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Richard J. Mooney | 415.539.0443 | richard.mooney@rimonlaw.com | One Embarcadero Ctr. #400; San Francisco, CA 94111

via hand delivery and electronic mail

September 19, 2017

San Mateo County Harbor Commission  
Board of Commissioners  
c/o Steve McGrath, General Manager  
1 Johnson Pier  
Half Moon Bay, CA 94019  
[smcgrath@smharbor.com](mailto:smcgrath@smharbor.com)

Re: *Surf Contest Permit*

Dear Commissioners:

We represent Mavericks Invitational, Inc. ("MII"), the true holder of the event permit that is on the agenda for discussion at the Harbor Commission meeting tomorrow evening. As further detailed below, the permit rightfully belongs to MII, and the putative sale by Cartel Management Inc. ("Cartel") to the Association of Surfing Professionals (the "World Surf League" or "WSL") would be void even if approved at tomorrow's meeting. In particular, video of the District's public meeting, e-mails, witnesses, and other evidence demonstrate that the Permit was approved for issuance to Mavericks, as it had been since 2012, and not Cartel (which had no experience running events of this type), and that the reason the Permit lists Cartel's name rather than Mavericks' is that Cartel deceived District staff to use Cartel's name in place of Mavericks'. Indeed, the Permit specifically lists Mavericks' address and its officer's personal phone number as the permittee, with only the permittee's name changed.

In particular, in 2012, the Harbor Commission approved a three-year permit for MII to hold a contest, valid until March 31, 2016. MII successfully held contests and met all obligations to the district, to vendors, to the community, and to the surfers. It is their success with the event that garnered the support of the commissioners.

In 2014, MII entered into an Intellectual Property Agreement with Cartel Management Inc. ("Cartel") that provided for Cartel to assist MII with marketing and sponsorship development and intellectual property management. The Agreement did not provide Cartel any ownership interest in the event or in the SMCHD three-year permit, and did not provide Cartel authority over the actual running of the event itself. MII remained the sole permit holder and the sole entity authorized to run an event.

In early 2015, per the district's protocol, MII submitted an updated permit application for the season running November 1, 2015 through March 31, 2016. For that updated application, which requested a five-year extension of the previous permit, Cartel was *added* to the application for insurance purposes. In both the application itself and in other communications with Commission staff, MII made clear that MII must remain on the permit, not least because MII was the entity that was running the event.

The updated application was considered at a Commission meeting on August 5, 2016, under an agenda item titled "Cartel Application for 5 Year *Extension* Permit for one Big Wave Contest Event

through March 2021” (emphasis added), making clear that the application was for an extension of the 2013-2016 permit held by MII. MII attended the meeting and spoke in favor of the application based on its previous success running events. The extension application was approved by the Commission at the meeting. That approval was captured on indisputable video evidence. Emails from Cassandra Clark of MII to Commission staff after the meeting confirmed that the permit was required to name both MII and Cartel, and no Commission staff or member ever indicated any disagreement.

However, in October of 2016, in the process of updating and issuing the permit for the 2016/2017 window, Cartel surreptitiously omitted MII from the proposed permit. Commission staff, either through error or intention, issued the Cartel-only permit despite the Commission Board’s clear direction that the 2013-16 permit was being extended, not that a new permit was being issued to a new entity. MII was never provided a copy of the permit as issued, and this conduct by Cartel and the Commission staff did not come to light until Cartel filed for bankruptcy. MII immediately notified SMCHD of the matter, both in person and in writing. To this date, neither I nor any member of MII has received a response from the harbor district.

In short, it is clear that the permit is held now by MII. “Approving” the alleged transfer of the permit from Cartel (who does not own it) to WSL would make the SMCHD actively complicit in the theft of MII’s permit. It is one thing for Commission staff to make an innocent mistake in response to Cartel’s effort to defraud the Commission and MII, but it is quite another to ignore MII’s claims and actively support Cartel’s actions to date in the media and by affirmatively and publicly voting in favor of a putative transfer by Cartel. MII requests, indeed demands, that the Commission not make itself complicit in Cartel’s wrongdoing.

Finally, Sabrina Brennan must not participate in any vote taken tomorrow related to Mavericks. She has been actively, and publicly, conspiring with WSL for months, in violation of the law and her obligations to the SMCHD. She is also well-known to have a severe irrational bias, based on personal animus and not on the legal or other merits of the dispute, against MII and its principals. Indeed, she has gone so far as to lead boycott attempts against one of the Harbor District’s best tenants and assaulting the CEO of MII in his place of business, leading to the sheriff’s recommendation for action and the District Attorney’s call to put Ms. Brennan on a one-year review of her conduct. Ms. Brennan’s continued participation in the process would taint it beyond repair.

\* \* \* \* \*

The MII Board members will appear at the meeting tomorrow evening to discuss the issues in person and to answer any questions the Commission may have. If there is anything I personally can do to assist the process, please do not hesitate to contact me.

Sincerely,



Richard J. Mooney

ARTICLE 12  
SELLERS' AND PURCHASER'S COVENANTS

Section 12.1. Conduct of Business. Unless otherwise ordered by the Bankruptcy Court, each Seller will, without the express written consent of Purchaser, refrain from doing or failing to do anything that would: (i) dispose of, or transfer, any Purchased Asset, (ii) transfer any tangible Purchased Asset to any location other than its location as of the date of this Agreement, (iii) terminate, amend or modify the terms of any of the Assumed Contracts, or (iv) grant any interest (whether ownership, security, participation or otherwise) in or to any of the Purchased Assets or permit or authorize any third party to grant any interest (whether ownership, security, participation or otherwise) in or to any of the Purchased Assets.

