

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
NOVEMBER 15, 2011

Attachments to the items below can be viewed at the following link:

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the September 20, 2011 Cabinet Meeting.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting

(See Attachment 1 at http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

RECOMMEND APPROVAL

Substitute Item 2 Harborwalk, LLC Recommended Consolidated Intent/Lease Renewal/Modification

REQUEST: Consideration of a renewal and modification of a five-year sovereignty submerged lands lease to increase the preempted area from 143,866 square feet to 148,769 square feet, more or less, for a mixed use docking facility.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: Harborwalk, LLC
(d/b/a Harborwalk, Inc., East Pass Investors, Inc., Pelican Point Harbor, Inc., and Kelly Boat Services, LLC)
Lease No. 460002031
Application No. 46-0195322-008-EI

LOCATION: 76 Harbor Boulevard, Destin
Destin Harbor (a/k/a Old Pass Lagoon), Okaloosa County

CONSIDERATION: \$22,572.42, representing: \$23,300.61 as the initial annual lease fee computed at the base rate of \$0.156623 per square foot; and \$191.97 as the 25 percent surcharge payment for the additional area; less \$920.16 as the payment made in association with the Temporary Use Agreement (TUA). Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income pursuant to rule 18-21.011(1)(a)1, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

Substitute Item 2, cont.

Background

On December 17, 2007, the Board of Trustees approved the previous sovereignty submerged lands lease modification for Harborwalk, Inc., which contained a special lease condition requiring any changes or modifications of the lease to come before the Board of Trustees for approval. Therefore, the proposed modification has been placed on the agenda for consideration.

On May 2, 2011, the Department of Environmental Protection documented boats mooring waterward of the existing lease area. A Consent Order and TUA were executed on June 29, 2011, to expire on June 29, 2012, for the additional preempted area. The applicant has paid all fees in accordance with the terms of the TUA.

Project Detail

The proposed project consists of expanding the existing 100-slip docking facility, by adding 10 transient slips and reconfiguring 2 existing slips, thereby creating a 110-slip facility for vessels ranging in lengths from 7 to 83 feet. The expansion will also increase the current preempted area of 143,866 square feet by 4,903 square feet, for a new total of 148,769 square feet. The facility is used in conjunction with a non-water dependent restaurant, an upland mixed use development consisting of a 292-unit condominium complex, and a 199,999-square-foot commercial shopping center.

The modifications include the addition of 10 transient boat slips south of the existing lease boundary, which will primarily be used for the staging of pontoon boats up to 24 feet in length with drafts of 1.5 feet, and the reconfiguration of 2 existing slips, which will house an 83-foot-long pirate ship with a draft of 6 feet. The project is adjacent to a federal navigation channel that is maintained at -12 feet mean low water (MLW). The depths within the additional ten slips are at least -4 feet MLW. The depths within the reconfigured slips are at least -7 feet MLW. The pirate ship will offer cruises of Destin Harbor, the Gulf of Mexico, and the Choctawhatchee Bay.

The Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section indicated that it had no objection to the project.

Net Positive Environmental Benefit

The proposed project is located in Destin Harbor, a/k/a/ Old Pass Lagoon. Old Pass Lagoon has experienced a decline in water quality dating back to the early 1980s. As a result of these concerns, on March 6, 1984, the Board of Trustees imposed a condition that future developments on sovereignty submerged lands in Old Pass Lagoon must not only meet water quality standards, but must also have a Net Positive Environmental Benefit (NPEB) to the water quality in the lagoon.

In order to satisfy the NPEB, the applicant is required to pay \$4,200 to the City of Destin Stormwater Management Fund. This amount is based on a contribution of \$420 per slip for the 10 additional boat slips. This is consistent with previous Board of Trustees' actions, and payment of the NPEB has been added as a special approval condition.

Substitute Item 2, cont.

Noticing/Interested Parties

The lease modification request was noticed to concerned parties within the area. Twelve property owners and interested parties were specifically noticed and no objections were received during the noticing period.

(See Attachment 2, Pages 1-38)

RECOMMEND WITHDRAWAL