

Foreperson
San Mateo County Civil Grand Jury
400 County Center
Redwood City, CA 94063-1655

Re: Requested Inquiry Into Operations Of San Mateo County Harbor District Pillar Point Harbor

Grand Jurors:

On behalf of Bettencourt Fisheries, we respectfully request that you convene an inquiry into the operation of the Pillar Point Harbor by the San Mateo County Harbor District. The Commissioners of the District are Pietro Paravanno, James Tucker, Robert Bernardo, Sabrina Brennan and William Hollsinger the General Manager of the District is Peter Grennel.

The specific operations, policies and programs to be investigated are the management of Johnson Pier in Pillar Point Harbor, and specifically the award of leases for commercial operations on the pier.

The investigation is necessary and appropriate because substantial credible information, provided with this letter, demonstrates that the Commissioners and General Manager have mismanaged the award of leases to businesses using the Johnson Pier. This has resulted in significant economic loss to the District. It has caused significant damage to competition among service providers who operate on public facilities. And, it has destroyed business opportunities for those who desire to offer additional services.

Bettencourt Fisheries proposes this investigation. It is a local family commercial fishing business that has operated in Half Moon bay for more than 100 years. As the accompanying materials explain, when the District invited proposals for leases in early 2012, Bettencourt was the only business to propose lease terms which met the minimum required rental. Bettencourt not only submitted the only compliant bid, it proposed improvements to public facilities, which would have provided significant benefits to the public. Nonetheless, the District determined to award leases to incumbent proposers who refused to pay the minimum rent specified. The result has been both lessening of competition and significant loss of revenue.

Concerns about the operation of the Harbor District are not new. The 2001 Civil Grand Jury reported that:

“There is, however, major dissension among the Commissioners. There has been refusal to participate in discussion of, and vote upon, some issues, and frequent airing of complaints outside Commission meetings. This dissension distracts the Commissioners and the District Manager from properly conducting District

business. For example, some of the District leases, entered into some years ago, are not providing optimum revenue.

Recommendations were:

1. District Commissioners should develop a better working relationship in order to better govern the District.
2. The District should engage a qualified consultant to help Commissioners develop conflict resolution skills.
3. The District should publicize its successes to counter current unfavorable publicity.
4. The District should seek opportunities to improve terms of its leases to generate more income.”

Despite a recommendation made more than 12 years ago, the District has failed and refused to improve the terms of its leases and, worse, has submitted to pressure from incumbent lease holders to continue to provide them with low cost rents – below the minimum amount specified by the District when the current round of lease renewals took place.

Substantial documentation confirms the improprieties in the lease awards. Both Lisa Damrosch and Geoff Bettencourt are available to provide specifics.

Enclosed as Exhibits A¹ and B² for your review is a newspaper article which provides some background. It is significant, we believe, that Bettencourt has been a leader in working with environmental groups to reduce the impact of ground fishing off the San Mateo coast. This involvement has specifically surfaced as a factor in the discussions concerning renewal of the leases. If the District has given undue deference to the desires of “traditional” high impact fishing interests in denying the Bettencourt application, it should be a matter of particular concern to the Grand Jurors.

A timeline of events surrounding the award of leases is attached hereto as Exhibit C and is summarized as follows:

A public notice was issued December 8, 2011 specifying that the minimum annual rental would be not less than \$3,000 per month and setting a deadline for lease applications of February 23, 2012. Bettencourt timely submitted its lease package and filing fee. There were three incumbent lease holders, each of whom has enjoyed the use of public facilities for a significant time. All three requested renewal. Bettencourt was the only proposer who submitted a competing proposal.

¹ Also available at <http://halfmoonbay.patch.com/groups/business-news/p/local-fishing-family-at-odds-with-harbor-district-ovee4aa56ec3b>

² Also available at http://www.hmbreview.com/news/fishery-blasts-harbor-over-lease-process/article_006b490c-bbeb-11e1-800c-001a4bcf887a.html

The Four proposals submitted were made public. Comparison shows clearly that Bettencourt was the only proposer to comply with the minimum rent term.