Section 12.2. Assurances Regarding SMHD. Sellers covenant that neither they nor any of their Affiliates, employees, directors, officers and members, shall initiate, or intentionally encourage to be initiated by third parties, any adverse action or claim against the SMHD or any of its representatives, employees, board members, officers, directors or members, whether pre-Closing or post-Closing notwithstanding any other provision of this Agreement, relating solely and exclusively to the Purchased Assets and Assumed Liabilities and the conduct of the Sellers' Business prior to the Closing.

Section 12.3. TITANS OF MAVERICKS Trademark and Mavericks Geographic Descriptor. CMI shall retain any and all right, title and interest throughout the world in and to the trademarks TITANS OF MAVERICKS and TITANS OF MAVERICKS & Design that are the subjects of U.S. Trademark Registrations Nos. 5,073,729 and 5,134,074 (the "Titans of Mavericks Trademarks"), subject to the following provisions:

(a) Neither Seller shall use the Titans of Mavericks Trademarks or otherwise brand, promote, distribute or sell its goods or services in a manner that would be likely to cause confusion with Purchaser or its Sport of Surfing contests. For the avoidance of doubt, (i) Sellers are expressly prohibited from using the Titans of Mavericks Trademarks as the name of any Sport of Surfing contest; (ii) by way of example but not limitation, and subject to the foregoing restriction, Sellers shall not be prohibited from using, or otherwise branding, promoting, distributing or selling products under, the Titans of Mavericks Trademarks in connection with other services in Class 41 (including without limitation the production and/or distribution of audio/visual content), goods in Classes 16 or 25, or services in Class 35, as long as they do not do so in a manner that is likely to cause confusion with Purchaser or its Sport of Surfing contests; and (iii) nothing in this provision would prohibit Sellers from becoming an official sponsor of one or more of Purchaser's Sport of Surfing events, sponsoring an athlete participating in Purchaser's Sport of Surfing events or that athlete wearing apparel or using equipment branded with the Titans of Mavericks Trademarks, as long as the use of branded goods complies with Purchaser's rules applicable to all participating athletes.

(b) Purchaser may use the Titans of Mavericks Trademarks and any related stylizations thereof or logos in connection with the Content and/or to make historical references to the Titans of Mavericks surfing event.

document is requested to initiate, join in or otherwise become a Party to any litigation, action or other proceeding, or (iii) cause such Party to incur any material cost or expense that is not already imposed upon it by another provision of this Agreement.

Section 12.13. Non-Assignment by the Sellers. Neither of the Sellers shall assign any of its rights under this Agreement prior to the Closing without the prior written discretionary consent of Purchaser.

### ARTICLE 13 CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATION TO CLOSE

Subject to the provisions of Article 8, above, the obligations of Purchaser under this Agreement with respect to the purchase and sale of the Purchased Assets shall be subject to the fulfillment on or prior to the Closing of the conditions of Sections 13.1 through 13.12, any of which may be waived in writing by Purchaser. Each of the Sellers shall use its best efforts to satisfy these conditions so that the Closing can occur no later than October 3, 2017.

Section 13.1. Accuracy of Representations and Warranties; Performance of this Agreement. To the best of Seller's knowledge, each of the representations and warranties made by each of the Sellers shall be true and correct in all material respects on and as of the date hereof and at and as of the Closing Date (unless such representation or warranty is given as of a particular date in which case such representation or warranty will be considered only as of such particular date). Each Seller shall have complied with and performed in all material respects all of the agreements and covenants required by this Agreement, each other Transaction Document and the Sale Order (and any other Final Order of the Bankruptcy Court relating to the transactions contemplated by this Agreement) to be performed or complied with by it prior to the Closing and shall be able to perform in all material respects all of the agreements and covenants required by this Agreement, each other Transaction Document and the Sale Order (and any other Final Order of the Bankruptcy Court relating to the transactions contemplated by this Agreement) to be performed or complied with at Closing.

Section 13.2. Bankruptcy Matters. The Sale Order shall have been entered by September 14, 2017, and the hearing on the Sale Motion shall have been held by the Hearing Deadline. The Sale Order must be a Final Order.

Section 13.3. Consents. Purchaser shall have received duly authorized, executed and delivered consents to the transactions contemplated hereby and waivers of rights to terminate or modify any material rights or obligations of the Sellers from any Person from whom such consent or waiver is required under or in connection with any Assumed Contracts or instruments who, as a result of the transactions contemplated hereby, would have such rights to terminate or modify such Assumed Contracts or instruments, either by the terms thereof or as a matter of law; provided that, the consents required under this Section 13.3 shall not, in any event, include any consent the need for which is obviated by the Sale Order or otherwise by the provisions of the Bankruptcy Code. Notwithstanding the foregoing, as a condition to Purchaser's obligations hereunder, at a public hearing to be held by the SMHD on or before September 20, 2017, the SMHD must expressly confirm that it does not oppose the assignment and transfer of the Permit to Purchaser.

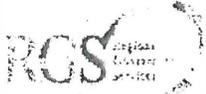
**From:** Glenn Lazof  
**To:** Marc S. Hurd  
**Subject:** RE: Mavericks  
**Date:** Tuesday, September 01, 2015 10:11:00 AM

Mr. Hurd,

I understand you are working with our general counsel and would prefer that you communicate with him. I have communicated to Mr. Miller clarifications regarding the e-mail I sent to Cassandra.

Regarding communications, know that I value the District's (and my) relationship with the Clarks, not just from their association with the contest but also as community leaders and tenants, but I did not mean to slight the chain of command at Cartel. I'm happy to include Zoe on any Cartel/Mavericks communications I have with Cassandra or Jeff Clark.

