

MARINA COMMITTEE MEETING

DATE OF MEETING: January 4, 2021 at 5:30 p.m. County Building Virtual Meeting

MEMBERS PRESENT: Dan Matthews – Chair and Jay Wickenhauser. Members attending virtually - Terry Ferguson, Travis Houser, and Aaron Kammeyer. Also present, Dee Rentmeister, County Administrator.

MEMBERS ABSENT: None

SUMMARY OF DISCUSSION:

- Jacob Forrest spoke to the committee about sending out surveys to the slip renters. As a former marina operator surveys were sent out in the past and they were very helpful. He feels that these surveys would be a good idea before extending the lease. Kammeyer asked Jacob if he felt that surveys should also be sent to those that visit the marina but do not have a slip as their opinions are just as valuable. Jacob stated that he agreed but was not sure how to get surveys out to them. Discussion amongst committee members and the public.
- Motion by Matthews, 2nd by Wickenhauser to approve last month's minutes. Roll call vote – Matthews – aye, Wickenhauser – aye, Houser – aye, Kammeyer – aye and Ferguson – aye. Motion carried.
- Matthews stated that there will not be any changes to the slip renter letter or the slip agreement. Agreements will be going out sometime the third week of January.
- Matthews stated that the current lease is one year out. Need to make long term plans for the marina including goals, vision, and strategic plans for moving forward. Discussion amongst members and public. Matthews indicated that he would be contact with several members of the public along with committee members. Possibly putting together a focus group.
- Motion by Houser, 2nd by Ferguson to approve/release the closed sessions minutes attached to these minutes. Roll call vote – Matthews – aye, Houser – aye, Ferguson – aye, Wickenhauser – aye and Kammeyer – aye. Motion carried.
- A question was asked about the breakwater. It continues to drift further away.
- Motion by Wickenhauser, 2nd by Kammeyer to adjourn at 5:52 p.m. Voice vote, motion carried.

COMMITTEE ACTION:

Approve last month's minutes.

Approve/release the closed sessions minutes attached to these minutes.

RECOMMENDATIONS TO THE BOARD:

None

DATE OF NEXT MEETING: February 1, 2021 at 5:30 p.m.

**AGENDA FOR THE
MARINA COMMITTEE
Virtual Meeting
Revised**

Date and Time of Meeting: January 4, 2021 at 5:30 p.m. Location: County Building

- 1) Call Meeting to Order
- 2) Persons Wishing to Address the Committee/Public Comment (If requesting action, also list below in section three).
 - a. Jacob Forrest – Surveying current slip renters
 - b.
- 3) Items for Discussion and Possible Action
 - a. Approve last month's minutes
 - b. Approve claims
 - c. Review/revise slip renter letter
 - d. Review/revise slip agreement
 - e. Lease extension
 - f. Approve multiple closed session minutes
 - g.
 - h.
 - i.
 - j.
 - k.
- 4) Closed Session
- 5) Items for Discussion Only (No Action Requested)
 - a.
 - b.
 - c.
 - d.
- 6) Motion to adjourn.

Posted: December 28, 2020 at 2:30 p.m. Revised December 28, 2020 at 3:25 p.m. Revised December 28, 2020 at 3:50 p.m.

By: Dee Dee Rentmeister

Join Zoom Meeting

<https://zoom.us/j/4327127633?pwd=RlZoc3Q1YVFiWjIvVVBNOdRjaUJFZz09>

Meeting ID: 432 712 7633

Passcode: 7G4RfQ

One tap mobile

+13126266799,,4327127633#,,,,*916633# US (Chicago)

+16468769923,,4327127633#,,,,*916633# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

Meeting ID: 432 712 7633

Passcode: 916633

Find your local number: <https://zoom.us/u/adfvARzBZl>

EXECUTIVE SESSION
MARINA COMMITTEE

Date of Meeting: November 1, 2017 at 7:48 a.m.

Members Present: Whitted, Newberg, Ferguson, Perring and Redman. Redman left at 7:57 a.m. Also, present Lance Reece.

Summary of Discussion:

Committee discussed several items of concern with the lease agreement with FAB Associates.