The Bettencourt Package was the only package to offer a 100+ year family history, a plan for marketing and branding, support for sustainable and environmentally friendly fishing, expanded market opportunities for the fleet, and careful and accurate reporting using the latest technology. None of the other applicants offered any of these things.

The application by Bettencourt created significant tension. Audio of the April 18, 2012 Harbor Commission meeting confirms the late Commissioner Padreddi stated: “My feeling was that this was going to be an easy negotiation, we were just going to renew the leases and everyone was going to be happy. But now all of a sudden, stuff is coming out”. During the May 2, 2012 meeting President Tucker expressed frustration, and asked General Manager Grenell if he was too close to negotiate successfully. Tucker confirmed that there were four applicants and that “one applicant is on board and has met all requirements and the other 3 have not met them”. Commissioner Tucker stated three times on the record that the Bettencourt Proposal was the only compliant proposal.

Nonetheless, on May 30, 2012, Mr. Grenell recommended awarding the leases to the three incumbent applicants. Beginning in June 2012 and until November 2012, Bettencourt attempted to work with the General Manager for a resolution which would have resulted in the creation of a fourth lease that would not displace incumbent tenants but that would increase District revenue significantly. The General Manager alternately refused to meet and professed interest in the proposal, but ultimately rejected it out of hand. At the same time, the District did not execute the three leases which had been awarded. Almost nine months passed (during which revenues were lost because the new leases were not in force) but on March 12, 2013 Mike McHenry (Pillar Point Seafood), Larry Fortado (Three Captains Sea Products), and Dave Mallory (Morning Star Fisheries) each signed their respective leases with the District for premises on Johnson Pier. Bettencourt has worked hard to repair relationships damaged by the Harbor negotiations of 2012 during which they were used as a threat and bargaining tool against the incumbents. The Bettencourts do not desire to harm the businesses currently in place, but they do believe the District should be held accountable for its mismanagement.

The Bettencourts believe that the mismanagement is not limited to the District’s leasing operations. For example, attached as Exhibit D³ is a recent newspaper article which concludes that District commissioner compensation is markedly out of step with other county organizations. As noted in the article, the District commissioners receive compensation and benefits well above that of other local governing bodies.

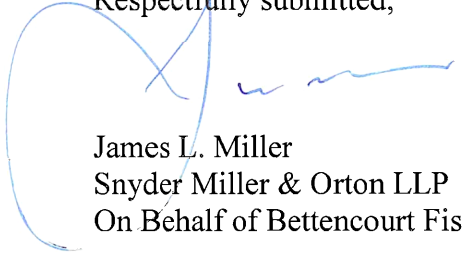
Bettencourt believes investigation will confirm significant mismanagement of the Pillar Point Harbor including lost and foregone revenue and suppression of competition among users of the public pier. Bettencourt believes investigation will confirm that it is not the only business damaged by poor management of this Harbor District. Simply put, after

³ Also available at <http://www.montarafog.com/2013/05/harbor-district-pays-commissioners-far-above-what-directors-at-other-local-governing-bodies-receive/>

more than 100 years of conducting business in this Harbor, they cannot continue to stand by and to watch the mismanagement of a public resource that their family has worked so hard to build.

Bettencourt respectfully requests an investigation and will make documentation and information available.

Respectfully submitted,



James L. Miller
Snyder Miller & Orton LLP
On Behalf of Bettencourt Fisheries

EXHIBIT A

News | Business

Local Fishing Family at Odds with Harbor District Over Fish Lease

When the leases expired for three fishing companies on Johnson Pier, the San Mateo County Harbor District was faced with making some challenging decisions that not everybody liked.

Posted by [Christa Bigue](#) (Editor), June 22, 2012 at 02:08 am

3 Comment Recommend



Fourth generation commercial fisherman Geoff Bettencourt says he never had a chance when applying for one of the three open fish leases on Johnson Pier in Pillar Point Harbor.

A superior economic package from a family with 120 years in this community was brushed aside in favor of entrenched interests who were able to convince the Harbor Commission to turn down additional revenues," he said. One would have to ask if this Harbor Commission will ever allow anything to improve at Pillar Point Harbor."

The San Mateo County Harbor District's general manager Peter Grenell says anyone had a chance through a proposal process that invited interested parties to apply for leasing one of the three open facilities used for fish buying and off loading.

