuesday afternoon in July, I'd have to say nope, but we are running out of docks."

Pyle commented that if people want to come in, they will come in during the week, so we need to find a way to market during the week. Marple agreed, noting that being full is not a bad thing. "We have a few open slips; four (4) in one area; seven (7) in another, things are looking better." Marple said with the new facility, there are more requests for the North Side.

Silverman asked how much revenue that area could realize which led to discussion on how much the marinas charge and increasing the daily revenues on the busy days. VandenBosch noted that the city has a grant application in to do engineering to extend the dock toward the lake; that is tied to wave attenuation, so if we go ahead with that we will have to deal with the parking issues and it will provide extra dockage.

Arnold suggested that discussion is drifting from the topic and noted that he would accept a motion on the tour boat.

Motion by Stegeman to withdraw the request to expand the marina; approve the application to the Department of Environmental Quality (DEQ) for dock improvements to moor the tour boat; approve the request to the Department of Natural Resources (DNR) for commercial use of the tour boat in the South Side marina facility; approve the application for zoning and building permits required to complete the proposed work; approve the license agreement with IT-IL-DO Charters, LLC on behalf of city of south haven with following amendments:

- 1.) Amend the license agreement to permit a sandwich board sign.
- 2.) Amend the license agreement to require the tour boat operator to install the boarding ramp at his expense with the ramp to remain the property of the tour boat operator.

Second by Pyle.

Silverman hopes for the opportunity to vote on each of those individually. "Lumping them all together makes it impossible for a member to express opinion on one versus another."

Motion by Silverman to amend the motion to consider each separately. Second by Stephens.

Stegeman requested a roll call vote.

Ayes: Silverman, Stephens

Nays: Pyle, Reineck, Stegeman, Arnold

Motion failed.

Silverman reviewed the obligations of the Harbor Commission; noted that city code allows the Harbor Commission to attach conditions to anything they authorize; stated his understanding that it is not a requirement that there be restrooms to service the proposed forty-nine (49) passengers that are expected, but thinks it is reasonable that forty-nine (49) passengers, five times a day, which totals two hundred fifty (250) passengers per day, will make considerable use of the restrooms. While there are men's' and women's' restrooms available, Silverman feels that activity will be a burden and an expense to the city.

Silverman noted, "The area that is proposed for dockage, it is part of the South Side Marina, a part devoted to the general usage by the marina occupants, the tour boat proposes to use it and have its customers there at the busiest times for the marina. Weekends we are full, weekends I expect the tour boat will be full. What kind of imposition will this be on the transients in the municipal marina? I am concerned how much this will impose on those people who are most important to us; the people who stay at the Municipal Marina."

Silverman also addressed the issue of the boarding ramp and who should pay the cost. That "Contrary to the license agreement and contrary to what is usual; a typical lease of any office space requires that the tenant bears the cost of improvements, whether the tenant stays one (1) day or ten (10) years. That to address the cost of the pedestal that is going to be required; at the very least, the tenant, the licensee, should pay all of the costs; these should not be the burden of the city."

Silverman expressed concern that there is no discussion or provision for handicap access; doesn't know if the boat can accommodate people who are handicapped, or if the ramp will accommodate people who are handicapped.

Silverman applied his forty-five year history of reading contracts like this to suggest making the terms of the lease in Paragraph Two (2), one (1) year consistent with the part of the license agreement that states the tour boat operator must vacate the slip on October 15. In regard to the license fee, the agreement identifies that the one dollar (\$1) fee is nonrefundable, but doesn't identify that the slip fee is also nonrefundable, and Silverman suggests that be added.

Under paragraph seven (7) "Requirements of licensee" the motion mentioned amendments that the licensee be responsible for limited costs, and Silverman recommends that the licensee be responsible for all costs related to his use.

Silverman pointed out that paragraph seven (7) section (f) advises the licensee that from time to time the city may require that the licensee's vessel be relocated during special events and no special events are scheduled. But Silverman noted that there are the Harbor Fest, the Star Memorial and the Queen's Cup sailboat race in the city; those should be identified to the licensee.

Paragraph nine (9) refers to insurance and has a fairly typical one million (\$1M) per occurrence and three million (\$3M) in aggregate and Silverman is concerned those limits are much too low when you consider forty-nine (49) passengers; if there were an unfortunate accident, the amount required would be substantially in excess of those amounts in the aggregate. Silverman stated this is a clearly deficient provision.