Thank you,

<p>Glenn Lazof  Deputy Department Director  Regional Government Services Authority  <a href="mailto:glazof@rgs.ca.gov">glazof@rgs.ca.gov</a></p> 	<p><b>Assignment:</b>  Interim General Manager  San Mateo County Harbor District  <a href="mailto:glazof@smharbor.com">glazof@smharbor.com</a>  (650)-583-4400</p>
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From: Marc S. Hurd  
 To: glazof@smharbor.com  
 Cc: Steven D. Miller  
 Subject: Mavericks  
 Date: Monday, August 31, 2015 11:53:01 AM

Mr. Lazof;

I was forwarded an email sent by you on Friday, August 28, 2015 10:59:57 AM to Cassandra Clark. On behalf of the Cartel/Titans folks I wanted to address the issues raised by that email, though perhaps not in the exact order in which you raised your points. In the interests of transparency, I am "cc-ing" Mr. Miller on this email.

First of all, the 8/28 email provided that "[t]he Permit we issued is 'null and void' if all other required permits are not obtained by Cartel Mavericks." (Emphasis added) We presume that this is in reference to Section 5.0 of the 2015/2016 permit, in conjunction with section 4.9.4 thereof. The latter section states: "Permittee shall obtain and comply with all permits and other approvals, licenses and certifications as required by other government agencies and departments. Permittee shall furnish satisfactory evidence of such compliance *upon request of the District.*" Since we do not believe that the District has previously requested satisfactory evidence of compliance with other agency approvals, etc., we have reviewed this email as a request that Cartel/Mavericks provide such proof. Further, since we do not believe that the District has previously requested such proof, absent some additional notice from you and/or the District, we have also presumed that this statement was not meant as a declaration that the permit is, in fact, immediately "null and void," but rather a statement that the District may make such a declaration if Cartel/Mavericks cannot or does not comply with the terms of section 4.9.4 prior to the event. Please advise if this understanding is in error.

Related to the item immediately above, as we believe the District has been advised on numerous occasions, the Mavericks surf event requires cooperation from/with multiple agencies, at the local, state and federal levels. However, in the past, there has not been any requirement that Mavericks (either in its present form or through Mavericks Invitational, Inc.) obtain permits, approvals, etc. from the County. (Your 8/28 email even provides that "... **beginning this year** a permit will be required from County Parks...", thus indicating that such had not previously been required.) It is for this reason that I would request that you provide me with a copy of that Notice from the County. (Your email provides that such was given to "Cartel Mavericks," but I personally do not have a copy. I cannot dispute that was provided, and I do not mean to suggest that it was not; I'm only requesting a copy since I do not have one in my files.) In any event, since this County permit is, as you concede, a "new" requirement, Cartel/Mavericks should be given a reasonable opportunity to secure this new permission/approval. I believe that the tenor of your email provides Cartel/Mavericks that reasonable opportunity, given your comment that the District will "request information regarding all permits obtained" at some point "prior to the Event."

I might also add that it appears that Brian Waters of Cartel has already been in contact with the Coastal Commission regarding permitting from that organization, and that reps therefrom have already addressed a "consolidated permit decision made by the Commission" that would "involve

both the Commission's and the County's permit jurisdictions" rather than a permit each from the Commission and the County. Thus, Cartel has already "jumped on" this new issue of additional permitting (if any) which may be required.

Secondly, your email referenced an "e-mail attached from County Staff indicating their view that a Coastal Development Permit is not required for this event." However, the copy of the email I received did not contain that attachment. Thus, I do not have that email, or any record in my files. (Again, I'm not trying to say that such was not provided, only that I do not have any record thereof in my files.) Thus, if you could be so kind as to provide me directly with a copy of the "e-mail attached from County Staff...", and the memoranda referenced therein ( the "1998 memoranda from Peter Douglas, Coastal Commission Executive Director 'Regulation of Temporary Events in the Coastal Zone" and a 1993 memorandum "Guidelines for Exclusion of Temporary Events from Coast Development Permit Requirements"), such would be greatly appreciated.

I also note your comments regarding the 5-year permit and agree that our office has been working with Staff's outside counsel, Steve Miller, on the final version of that new permit. We are trying to make sure that the language of the new permit hews as closely as possible to the existing permit for this year, and I expect to get the details of that worked out over the next couple of days.

Finally, it appears that there may have been some delays in addressing the District's concerns. I believe that some of these difficulties could be alleviated (and the process streamlined) if any communication with Cartel/Mavericks go through Zoe Lee Ahn at Cartel. While we recognize that the District has over the years communicated directly with Cassandra Clark and/or Jeff Clark, the permit for 2015/2016 specifies that the "contact" person is Ms. Lee-Ahn. We have appreciated, and still appreciate the dedication and effort the Clarks have shown to this Mavericks project over the years, and continue to seek out their involvement moving forward. However, to ensure that communications directed to "Cartel/Mavericks" reach their intended recipients, we would request that such communications be directed to Zoe Lee Ahn. In deference to the ever-dedicated Cassandra Clark, and in recognition of her direct continued involvement in this project, we would have no objection to (and would certainly welcome and/or suggest that) Cassandra Clark be "cc'd" on any communication sent to Cartel.

Thank you for your time and attention to this matter.