In December of 2011, the San Mateo County Harbor District issued a public notice requesting interested parties to submit proposals since the current leases for Pillar Point Seafood, Morningstar Fisheries and Three Captains Sea Products had expired. They received four proposals, one from the Bettencourt's and three from the existing leaseholders.

In the end, it was decided that Pillar Point Seafood, Morningstar Fisheries and Three Captains Sea Products would continue as

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Announcements June 16, 2013 at 09:46 pm
Candace Troy Studios

leaseholders of the same three spots they've held for 30 years.

Currently the leases are being reviewed by each of the three firms awarded the leases from the Harbor Commission. The leases will then be forwarded to the Department of Boating and Waterways (DBW) with the Harbor Commission's request for their review and approval. Once that is given by DBW, the leases will be signed.

During these challenging economic times, the Harbor Commission felt the need to reaffirm its commitment to sustaining the diversity and stability of Pillar Point fisheries and fishing activity, while obtaining increased revenues from existing and new sources," said Grenell. The Harbor Commission decided that renewing our relationship with the existing leaseholders is the best way to accomplish these goals."

Still, the Bettencourt's assert that there was some other agenda at play here," said Lisa Bettencourt-Damrosch, who drafted the proposal for the lease with her brother Geoff.

Even though Bettencourt Fisheries fully complied with the application and was the only package that met the minimum lease amount required per the public notice, offered an investment for improvements to the space, had 120-year fishing family history, a plan for marketing and branding, support for sustainable and environmentally friendly fishing, expanded market opportunities for the fleet, and careful and accurate reporting using the latest technology, we never had a chance," said Bettencourt-Damrosch.

My brother Geoff Bettencourt and I did everything we possibly could to provide the harbor with the best possible option, economic and otherwise, and as is clear in the record, that we did provide the best option and still we were not given a lease."

Bettencourt-Damrosch attributes a loyalty to the individuals who have been leasing at the pier for many years, multiple negotiations with the existing tenants that excluded them, and a desire to retain longer term leases to sell as major reasons why the Bettencourt's believe they were overlooked when applying for a fish lease on the pier.

When a public notice is issued with requirements that are suddenly changed without an additional public notice, when closed door sessions are held and votes that take up to six months are reached without discussion, and when an economically and otherwise superior package that has by all accounts met and exceeded all original requirements can be passed over for non-compliant entrenched interests, someone needs to stand up," said Bettencourt-Damrosch.

Still, before awarding any leases, the Harbor Commission, according to sections in the State Harbors and Navigational Code, has two options: except the highest bid for filling the spots or provide a proposal and negotiating process.

They opted for the proposal process, which gives no direction or guidance other than the implication that you will decide who is awarded the lease," said Grenell.

Why did they opt for the proposal process as opposed to the highest bid?

Because we need to consider the best interest of the harbor and in a highest bid process we lose our flexibility and control over ensuring the safety and wellbeing of the harbor," said Grenell.

He's referring to the fact that with the highest bid, we will be stuck by law to take on that hirer bid even if they don't comply with the physical limitations of the pier and its arrangement," he said.

Traffic congestion and safety become a huge factor to consider as fish lessees jockey for space. Anyone can come in and decide to unload fish for a period of time, and then turn around and start buying.

We can only have so many out there doing the same thing. The bid process does not allow us to manage what fish lessees do and how they do it so that's why we opted for the proposal process," he said.

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1 Christa Bigue (Editor)

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Speak Out June 13, 2013 at 10:43 am

1 Michael G. Stogner

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Patti Bond

Regardless, Bettencourt attests that Grenell released a staff recommendation that reduced the minimum lease amount from \$3,000 to \$2,500 and proposed to award the leases to the same businesses that have held them for 30 years without significant improvements or revenues given to the Harbor. He also wonders why the Harbor Commission with a \$1.4 million debt to the Department of Boating and Waterways wouldn't want the highest bid to generate revenue.

"We offered a significant investment into facility improvements the other three proposals did not," said Bettencourt. Our proposal also offered the possibility of a new and additional revenue stream such as expanding market opportunities for the fleet."