- Possible need to have an audit.
- Possible violations to the lease agreement in relation to renting out the county apartment without county knowledge, transient rent paid to the county for rent on dock 4 and possible other violations.

Committee also discussed the possibility of buying out the remaining years on the lease or terminating the lease. Will need to discuss these issues with the State's Attorney.

Will set up a special meeting with the State's Attorney to discuss concerns.

Motion by Whitted, 2nd by Ferguson to return to regular session at 8:10 a.m.

Marina Committee
Executive Session

Date of Meeting: November 3, 2017 at 1:00 p.m.

Members Present: Newberg, Perring, Ferguson and Whitted. Also present, Reece, Dan Markwell, State's Attorney and Lars Dunn, Asst. State's Attorney.

Summary of Discussion:

- Committee discussed two issues that they believe to be in violation of the lease agreement with FAB Associates.
 - Renting out the apartment that is under the county's control – not FAB and not informing the county. Once confronted, FAB acknowledge that they had in fact rented out the apartment for 4 months. After asking for the rent for several months, FAB did give the county \$1400 in cash for the rent at the November 1, 2017 meeting.
 - Renting out transient slips on dock 4 and only reimbursing the county 10% instead of 90%. Per the lease, all rent on new construction is to be paid at the rate of 90% to the county for the first 5 years. Have requested and received documentation from FAB for the last 3 years on transient rents. The documentation is not complete; in most of the transient rent documentation does not indicate which slip was rented. It also appears that some of the transient rents were prorated and the county did not agree to any prorated transient rent.
- During discussion with the attorneys, it was suggested that all of the documentation on transient rent be reviewed and an accounting of those slips that were rented on dock 4 be documented with a total amount that was collected, paid to the county and what was owed to the county.
- The county could offer a buyout to FAB for the last two years of their lease or possible action could be taken to terminate the lease due to breach.
- Discussed finding an auditor to review the last 3 years of tax returns.
- Motion by Ferguson, 2nd by Whitted to return to regular session at 1:46 p.m.

Marina Committee
Executive Session Minutes

Date of Meeting: February 5, 2018 at 7:09 a.m. County Building

Members Present: Redman, Newberg, Whitted, Ferguson, and Chair Perring.

Also, Present: Dan Markwell, State's Attorney and Lance Reece.

Summary of Discussion:

Dan brought the committee up to date on a meeting that was held with himself, Perring, Newberg, Greg and Jacob Forrest and Bryce Lynch, attorney for the Forrest's. This meeting covered the findings of the recent audit involving transient rents and the amount given to the county for transients on dock 4. They also reviewed items in the lease concerning maintenance of the well.

The definition of transient is not spelled out in the contract. The original lease bid documents show a transient rent up to 1 month and this information is also on Clinton Lake Marina's website. Will need to get these documents to Mr. Lynch.

Also gave Greg and Jacob bills that were paid for work on the well. The lease indicates that they are responsible for maintaining the well and proved potable water.

Dan indicated that Mr. Lynch stated that he would respond to these items. As of this morning he had not received anything. Dan feels that Mr. Lynch would probably make some type of proposal to resolve these issues.

The audit indicates that FAB owes the county \$11,000+ for transient rents in both 2016 and 2017. The county also paid roughly \$4000 in well repairs in 2017.

Discussion on how to proceed given that Greg and Jacob indicated that they would not comment/discuss items related to the lease without their counsel being present. Dan explained that litigation would more than likely take a while. Dan advised that the committee should wait and see what type of resolution that Mr. Lynch provides on behalf of FAB.

Perring stated that if FAB will be having counsel present at all meetings he felt that someone from the State's Attorney's office should be present as well at these meetings.

Committee members felt that the county should request payment for the amount due on transient rents for 2016 and 2017 and the money spent for well repairs – approximately \$26,000. Also need an understanding of the definition of transient soon since the new season begins March 1.

Motion by Ferguson, 2nd by Redman to return to regular session at 8:00 a.m.

Marina Committee Minutes
Executive Session

Date of Meeting: March 20, 2018 at 7:03 a.m. DeWitt County Building

Members Present: Randy Perring – Chair, Camille Redman, David Newberg and Terry Ferguson. Also, present Dan Markwell – State’s Attorney and Nick Cetwinski, Attorney.