Marc S. Hurd  
**TIEDT & HURD**  
 980 Montecito Drive, Suite 209  
 Corona, CA 92879  
 Tel: (951) 549-9400  
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**From:** Marc S. Hurd  
**To:** Steven D. Miller; glazof@smharbor.com  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues  
**Date:** Tuesday, June 09, 2015 10:18:13 AM

Mr. Miller & Mr. Lazof;

I am just following up on this to see if we can finally get this 2015/2016 permit issue finalized. I would also note that given the fact that the 2014/2015 Event did not go forward, but that Cartel/Mavericks had already paid the Permit Fee, it would appear that Cartel and the Titans team has a credit for the \$11,600 permit fee on the District's ledgers. In addition, since Cartel has already paid the application fee of \$5,000 May of this year, it would appear that the 2015/2016 fees payable to SMCHD are fully funded, such that the permit should be immediately issued. Having that actual signed permit in hand is indeed vital to The Titans of Mavericks' efforts to confirm existing sponsors and secure new sponsors for the upcoming event; or stated conversely, not having that permit "in hand" is proving to be a detriment to our efforts.

I look forward to resolving this matter with you forthwith.

**Marc S. Hurd**  
**TIEDT & HURD**  
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**From:** Marc S. Hurd  
**Sent:** Thursday, June 4, 2015 6:12 PM  
**To:** 'Steven D. Miller'; glazof@smharbor.com  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues

Steve and Glenn;

Our office was forwarded a copy of the proposed revised/updated permit for the Mavericks "Special Use Permit" (now apparently numbered 2015-34), by/through Cassandra Clark. I understand that Mr. Lazof and Cassandra spoke about and/or communicated via email regarding this permit. I do have a few comments and/or suggested revisions, if that is okay with you both, as follows.

¶¶ 1.1 & 1.2- I believe that this issue was addressed between Mr. Lazof and Mrs. Clark, but for the sake of accountability and ease of contact, those sections should reflect that Cartel Management, Inc. will be/is the sole "permittee", and that the contact person will be Zoe Lee (now Zoe Lee Ahn) of Cartel Management, Inc.

- ¶ 3.1 – the due date for the payment of the Permit Fees should be a date certain. This is all just a matter of managing expectations, on both sides.
- ¶ 4.4- I believe that this was also addressed between Cassandra and Mr. Lazof, but Cartel (the Permittee) will need access and to use the "District's marsh parking lot and trail connecting the lot to the beach." I think that the initial reason for this is shown in ¶ 4.3, which requires the Permittee to prohibit access to those very same areas. It is difficult, if not impossible, for them to prohibit public access without having their presence on that property to enforce that prohibition. (Imagine being hired as a security guard to protect a warehouse and not being allowed to access the property on which that warehouse is situated.) As such, Cartel will need at least some access to and use of the marsh parking lot, if for no other purpose than to ensure that security personnel have a staging area to secure that area and the trail from public access. Also, while Cartel does not expect to have any great need for "use" of that area, the need may arise where a camera crew will need to access the beach from that location. In order to provide greater assurances to the District that this privilege of accessing these areas is not abused, we can add that permission may be granted within the discretion of a certain District point of contact. To us the most logical choice would be the Harbormaster, as he has "boots on the ground" for that location, and would likely be best suited to assess Cartel's needs in relation to the District's concerns. Given the foregoing, we would suggest revising that paragraph so as to permit limited access, so as permit Cartel to satisfy its obligations under ¶ 4.3, and as may otherwise be permitted by the Harbormaster.
- ¶ 4.5- Similar issue as with 4.4- While we don't expect that there will be any need for "parking" per se in that area described above, beyond that necessary for staging of security or, as the need may arise. However, again, we believe that this can be effectively addressed by establishing the Harbormaster as the "point of contact" (rather than the rather vague "District" approval), such that any plans to place any vehicle(s) in that area should be run through the Harbormaster.
- ¶4.10- The Event is scheduled to take place, waves permitting, somewhere between November 1, 2015 and March 31, 2016. Thus, this section should be filled in to reflect the effective dates for the permit.

As an additional side note, Cartel has no issue whatsoever with ¶4.6, as it fully intends to pick up any trash or debris, and has already budgeted for a clean-up crew to handle that task.

The only remaining issue, as I see it, is the issue of, if Cartel is required to post the Permit Fees before the Event, whether Cartel will be entitled to a refund of the Permit Fees in the event that the Titans of Mavericks surf does not go forward. Presumably, the Permit Fees (unlike the Application Fee, which is non-refundable and we all accept that), are paid to pay the District for actual use, and/or reimburse the District for costs associated with Cartel's use. As such, the Permit Fees should be refundable (even though, as we acknowledge above, that the Application Fees are not), if the weather does not cooperate and allow the Event to go forward.

In the interests of time-saving, I have taken the liberty of preparing a revised draft of the permit. That revised draft is attached. The only "blank" in this is the due date for the payment of the permit Fees, as outlined in bullet points above. I believe that all these issues are consistent with the terms previously agreed to and/or as were discussed at the recent District Meeting on May 20.

Please feel free to contact me further is

**Marc S. Hurd**  
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**From:** Steven D. Miller [<mailto:SMiller@hansonbridgett.com>]  
**Sent:** Wednesday, May 27, 2015 8:43 AM  
**To:** Marc S. Hurd; [glazof@smharbor.com](mailto:glazof@smharbor.com)  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues

Marc,

We've been working diligently and promptly in an effort to accommodate your client's reasonable needs. I believe that Glenn and Cassandra are meeting together this very morning to discuss the terms of a draft permit we have already prepared, consistent with the Board's direction earlier this month, as well as back in 2013 when the three-year arrangement was approved "conditioned upon the right of the Harbor District to review and modify its approval of the additional years as may be deemed appropriate by the District."

I hope your client will find that the District is eager to cooperate and facilitate the conduct of the surf event. My direction from Glenn Lazoff is to work collaboratively to arrange for the issuance of the permit without causing heartburn and without the need to seek any further Board approvals.