Grenell says there was a lot more to their decision than looking to generate revenue. He admits that higher leases would indeed help pay off loans but the Harbor is already increasing their revenue sources in other ways so this gives us another reason to not go for the highest bid," he said.

New revenue streams for the Harbor include unloading fees, and under a new ordinance code, the Harbor District has implemented a commercial buyer activity permit so non-lessees will have to apply for an annual permit before buying on the pier.

"Up until now, we never received revenue from those off-site buyers or fish unloaders, but we will now," said Grenell.

In addition, the Bettencourt's only wanted to unload fish and we can only have one out there because of the physical safety issues on the pier. It would be too much chaos out here," he said.

Also, said Grenell, with the Bettencourt proposal there were too many variables of uncertainty, including the Harbor Commission's responsibility to maintaining fish diversity in the harbor when it comes to the individual fishing quotas (IFQ) catch share system, which has been challenged in federal court.

A highly regulated federal government program, IFQs set a species-specific total allowable catch (TAC), typically by weight and for a given time period. A dedicated portion of the TAC, called quota shares, is allocated to individuals. Quotas can typically be bought, sold and leased, a feature called transferability.

Uncertainty arises as to what happens if the challenge is upheld. While the Bettencourt proposal clearly says that Bettencourt would unload catch from any fishery, not just ground fish, the proposal focuses on establishing a ground fish unloading station at Pillar Point Harbor," said Grenell.

Still, it might work for Bettencourt to be the only first receiver unloader for IFQ ground fish but the IFQ system limits participation in the fishery, and thus may reduce local fishing activity," said Grenell.

This contrasts with a community fishing association (CFA) alternative, in which the association would hold the quota that would be available to a wider range of participants. The formation of a CFA at Pillar Point Harbor is being talked about, said Grenell, and would sustain a wider community access to the fishery and would be important for the Pillar Point fishing industry and its participants.

Under this approach, quota would be assigned to the association and thus available to all of its members, in contrast to the individual assignments of IFQs. It's not certain, but if a CFA were to be formed and sought quota, that might be more difficult to obtain if an IFQ operation were already in place," he said.

Yet the Bettencourt's continue to explore options with the Harbor.

Last week they requested a meeting with Grenell to share a proposal with a solution. They would like to see a fourth location created on the pier, a progressive and viable solution to this whole problem," said Bettencourt-Damrosch.

"As a family that has been unloading to this dock since it was built, we are clear on what is possible within the space, and we are willing to create and fund this solution ourselves," she said.

Grenell is aware of their idea but because the Bettencourt's

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[Announcements](#) June 12, 2013 at 08:05 am

Marc Gottlieb

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p.a. donohue

[Speak Out](#) June 11, 2013 at 09:19 pm

1 2 Patricia
Anne Donohue

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[Speak Out](#) June 11, 2013 at 01:07 pm

1 Deborah Hock

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[Business Updates](#) June 11, 2013 at 11:00 am

2 Christa Bigue
(Editor)

attorney had contacted the Department of Boating and Waterways about the Harbor Commission's action on the leases, the District needs to wait until the Department has acted on its review of the leases before we are in a position to discuss new alternatives. Not until then will the question of considering other proposals arise," Grenell said.

In the meantime, the Bettencourts remain hopeful that the Harbor Commission will meet with us and resolve this with a re-evaluation of their decision," said Bettencourt-Damrosch, "or a new alternative as we have tried to propose."

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3 Comment Recommend

Comments

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Dee June 22, 2012 at 11:35 am

I feel for the Bettencourts and it sounds like they are disappointed but the Harbor Commission did the right thing considering all they have to consider when awarding these leases. They have a tough job and a lot to contend with when it comes to codes, federal regulations, revenue and safety issues, the list goes on. Kudos to them for their due diligence.

Recommend

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Pillar Point Harbor June 22, 2012 at 08:57 pm

"Kudos" to the Harbor District? That's like saying kudos to the Mosquito Abatement District. <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2012/01/12/BA6P1MOIMR.DTL>

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Pillar Point Harbor June 22, 2012 at 09:15 pm

What's up with commissioner William Holsinger abstaining from voting whenever a controversial decision comes before the commission?