Summary of Discussion:

Mr. Cetwinski brought the committee up to date concerning a meeting that he had with Bryce Lynch, attorney for FAB Associates, concerning breaches in the lease agreement. Committee was provided with written correspondence between Mr. Cetwinski and Mr. Lynch.

Discussion on transient rental. Committee would like to have a monthly accounting of the transient rents that indicate the name and dock/slip number and duration of the transient rent.

General discussion on how to proceed should FAB Associates agree to terminate the current lease at the end of the year, i.e. county run the marina, sale of property and a new lease arrangement. Will need to have county staff out at the marina this summer to become familiar with the facility.

Committee instructed Mr. Cetwinski to proceed with the memorandum of understanding terminating the current lease along with a few other items. (Draft copy of the memorandum is attached)

Motion by Newberg, 2nd by Ferguson to return to regular session at 7:37 a.m.

State of Illinois)
County of DeWitt)

SS.

MEMORANDUM OF UNDERSTANDING

TO MODIFY AND/OR CLARIFY

A "LEASE AGREEMENT"

REGARDING THE CLINTON LAKE MARINA

THIS MEMORANDUM OF UNDERSTANDING to modify and/or clarify certain provisions of a Lease Agreement regarding the Clinton Lake Marina is entered into between the COUNTY OF DE WITT, State of Illinois, an Illinois body politic and corporation (hereinafter referred to as "Lessor"), and GREGORY A. FORREST and JACOB FORREST, individually and doing business as FAB ASSOCIATES, INC. (hereinafter referred to as "Lessee").

WHEREAS the parties are contractually obligated to the terms and conditions of a "Lease Agreement", entered into on or about December 29, 2009, concerning the ownership and management of a marina on Clinton Lake, located in DeWitt County, Illinois; and,

WHEREAS said "Lease Agreement" provides that any change, modification or amendment thereto be in writing between the parties; and,

WHEREAS the parties have agreed to change, modify and amend said "Lease Agreement", as well as to provide additional understandings and clarifications thereto:

NOW, THEREFORE, BE IT RESOLVED, IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED BY THE PARTIES, THEY AGREE AND APPROVE THE FOLLOWING:

1. That this "Memorandum of Understanding" shall be incorporated and considered an integral part of said "Lease Agreement" between the parties;
2. That Paragraph 5 of said "Lease Agreement" shall be modified and amended by deleting "February 28, 2020" and inserting in lieu thereof "December 31, 2018", thereby providing for December 31, 2018 as the termination date of said "Lease Agreement".
3. That Paragraph 6 of said "Lease Agreement" shall be modified and amended to clarify that "transient" shall constitute boat slip rentals not exceeding thirty (30) consecutive days and that Lessee shall collect and pay to Lessor forty-eight percent (48%) of the gross boat slip rentals for any period beyond said thirty (30) consecutive days.

4. That parties further understand and clarify the following:

a. **Food Service Facility:**

That Lessor has approved food services by a private contractor by means of a mobile food concession, who shall arrange for electrical hook up at their cost. Lessee shall not charge said private contractor for electrical services. In consideration thereof, Lessor shall not claim a default on the issue of providing a food service facility.

b. **Potable Water:**

That Lessee shall install, at their cost, a chlorine pump which shall provide potable water that meets EPA standards. In consideration thereof, Lessor shall not claim a default on the issue of providing potable water on the premises.

c. **Floats:**

That Lessee shall perform the necessary maintenance and repairs, at their cost, of the floats on the gas dock and the old bait shop north of the gas dock, repairing underwater leaks. In consideration thereof, Lessor shall not claim a default on the issue of providing maintenance and repairs of said floats.

d. **End of Term Gas Storage:**

That Lessee shall have the right of possession of any remaining gas stored on the premises for boat usage upon the end of the term of said "Lease Agreement", that being December 31, 2018.

5. That in consideration of the parties agreement and understandings herein, Lessor waives and forever releases Lessee of any claims against Lessee in the amount of \$26,323.86, related to certain findings contained in audits of 2016 and 2017.