I hope this status update provides some reassurances that may be helpful given the high level of tension that has surrounding this issue in recent weeks. My hope is to dissipate that tension and help move this forward on mutually agreeable terms.

As to the longer term extension—the timing of that discussion is up to Glenn. As you indicated,

there are a lot of issues on the District's plate right now.

Best,  
Steve  
Steven D. Miller  
Partner  
Hanson Bridgett LLP  
(415) 995-5831 Direct (415) 995-3426 Fax  
[smiller@hansonbridgett.com](mailto:smiller@hansonbridgett.com)  
425 Market Street, 26th Floor  
San Francisco, CA 94105

**From:** Marc S. Hurd [<mailto:mhurd@tiedtlaw.com>]  
**Sent:** Wednesday, May 27, 2015 8:33 AM  
**To:** Steven D. Miller; [glazof@smharbor.com](mailto:glazof@smharbor.com)  
**Subject:** SMCHD/Titans of Mavericks Permit Issues

Mr. Miller and Mr. Lazof;

Please allow this email to follow up on the events of May 20, 2015 at the San Mateo County Harbor District meeting of the date, and my discussions with Mr. Miller following same.

As you know, per staff recommendation, the previously approved permit to stage the 2015/2016 Mavericks surf event was again approved by the District, albeit with some minor modifications. At the conclusion of the meeting it was agreed that the District would provide a draft permit for your review, to ensure that the terms of the permit were consistent with the Board's action and the permittees' needs. I have not heard back from you with regard to that permit, and seek an update as to the status. As discussed on 5/20/15, Cartel and Mavericks need the permit "in hand" to demonstrate to potential and existing sponsors and media partners that the Titans team is, indeed, authorized to stage the event. Delays in securing the hard copy of the permit simply stymie our clients' efforts to secure that financial backing. Thus, while I understand the circumstances under which you both operate (Mr. Lazof new to the position of Interim GM and Mr. Miller occupied with a myriad of other issues facing the District), I would appreciate your prompt attention to this matter.

In addition, as addressed during our discussion after the May 20, 2015 Board hearing, the Titans team is interested in pursuing a further extension of the 3-year permit that expires at the end of the 2015/2016 Mavericks season. We would like to discuss the parameters of such a request with you, so as to avoid the kind of uncertainty (not of our own doing) that we have faced over the last few months. Securing a longer term extension would, in our humble opinions, bring a certain level of stability to this issue, at a time when we believe the District should find some stability wherever possible.

I look forward to hearing from you further.

**From:** Marc S. Hurd  
**To:** [Steven D. Miller; glazof@smharbor.com](mailto:glazof@smharbor.com)  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues  
**Date:** Thursday, June 04, 2015 6:12:17 PM  
**Attachments:** [\(HB review\) Mavericks Permit 15\\_16\) TC 5 26 for Permittee \(Rev Cartel\).doc](#)

Steve and Glenn;

Our office was forwarded a copy of the proposed revised/updated permit for the Mavericks "Special Use Permit" (now apparently numbered 2015-34), by/through Cassandra Clark. I understand that Mr. Lazof and Cassandra spoke about and/or communicated via email regarding this permit. I do have a few comments and/or suggested revisions, if that is okay with you both, as follows.

- ¶¶ 1.1 & 1.2- I believe that this issue was addressed between Mr. Lazof and Mrs. Clark, but for the sake of accountability and ease of contact, those sections should reflect that Cartel Management, Inc. will be/is the sole "permittee", and that the contact person will be Zoe Lee (now Zoe Lee Ahn) of Cartel Management, Inc.
- ¶ 3.1 – the due date for the payment of the Permit Fees should be a date certain. This is all just a matter of managing expectations, on both sides.
- ¶ 4.4- I believe that this was also addressed between Cassandra and Mr. Lazof, but Cartel (the Permittee) will need access and to use the "District's marsh parking lot and trail connecting the lot to the beach." I think that the initial reason for this is shown in ¶ 4.3, which requires the Permittee to prohibit access to those very same areas. It is difficult, if not impossible, for them to prohibit public access without having their presence on that property to enforce that prohibition. (Imagine being hired as a security guard to protect a warehouse and not being allowed to access the property on which that warehouse is situated.) As such, Cartel will need at least some access to and use of the marsh parking lot, if for no other purpose than to ensure that security personnel have a staging area to secure that area and the trail from public access. Also, while Cartel does not expect to have any great need for "use" of that area, the need may arise where a camera crew will need to access the beach from that location. In order to provide greater assurances to the District that this privilege of accessing these areas is not abused, we can add that permission may be granted within the discretion of a certain District point of contact. To us the most logical choice would be the Harbormaster, as he has "boots on the ground" for that location, and would likely be best suited to assess Cartel's needs in relation to the District's concerns. Given the foregoing, we would suggest revising that paragraph so as to permit limited access, so as permit Cartel to satisfy its obligations under ¶ 4.3, and as may otherwise be permitted by the Harbormaster.
- ¶ 4.5- Similar issue as with 4.4- While we don't expect that there will be any need for "parking" per se in that area described above, beyond that necessary for staging of security or, as the need may arise. However, again, we believe that this can be effectively addressed by establishing the Harbormaster as the "point of contact" (rather than the rather vague "District" approval), such that any plans to place any vehicle(s) in that area should be run through the Harbormaster.
- ¶4.10- The Event is scheduled to take place, waves permitting, somewhere between November 1, 2015 and March 31, 2016. Thus, this section should be filled in to reflect the

effective dates for the permit.