For years Pietro Parravano has been recusing himself and walking out of meetings whenever commercial and recreational fishing agenda items are being discussed. With Holsinger refusing to vote and Parravano unable to vote the Harbor District is left with three voting commissioners.

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The fence went up but 24 hours later parts of it were taken down perhaps by those who are...

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2 Christa Bigue (Editor)

The Sausalito Art Festival American Icon Art Competition

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Announcements June 7, 2013 at 02:51 pm

SausalitoArtFestival

Spare the Air Alert issued for Saturday, June 8, 2013

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Announcements June 7, 2013 at 12:31 pm

Rachel Zaokopny on behalf of the Air District

EXHIBIT B

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Fishery blasts harbor over lease process

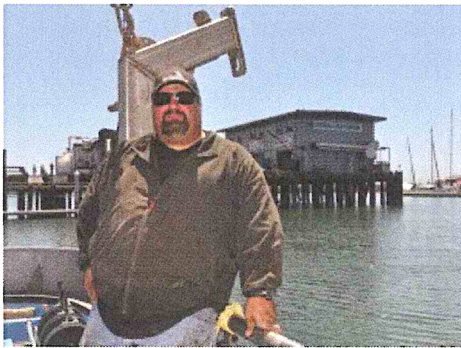
Applicant offered more money

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1



Charles Russo

Fourth-generation local fisherman Geoff Bettencourt tried and failed to get a lease on the Johnson Pier Fishery in Pillar Point Harbor.

Posted: Thursday, June 21, 2012 2:49 pm

By Mark Noack [mark@hmbreview.com] | 3 comments

Posted on June 21, 2012 by Mark Noack

For the last 120 years the Bettencourt family has made a living as part of the Coastside fishing community, but

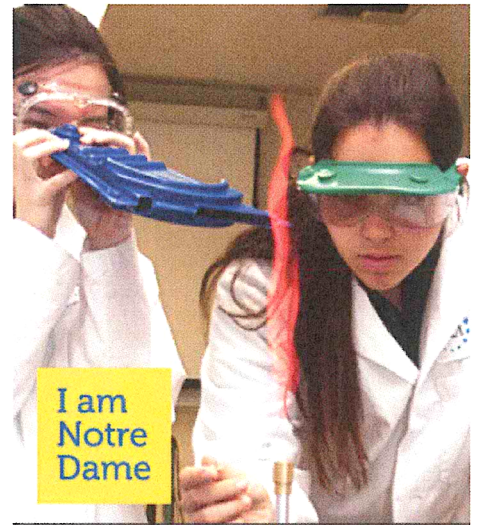
now, for the first time ever, family members say they feel like pariahs at Pillar Point Harbor.

The family rolled the dice last year, hoping to grow its seafood business, Bettencourt Fisheries, by applying to rent a space at the end of the Johnson Pier. That set up the family for a fight with Morningstar, Three Captains and Pillar Point Seafood, three fishing companies that have occupied the harbor spaces for decades.

The harbor's three commercial buildings operate as seafood marketplaces, providing a location for fishing companies to buy the catch of independent fishermen or store their own stock. The buildings are also used to sell the seafood to wholesalers or individual customers.

Now, after seven months of trying to sell themselves as model tenants, the Bettencourts believe they've been competing in a rigged match run by the San Mateo County Harbor District. Earlier this month, the Harbor Commission rejected the Bettencourts' application, choosing instead to sign new leases with its longstanding tenants.

That decision came as a shock to the Bettencourts. They say they tried to go above and beyond what the harbor requested, offering to pay \$800 more each month than their competitors. They also pledged to adhere to stricter sustainable fishing standards and invest \$60,000 in repairs to their



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–We thought we had a chance at this, and it turns out we didn't," said co-owner Lisa Bettencourt-Damrosch. –We could've offered them anything, but clearly they were going to give the lease to the other three."

Under other circumstances, the harbor would have been compelled to select Bettencourt Fisheries as the highest return on investment for a taxpayer-funded government agency. But this wasn't a normal bid process, said harbor General Manager Peter Grenell. The Harbor District instead used a special provision of Section 72.2 of the California Harbor and Navigation Code, which allowed the district much more flexibility to choose its business partners.