The assignment condition, in paragraph ten (10), imposes on the city responsibility to give reasonable consideration to assent. According to Silverman, the use of the phrase “without the city’s prior consent” limits the city’s ability to say no to an assignment.

“In general, before we vote to approve or not approve,” Silverman suggests that the commission “consider what that property was intended for; whether or not it is going to impede on the existing transient population that will be there on the weekends and whether we want to burden the South Side Marina with that number of people who clearly will have no place to park except the South Beach or downtown.” Silverman is concerned about whether this is the appropriate place for this activity.

Stephens referenced “our brand new marina and recreation plan amendment,” which tasks the Harbor Commission with taking a long term view of the capacity and use by both public and private interests. Stephens also referred to the Harbor Commission’s mission statement. Points Stephens made involved planning any additional waterfront development or development affecting the waterfront; the impact upon the harbor; proposed methods of construction; impact on boat traffic and navigation. Stephens noted that she wants to make the point as someone who uses the river regularly that the commission hasn’t scrutinized the impact on navigation, boat traffic that this location would impose upon the harbor. “This is our responsibility; we talked about doing a harbor study and that hasn’t happened. There will be a forty (40) foot boat turning around in that area five times a day. I think that should be examined.”

Stephens also referred to the city’s Harbor Recreation Plan, under C: Infrastructure, Section 4: Green Space and Views that supports acquisition of green space. That area of dock that is under discussion to be used is part of the marina; it is a public access as well as used for the transient guests. “For someone who doesn’t live on the water, this area will be restricted for the public, because we would be allowing the use by a private entity. At the very least if we do recommend this,” Stephens suggested, “we would consider doing a study of the harbor traffic throughout this year and the impact this dock location has on travel.”

Stegeman commented that regarding green space, mainly developed for the Harbor Walk, which has taken twenty (20) years to get it from the North to the South side, the goal has been achieved with bringing the public to the waterfront via that walk. Stephens responded, “That discussion also included the street garage area.” Stegeman pointed out that he made the motion to retain that strip of land. Stephens stated that as the public guardians of the waterfront, it is important that areas be maintained for public access.

Pyle asked about the grant for the fishing area by the city garage area. “Won’t that include access?” VandenBosch responded that while it is over land it will be large enough to accommodate more than just fishing.

Silverman pointed out that there are significant differences between those locations upriver from the bridge and upriver from downtown and those that are downriver. "You get completely different visitors that see those sections."

Pyle said to some degree, the new bike trail and the development of Black River Park will be instrumental in bringing more people to the area; more development in that area will bring more people. Silverman agreed that each time an additional area for public use is developed it gets used while each time we take away an area it gets less use by the public.

Silverman isn't sure about the city's view of handicap access. VandenBosch explained that it is not included on docks and the Americans with Disabilities Act (ADA) does not require handicap access on boats. Silverman asked if this agreement includes that this boat will be Coast Guard approved which led to discussion of a statement in the license agreement and whether that general statement will require the licensee to be Coast Guard approved. Pyle pointed out that to maintain a captain's license their vessel has to be Coast guard approved. Silverman said the issue is whether the city will require the vessel to be Coast Guard approved.

Stegeman asked VandenBosch whether the limits on insurance set forth in the license agreement are standard for the city. VandenBosch responded that it is standard; it is the same standard amount used for festivals; the kayak rentals; it's a typical amount. VandenBosch noted that he relies on the City Attorney for that number.

Stegeman pointed out, in regards to Silverman's statement regarding the importance of the transient boaters, that he thinks everyone that rents from the city is important, not just the transients. Silverman responded that the South Marina is a transient marina; the grant the city received spoke to that. Stegeman reiterated that he did not think one should be viewed as higher than another, to which Silverman agreed.

Regarding the pedestal installation, in Stegeman's opinion, the city should bear the cost. "If we were to ask the renter to pay for it, in the past when the city has done that then we have to offer a long-term license agreement. If we are to do that, we open up that option. We should pick up that cost."

Silverman asked if the city should also pay for the electric which Stegeman said could be a discussion for later if the marina sees a spike in electric costs.

Regarding the mention of construction impacts, Stegeman noted that the only construction is remodeling of the hand railing. For the handicap part, that is only applicable to ferry services. Silverman said he doesn't know the requirements and would rather not guess at it. This is a waterfront business; a restaurant would have to have handicap access. Restrooms would have to be handicap accessible. Discussion ensued regarding whether staff is comfortable with the size of the restroom accommodations. According to Stegeman if overuse makes it be too busy, or difficult to keep the restrooms clean, the city has also gone into license agreements with businesses to take over maintenance.