As an additional side note, Cartel has no issue whatsoever with ¶4.6, as it fully intends to pick up any trash or debris, and has already budgeted for a clean-up crew to handle that task.

The only remaining issue, as I see it, is the issue of, if Cartel is required to post the Permit Fees before the Event, whether Cartel will be entitled to a refund of the Permit Fees in the event that the Titans of Mavericks surf does not go forward. Presumably, the Permit Fees (unlike the Application Fee, which is non-refundable and we all accept that), are paid to pay the District for actual use, and/or reimburse the District for costs associated with Cartel's use. As such, the Permit Fees should be refundable (even though, as we acknowledge above, that the Application Fees are not), if the weather does not cooperate and allow the Event to go forward.

In the interests of time-saving, I have taken the liberty of preparing a revised draft of the permit. That revised draft is attached. The only "blank" in this is the due date for the payment of the permit Fees, as outlined in bullet points above. I believe that all these issues are consistent with the terms previously agreed to and/or as were discussed at the recent District Meeting on May 20.

Please feel free to contact me further is

**Marc S. Hurd**  
**TIEDT & HURD**  
 980 Montecito Drive, Suite 209  
 Corona, CA 92879  
 Tel: (951) 549-9400  
 Fax: (951) 549-9800  
[mhurd@tiedtlaw.com](mailto:mhurd@tiedtlaw.com)

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**From:** Steven D. Miller [mailto:SMiller@hansonbridgett.com]  
**Sent:** Wednesday, May 27, 2015 8:43 AM  
**To:** Marc S. Hurd; glazof@smharbor.com  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues

Marc,

We've been working diligently and promptly in an effort to accommodate your client's reasonable needs. I believe that Glenn and Cassandra are meeting together this very morning to discuss the terms of a draft permit we have already prepared, consistent with the Board's direction earlier this month, as well as back in 2013 when the three-year arrangement was approved "conditioned upon

the right of the Harbor District to review and modify its approval of the additional years as may be deemed appropriate by the District.”

I hope your client will find that the District is eager to cooperate and facilitate the conduct of the surf event. My direction from Glenn Lazoff is to work collaboratively to arrange for the issuance of the permit without causing heartburn and without the need to seek any further Board approvals.

I hope this status update provides some reassurances that may be helpful given the high level of tension that has surrounding this issue in recent weeks. My hope is to dissipate that tension and help move this forward on mutually agreeable terms.

As to the longer term extension—the timing of that discussion is up to Glenn. As you indicated, there are a lot of issues on the District’s plate right now.

Best,  
 Steve  
 Steven D. Miller  
 Partner  
 Hanson Bridgett LLP  
 (415) 995-5831 Direct (415) 995-3426 Fax  
[smiller@hansonbridgett.com](mailto:smiller@hansonbridgett.com)  
 425 Market Street, 26th Floor  
 San Francisco, CA 94105

**From:** Marc S. Hurd [<mailto:mhurd@tiedtlaw.com>]  
**Sent:** Wednesday, May 27, 2015 8:33 AM  
**To:** Steven D. Miller; [glazof@smharbor.com](mailto:glazof@smharbor.com)  
**Subject:** SMCHD/Titans of Mavericks Permit Issues

Mr. Miller and Mr. Lazof;

Please allow this email to follow up on the events of May 20, 2015 at the San Mateo County Harbor District meeting of the date, and my discussions with Mr. Miller following same.

As you know, per staff recommendation, the previously approved permit to stage the 2015/2016 Mavericks surf event was again approved by the District, albeit with some minor modifications. At the conclusion of the meeting it was agreed that the District would provide a draft permit for your review, to ensure that the terms of the permit were consistent with the Board’s action and the permittees’ needs. I have not heard back from you with regard to that permit, and seek an update as to the status. As discussed on 5/20/15, Cartel and Mavericks need the permit “in hand” to demonstrate to potential and existing sponsors and media partners that the Titans team is, indeed, authorized to stage the event. Delays in securing the hard copy of the permit simply stymie our clients’ efforts to secure that financial backing. Thus, while I understand the circumstances under which you both operate (Mr. Lazof new to the position of Interim GM and Mr. Miller occupied with a

myriad of other issues facing the District), I would appreciate your prompt attention to this matter.

In addition, as addressed during our discussion after the May 20, 2015 Board hearing, the Titans team is interested in pursuing a further extension of the 3-year permit that expires at the end of the 2015/2016 Mavericks season. We would like to discuss the parameters of such a request with you, so as to avoid the kind of uncertainty (not of our own doing) that we have faced over the last few months. Securing a longer term extension would, in our humble opinions, bring a certain level of stability to this issue, at a time when we believe the District should find some stability wherever possible.

I look forward to hearing from you further.

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**From:** Marc S. Hurd  
**To:** [Steven D. Miller](mailto:Steven.D.Miller)  
**Cc:** [glazof@smharbor.com](mailto:glazof@smharbor.com)  
**Subject:** RE: SMCHD/Titans of Mavericks Permit Issues  
**Date:** Wednesday, May 27, 2015 10:51:52 AM

Steve,

Thank you for your prompt response. I appreciate the diligence, and I understand the pressures you and Mr. Lazof face. I also understand that the meeting between Mr. Lazof and Mrs. Clark will attempt to address the immediate issues regarding the 2015/2016 permit. I think it's in everyone's best interests to get this resolved quickly, and I can assure you that you will have our full cooperation toward that end.

I also look forward to hearing from you and/or Mr. Lazof further regarding the extension. In light of recent disclosures at the SMCHD meeting regarding Ms. Brennan, I know that Cartel and the Titans team are weighing options, but want to cooperate with the district toward a successful resolution of any future issues regarding the permits beyond 2015/2016.