–We felt it was the most appropriate and useful process to go through," Grenell said. –The (Bettencourts) may think they should get it because they offered more money, but it's not a bid process."

The lease battle first started in December when the harbor district publicized it was accepting new tenants. In its public notice, the harbor listed the new minimum rent at \$3,000 a month plus new fees for unloading fish and seafood sales. Previously, the district reportedly charged about \$2,100 a month, and the longstanding fishing tenants balked at having their rent jump by nearly a third.

The Bettencourts say they felt the ire of the other fishing companies, after they upped the bar by offering to pay \$3,300 a month. Bettencourt-Damrosch remembers the harbor district staff and the commissioners encouraging them to stay in the running,

Last month as the district prepared to choose tenants, Bettencourt-Damrosch said she was certain her family would get one of the spaces. Harbor Commission Chairman Jim Tucker noted at the time that the Bettencourts were the only party that actually followed the application's minimum guidelines.

But earlier this month, Grenell made clear he preferred to stick with the three current tenants. In a staff report written to the harbor commission, he suggested the Bettencourt company could try to monopolize by buying up fishing rights. His allegation was based on the Bettencourts' participation in the Groundfish Rationalization Program, a relatively new government-run program that assigns fishing quotas to senior fishermen. The quotas can then be traded or sold.

–Basically, this opens the door to some entity or person going after quotas and in the end reducing the number of people who are fishing," Grenell said. –There could be a chain of economic impacts."

That logic is –seriously flawed" countered Geoff Bettencourt, saying that would mean he was being unfairly penalized because he joined a sustainable fishing program. Groundfish was only one part of his business, he explained, and he also dealt in crab, salmon and other species.

–It makes no sense ... the only thing we can think is that they don't want us in the harbor because of our environmental ties," he said. –We spent seven months in this process because we thought it was fair, and they used me like a pawn."

Grenell instead proposed signing new leases with the three current tenants for \$2,500 a month – an amount \$500 less than the district originally listed as its minimum rent.

Commissioners Pietro Parravano and William Holsinger earlier this month recused themselves from voting. The remaining three unanimously approved the staff recommendation, echoing the need to uphold –diversity" at the harbor.

–We've done business with the existing three tenants, and I didn't feel that this was the right time to jump ship," said Commissioner Robert Bernardo. –Obviously we're going through tough economic times, and the way I approached it was we needed to reaffirm our commitment to stability and sustaining diversity."

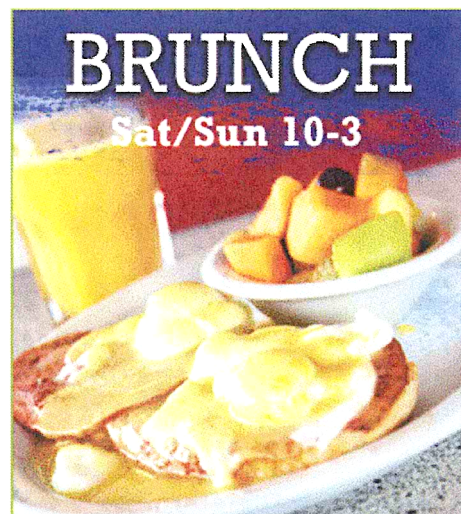
Chairman Tucker went along with that reasoning, even though he said that at face value the Bettencourts made a better offer.

–We had these incumbent lease owners, and I felt that we owed loyalty to them," he said. –If we wanted to bring in the Bettencourts, it would have been good for us, but which one of the three tenants do we throw out?"

The Bettencourts now believe they were kept in the running to provide leverage to prod the old tenants to accept a higher rent. They have forwarded their complaints on the lease process to the state Department of Boating and Waterways, which has final approval on the lease process.

–Relationships that we've had for 40 years have been damaged because of this," said Bettencourt-Damrosch. –That's the fallout for us from this."

A Boating and Waterway official said the department is currently investigating the matter.



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Students sing a song at the conclusion of opening day of this year's Montara Street Camp on Monday.