DATED AND APPROVED HEREIN BY THE PARTIES DULY AUTHORIZED AND APPROVED REPRESENTATIVES:

GREG FORREST, individually
and DBA: FAB ASSOCIATES, Inc.

DATED: _____

JACOB FORREST, individually
and DBA: FAB ASSOCIATES, Inc.

DATED: _____

COUNTY OF DE WITT

HON. DAVID NEWBERG
CHAIRMAN
DE WITT COUNTY BOARD

HON. DANA SMITH
DE WITT COUNTY CLERK

DATED: _____

Marina Committee
Executive Session

Date of Meeting: April 2, 2018 at 7:08 a.m. County Building

Members Present: Perring – Chair, Redman, Whitted and Ferguson

Summary of Discussion:

Perring indicated that we are waiting on the signed Memorandum of Understanding from FAB Associates in regards to terminating the current lease December 31, 2018. Until we have this signed document the committee is unable to move forward with the direction to take concerning the operation of the marina.

Will check into whether FAB Associates insurance company will cover some of the costs associated with the damage to the well house that occurred when they working on the chlorinating system.

Motion by Ferguson, 2nd by Redman to return to regular session at 7:33 a.m.

Marina Committee
Executive Session

Date of Meeting: May 7, 2018 at 9:32 a.m.

Members Present: Newberg, Redman, Perring and Whitted. Also, present Lars Dunn, Asst. State's Attorney and Dan Markwell, State's Attorney. Board members Rogers and Reece. Markwell left at 9:55 a.m.

Summary of Discussion:

- Purpose of meeting was to review the language of the current lease in effect for the marina property. Dunn explained that there were several areas in the lease that the committee would need to clarify/address in the new lease. Items included but were not limited to property taxes, use provision, rates, length of contract, definition of routine maintenance, reporting damages, professionalism clause, accounting, etc. Also, briefly discussion drafting a separate lease for the Clinton Sailboat Association and usage of some of the property and launch area.
- General discussion on boat repairs, usage/rental of apartments, liquor license, and food service.
- Motion by Redman, 2nd by Whitted to return to regular session at 10:16 a.m.

Executive Session
Marina Committee

Date of Meeting: May 14, 2018 at 8:10 a.m. until 9:02 a.m. County Building

Members Present: Whitted, Newberg, Redman, Ferguson and Perring – Chair. Also, Reece, Dan Markwell and Lars Dunn

Summary of Discussion:

Committee discussed management option versus leasing option.

Reviewed preliminary figures is the county choose to proceed with a management type situation at the marina.

General discussion possibly leasing out the boat repair shop and the restaurant.

The state's attorneys office presented a rough draft of a lease. Committee will review and note any changes to discussion at the next meeting.

(Dan Markwell and Lars Dunn left at 8:51 a.m.)

Discussion on a timeline to put the lease packet out for bid.

Motion by Ferguson, 2nd by Newberg to return to regular session at 9:02 a.m.

Marina Committee Minutes
Executive Session

Date of Meeting: October 1, 2018 at 7:21 a.m. DeWitt County Building

Members Present: Newberg, Redman, Perring, Ferguson, Whitted. Also, present Dan Markwell, State's Attorney and Lars Dunn, Assistant State's Attorney

Summary of Discussion:

Committee reviewed and discussed the latest correspondence received from the Caldwell's attorney concerning various items in the terms of the lease.

- Apartments – County will replace the carpet and paint.
- Delete language concerning newly constructed docks/new construction.
- County will take care of tree removal
- \$10,000 deductible – no change

Joe and Marybeth Caldwell joined executive session discussion at 8:07 a.m. Joe went on the record indicating that he was waiving his right to have his legal counsel.

Committee continued to discuss items with the Caldwell's.

- Will insure docks 1 and 3 if the county repairs dock 2 immediately – this coming year.
- Delete VI(e) from lease
- Will accept a letter from the bank guaranteeing \$40,000 for deposit
- Both parties will continue to work on the food and restaurant issues.

Motion by Ferguson, 2nd by Redman to return to regular session at 8:45 a.m. Voice vote, motion carried.