Thank you again for your prompt reply and I look forward to hearing from you and/or Mr. Lazof further.

**Marc S. Hurd**  
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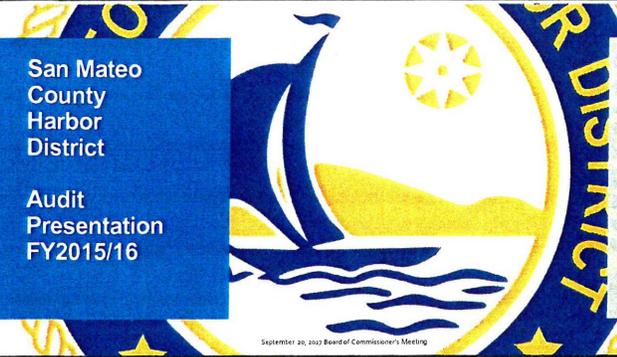
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San Mateo  
County  
Harbor  
District

Audit  
Presentation  
FY2015/16

September 20, 2017 Board of Commissioners Meeting

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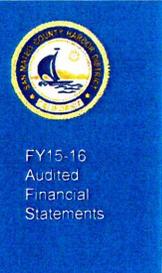
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FY15-16  
Audited  
Financial  
Statements

San Mateo County Harbor District  
hired the accounting firm:  
Maze & Associates  
to conduct an audit of its financial statements  
for  
Fiscal Year 15/16 (7/1/15 thru 6/30/16)

September 20, 2017 Board of Commissioner's Meeting

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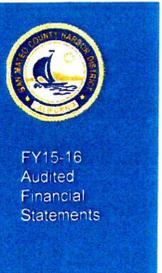
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FY15-16  
Audited  
Financial  
Statements

The financial statements were found to:

1. Be free of material misstatement.
2. Present fairly the District's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles (GAAP).

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

### Financial Highlights:

	FY15/16	FY14/15	Variance
Total Net Position	35,560,317	43,945,266	(8,378,949)

**An \$8,378,949 decrease in District's Net Position in FY15/16 as compared to FY14/15**

This was mainly due to:

- Current and prior period adjustments made to correct previous errors in the reporting of capital assets.

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

### Financial Highlights:

	FY15/16	FY14/15	Variance
Net Income	1,883,051	1,030,781	852,270

**An increase of \$852,270 in Net Income in FY15/16 as compared to FY14/15.**

This was the net result of:

- Increases in operating revenue (berth rentals, transient berths, RV lot fees)
- Decreases in operating expense
- Increases in total non-operating revenue (capital grants, property taxes).

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

### Financial Highlights:

	FY15/16	FY14/15	Variance
Operating Expense	7,423,192	8,623,363	(1,200,171)

**A decrease of \$1,200,171 in Operating Expenses in FY 15/16 as compared to FY 14/15**

This was mainly due to:

- Decrease in depreciation expense
- Decrease in departmental operating expenses

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

### Financial Highlights:

Non-Operating Revenues	FY15/16	FY14/15	Variance
	4,970,668	5,672,084	(702,416)

A decrease of \$702,416 in  
Non-Operating Revenues in FY 15/16  
as compared to FY 14/15

This was the net result of:

- Capital asset adjustment
- Gain from the sale of the Post Office lot (FY 14/15),
- Increase in property tax revenues

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

This audit includes a schedule of material  
weaknesses and significant deficiencies  
including:

- Effect
- Cause
- Recommendation
- Management response

All material weaknesses and significant  
deficiencies have been addressed, corrected  
or identified for correction by management.

September 20, 2017 Board of Commissioner's Meeting

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FY15-16  
Audited  
Financial  
Statements

Additional details are provided in the  
Basic Financial Statements  
and the  
Memorandum of Internal Control and  
Required Communication

September 20, 2017 Board of Commissioner's Meeting

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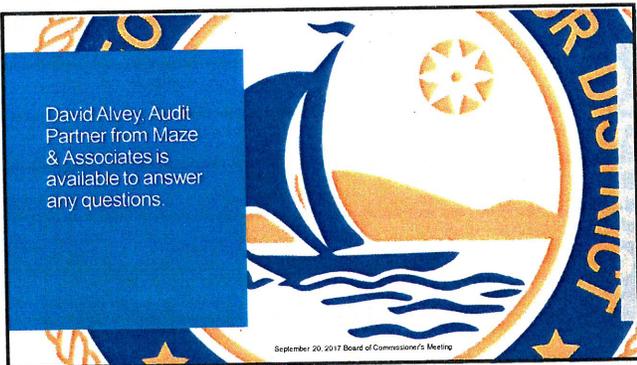
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**Item #7- Revised Motion**  
**Proposed Commercial Activity Permit for Fathom Marine**  
**to Operate the OPM Fuel Dock**

Motion: Approve the Commercial Activity Permit, **as amended**, for Fathom Marine, LLC (FM) to operate the Oyster Point Marina (OPM) fuel dock and a limited boat maintenance and repair facility for up to a 15 month period, until December 31, 2018 and authorize the General Manager to execute the permit in a form approved by legal counsel.

- 5.2 In addition to the annual Permit Fee, permittee shall pay the following fees: **\$2000 per month flat fee and ~~\$0.03 per gallon~~ 3% of all gross receipts generated from fuel sales of fuel sold.** The \$2000 flat fee payment will be due in advance on the 1<sup>st</sup> of every month. FM will provide a detailed fuel sales report and the ~~\$0.03 per gallon sold~~ 3% of all gross receipts generated from fuel sales payment by the 15<sup>th</sup> of every month for the prior month's sales. Late payments will be subject to interest charges of 10% per annum, calculated each month. In the event that the permit expires or is terminated prior to the end of a month, Permittee is not entitled to any refund of a prorated amount of the \$2,000 fee.