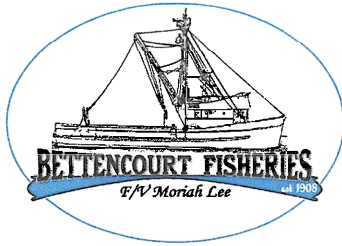
Martin's Beach

Surfers and others are increasingly finding their way to Martin's Beach after authorities declined to prosecute alleged trespassers.

Joshua Stacy

Joshua Stacy stands on a staircase in the Bernal Heights neighborhood of San Francisco. It's one of many city stairways the Loma Mar resident is walking this spring.

EXHIBIT C



Timeline of Events...any and all back up documentation is available.

12/8/11: Public Notice Issued- ([document available](#)) Key points, "lease will require payments of minimum annual rent of not less than \$3,000 per month. Deadline for applications Feb 23, 2012

2/23/12: Bettencourt Fisheries package and \$500 filing fee submitted.

3/21/12: Harbor Commission Meeting- All 4 applicants spoke at meeting, closed session held afterwards to review packages. ([Meeting Minutes available](#)) **Key Point:** Per Audio file, Incumbent tenant stated that they wanted to retain longer term leases to sell. *"anytime you have a business, you want to sell it possibly or whatever, that is so you can get something out of all of the hardwork that we have done out there The shorter the lease is, the less value you have in case you wanted to move on. And the harbor, if you sold it and got some money would get a % of that."*

4/2/12: Requested status update from Grenell. Phone call where we were asked to agree to a 5-year lease term with 2 -5-year renewals. We complied. Further discussion about offloads fees, which were followed up on with clarification emails.

4/12/12: Memo from Peter Grenell including 4 proposals received made public as part of 4/18 meeting agenda. ([Memo and applications available](#))

Key Point(s):

- A review of the 4 packages submitted clearly shows that Bettencourt Fisheries is the only package that met the minimum lease amount required per the Public Notice. It was also the only package that offered an investment for improvements to the space. The other 3 did neither.
- The Bettencourt Package was also the only package to offer a 120 year family history, a plan for marketing and branding, support for sustainable and environmentally friendly fishing, expanded market opportunities for the fleet, and careful and accurate reporting using the latest technology. None of the other applicants offered any of these things.
- A quick look at the summary from Staff of each of the applications attached to the Staff memo dated 4/12/12 shows 3 applicants wanting nothing to change, and stating that the Harbor wanted too much money, and an application from Bettencourt Fisheries complying with all requirements and offering the value added items above.

4/17/12: Additional information regarding IFQ and summary of benefits to the Harbor of Bettencourt Fisheries submitted to Mr. Grenell ahead of 4/18 closed session ([items available](#))

4/18/12: Harbor Commission Meeting- Agenda Item 4- Public Hearing Began ([Minutes and notes transcribed from audio file of meeting available](#))

Key Point(s):

- Many parties spoke, no questions asked of Bettencourt Fisheries
- Per Audio File -Commissioner Padreddi: *"My feeling was that this was going to be an easy negotiation, we were just going to renew the leases and everyone was going to be happy. But now all of a sudden, stuff is coming out"*
- Outcome: Continue to next meeting.

5/2/12: Harbor Commission Meeting- Agenda Item 6- Continuation of Public Hearing ([Minutes available](#))

Key Point(s):

- President Tucker expressed frustration, asked Grenell if he was too close to negotiate successfully.
- President Tucker clarified that there are four applicants for three positions and that *"one applicant is on board and has met all requirements and the other 3 have not met them"*.
- **Audio Files show that Commissioner Tucker stated three times on the record that the Bettencourt Proposal was the only compliant proposal.**
- Geoff Bettencourt asked if the Commission could award him a lease and let the non-compliant 3 other applicants continue to negotiate for the other spots....Commissioner Tucker replied: *"I think there is a certain amount of loyalty to the individuals who have been here for many years, and these three have- and if we went ahead and approved you, which you are on board already as far as complying with what we have asked- then somebody is committing harry carry out there, because you have two positions left and three tenants and you know, God forbid something crazy would happen- so we've got to do this in a different manner"*.
- Commissioner Tucker told Mr. Fortado to continue to negotiate with Staff... saying *"You have what is left of this month until the first meeting in June. Please try to work something out."* And *"Well if we don't come to some kind of something in June, something has got to happen. We have got one person that is already in-that is ready to go- you make it tough on us."*
- Item continued until June.