Stegeman pointed out the parking added a few years ago in that area during some bluff work and noted that Harbor Commission is a recommending body; City Council gets the final say. Stegeman does not think anything is being recommended that is not allowable; we have outlined in the motion what needs to happen for this project to move forward.

Reineck believes the city needs to diversify the waterfront activities and this is a good opportunity to do this. "Fishing seems to be on a decline, this is an opportunity to allow another business to accommodate tourists/people; opportunity for families to have access to the water. The other venues in town are restrictive because of cost. This should allow a family activity that is appropriate for the site. I view this as a temporary agreement; if it doesn't work out, it can be changed. He, the applicant, might choose to change it." Regarding boat traffic, Reineck noted that his slip is right across from the seawall under discussion; large vessels have been there and have not been an impediment to getting into his slip.

Silverman asked whether fishing is in jeopardy, to which Stegeman responded, "You've missed the updates all winter."

Reineck observed that he sees the issues and does not see them as a deal-breaker. Silverman noted that the owner could put his boat in his own slip, but he likes this location for whatever reason. "In terms of the revenue, the expenditure of the city will probably equal the first year's revenue."

Arnold asked, to clarify the bathroom issue, "Last meeting we said for an event we expect one (1) bathroom for five hundred (500) people. After discussion, Arnold noted that there are three available restrooms and added "I believe the pedestal should be paid for by the city, if we put the pedestal in, it's ours; we could put other ships in there if the tour boat leaves." Arnold noted that the city had allowed jet skis down there; is the difference in size the issue? There was a commercial business down there for two years," to which Stephens stated it is the size and the number of people and access to the dock. Silverman noted that the jet ski business was run from a separate dinghy dock. Reineck reiterated that he did not see a problem with a forty (40) foot boat turning around.

Arnold called the question.

Ayes: Pyle, Reineck, Stegeman, Arnold
Nays: Stephens, Silverman

Motion carried.

Member and Staff Comments

VandenBosch: Pointed out the downtown map which he provided to each member. They are available at the marinas; this is an example of one marketing thing we do. In the near future, our first South Haven Municipal Marina website will be available; hopefully within the next month and VandenBosch will send out a link to you, another marketing initiative.

VandenBosch: Noted that the Dyckman Bridge appears to be on schedule. It is opening to boats with twelve (12) hours' notice; it will open to vehicle traffic after Dyckman Avenue is paved, which is expected to be mid-May.

Pyle: Had a question on the bike trail. "People can't seem to find the bike trail; they stop in our store asking us where the bike trail goes." VandenBosch noted that there are different maps for the bike trail. Pyle noted that she likes to have this map to hand out because it has all the restaurants on it. Suggested a different color for the bike trail to make it easier for

people to see it on the map, maybe bright yellow. VandenBosch said we have a number of these types of maps; we have a very good person on staff that does these and is very quick. Pyle noted that their store has people coming in looking for restaurants, and these maps are good for that. Noted that she has picked up stacks of the maps and handed them out. Marple said, "We bought four thousand (4,000) last year." VandenBosch said maybe we could put the maps on pads and hand them out to businesses, especially lodging, having the Marina pay that as a marketing tool. Pyle said people like this map. VandenBosch suggested perhaps on the back of this map could be another map which shows a larger area.

Stegeman: Asked if the map is available online, then asked if VandenBosch could send him the file as he would like to use for the fishing tournament. Suggested that Silverman should put these in the Queen's Cup bags so participants have it when they come over.

Pyle: Noted that the lighthouse should be put on the map because people want to find the lighthouse.

Silverman: Pointed out spelling errors. (Yelton Manor Geust House, Captian Lou's) Suggested adding "Repairs" to the Rock 'N' Road Bike Shop.

Stegeman: Today at 10:30 a. m. the Department of Natural Resources (DNR) dropped 15,550 chinook salmon at the Fish Hatchery. This could be the last year that program exists; they might stop stocking due to natural reproduction. "This is the second year in a row our stocking number has been cut in half."

Silverman: It looks like the nice weather is going to come back again so we can finish getting our boats ready to launch.

Arnold: Suggested VandenBosch share about the thank you card from a Kalamazoo disabled advocacy group for putting in the handicap accessible kayak launch in. VandenBosch noted that he sent the group a copy of the draft plan and asked for comments. A look at the draft plan will be coming to this board next month.

Adjourn

Motion by Stegeman, second by Reineck to adjourn at 6:46 p. m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,
Marsha Ransom, Recording Secretary