# ITEM 9 Presentation



FY 17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions

## Fiscal Year 17/18 Capital Improvement Plan Budget Revisions

September 20, 2017 Board of Commissioner's Meeting

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FY 17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions

**This is an informational item only**

The Capital Improvement Plan for Fiscal Year 17/18 is in need of revisions. Some projects need additional funds while funding for other projects can be reduced for this year.

The Net impact of these revisions to the total amount for the CIP budget for Fiscal Year 17/18 = \$0

September 20, 2017 Board of Commissioner's Meeting

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FY 17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions

### Fiscal Year 17/18 Capital Improvement Budget

Initial adopted budget = \$7,489,500.

Additional \$1,234,350 approved at the Board Meeting on 7/19/17 (Romeo Pier Demolition)

**Total approved for Capital Projects in FY 17/18 = \$8,723,850**

**Note:** The \$1.2M approved will be added to the CIP Budget for FY17/18 during "mid-year" budget review.

September 20, 2017 Board of Commissioner's Meeting

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FY17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions




**So, what revisions  
are we making and  
why?**

September 20, 2017 Board of Commissioner's Meeting

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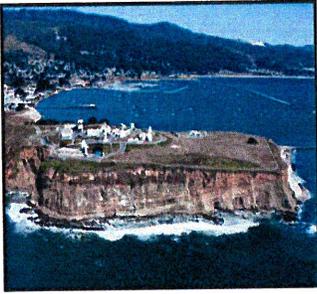
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**Pillar Point Harbor:**  
An additional \$93,566 is needed for Capital Improvement Projects in this fiscal year

Major revisions to note:

- Parking lots: \$175,000 for seal and stripe
- West Trail: \$900,000 for repairs
- Johnson Pier: \$600,000 for Timber Deck & Piling Repair
- H Dock: (\$1,300,000) to continue planning and engineering; defer reconstruction to next year
- Admin building: \$77,000 for conference room; ADA; workplace efficiency, safety and security

September 20, 2017 Board of Commissioner's Meeting

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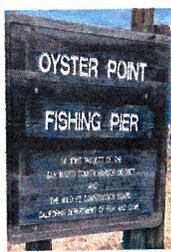
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**Oyster Point Marina**

The total for Capital Improvement Projects can be reduced by \$170,566 in this fiscal year.

Major revisions to note:

1. Docks 1-6: \$357,132 for electrical transformer replacement
2. Dock 12: (\$507,698) to continue planning and engineering; defer reconstruction to next year

September 20, 2017 Board of Commissioner's Meeting

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FY17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions

**Note:** These revisions to the budget do not approve the construction of any individual project, as that will only occur as a result of a bidding process with contract award approved at a public meeting by this Board.

September 20, 2017 Board of Commissioner's Meeting

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FY17/18  
Capital  
Improvement  
Plan (CIP)  
Budget  
Revisions

Additional details are provided in the spreadsheet attached to the staff report.

Also, the Director of Operations is prepared to provide additional details or answer any questions.

September 20, 2017 Board of Commissioner's Meeting

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Legal Costs Calendar Year 2008 - 2017 YTD

	AARONSON, DICKERSON, COHN &	BRAND/ NORMAN	COX, WOOTON, LERNER, GRIFFIN,	FRANK/ LYNN S.	HANSON BRIDGETT LLP	JAY RESENDEZ, ATTORNEY AT LAW	KOTZEBUE/ MARGARET	KRAMER/ KAREN	LIEBERT, CASSIDY & WHITMORE///	MCGRATH INVESTIGA TIONS	OPPENHEIME R/ AMY	RICHARDS, WATSON & GERSHON	Grand Total
2008	\$ 63,467.03												
2009	\$ 51,799.33	\$ 675.00							\$ 80,888.64				\$ 144,355.67
2010	\$ 43,424.95								\$ 73,809.10			\$ 19,368.42	\$ 145,651.85
2011	\$ 51,869.12								\$ 36,893.33			\$ 4,662.00	\$ 84,980.28
2012	\$ 115,749.56								\$ 24,465.48			\$ 13,249.25	\$ 89,583.85
2013	\$ 86,084.87					\$ 735.00			\$ 7,143.99				\$ 123,628.55
2014	\$ 54,057.05		\$ 9,933.43		\$ 71,588.50				\$ 14,678.70				\$ 100,763.57
2015			\$ 34,999.80	\$ 4,500.00	\$ 375,422.96			\$ 13,803.00	\$ 105,991.85		\$ 24,381.00		\$ 279,754.83
2016			\$ 8,523.59		\$ 185,461.86	\$ 3,325.00	\$ 26,364.00		\$ 109,637.32				\$ 550,924.08
2017 YTD			\$ 175.00		\$ 294,308.82				\$ 112,317.66	\$ 15,445.00			\$ 325,073.11
<b>Grand Tot</b>	<b>\$ 466,451.91</b>	<b>\$ 675.00</b>	<b>\$ 53,631.82</b>	<b>\$ 4,500.00</b>	<b>\$ 926,782.14</b>	<b>\$ 4,060.00</b>	<b>\$ 26,364.00</b>	<b>\$ 13,803.00</b>	<b>\$ 630,525.79</b>	<b>\$ 15,445.00</b>	<b>\$ 24,381.00</b>	<b>\$ 37,279.67</b>	<b>\$ 2,203,899.33</b>

\*2017 YTD is through July 2017 Invoices received.