5/3/12: Email sent from Bettencourt to Peter Grenell following up on 5/2 meeting, providing notes from public comments made by Bettencourt and indicating that Bettencourt expects to receive a lease based on meeting and asking to be kept informed of any changes. ([email available](#))

5/30/12: Mr Grenell provides recommendation to award leases to 3 existing applicants and not Bettencourt Fisheries. ([Memo available](#))

6/4/12: Comprehensive letter rebutting staff recommendation provided ahead of 6/6/ meeting. (Letter attached)

6/6/12: Harbor Commission Meeting- "Special Agenda-Closed session held at 6:30 pm...Public meeting held at 7:00 pm- Agenda Item 2 on Public Meeting ([minutes to both available](#))

Key Points:

- Grenell reiterates recommendation per memo
- No discussion or questions posed by Commissioners
- Motion and vote to approve recommendation

6/12/12: Letter sent to Boating and Waterways who has to "approve" the leases per Harbor Navigation Code 72.2 used by Harbor for the process. ([letter available](#))

6/13/12: Requested Meeting with Grenell via email to discuss a possible 4th space option, denied based on letter to Boating and Waterways. ([email available](#))

6/20/12: Half Moon Bay Review Article Published ([available](#)) **Key Point:** Mr Tucker quoted that loyalty to old tenants the reason for leaving out an applicant that would have been good for the harbor.

6/21/12: Half Moon Bay Patch Article Published ([available](#))

6/25/12: Spoke with Commissioner Tucker on phone and asked for meeting regarding 4th space, denied based on "lawyers being involved"

6/27/12: Requested a meeting with Commissioner Bernardo regarding 4th space, denied until Boating and Waterways responds. ([email available](#))

8/8/12: Bettencourts request review of 4th location information in hopes of having a meeting per attorney conversations ([request and 4th location package available](#))

8/23/12: Harbor attorney advises our attorney that no meeting will be held due to our refusal to rescind complaint letter to Boating and Waterways. ([email available](#))

9/10/12: Letter sent to Peter Grenell requesting review of 4th space proposal, quoting previous grand jury investigation. ([letter and email available](#))

9/20/12: We receive email stating that Mr. Grenell has been instructed to request a meeting on 9/27. ([email available](#))

9/27/12: Meeting at South San Francisco office with Lisa, Geoff, Peter Grenell and Harbormaster Scott Grindy. Questions asked and answered about 4th space proposal. Mr. Grenell informs us that Boating and Waterways needs to approve any new ideas. Promises to bring it to closed session at next Harbor Meeting and report. Indicated that they would like to move forward before crab season.

10/9/12: Email to Grenell requesting report on Commissioner meetings. Email correspondence with logistical questions. ([emails available](#))

11/6/12: Follow up meeting at South San Francisco office with Lisa, Geoff, Peter Grenell and Harbormaster Scott Grindy. Logistical discussions. Learned that existing hoists are not up to code, harbor concerned about installing shu of switches to force leaseholders to be in compliance. Bettencourts agreed that if we could come to contractual agreement before end of the year, lease would be accompanied by release. Promise of follow up after 11/7/12 Meeting.

11/13/12: Email to Grenell requesting report on Commissioner meetings. Received response that Harbor Commission does not appear interested in pursuing a 4th lease location. ([emails available](#))

EXHIBIT D



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Harbor District pays commissioners far above what directors at other local governing bodies receive

By [Darin](#) on May 1, 2013 in [News](#)

COMPENSATION AT COASTSIDE SERVING GOVERNING BOARDS, 2013		
Agency	Pay for Meetings	Benefits
Coastside County Water District	\$100 per meeting	None
Coastside Fire Protection District	\$100 per meeting	None
Cabrillo Unified School District	None	Option to participate in employee benefits program at full cost
Granada Sanitary District	\$145 per meeting	None
Half Moon Bay City Council	\$300 per month	None
Midcoast Community Council	None	Free parking at county parking deck when on official business
Montara Water and Sanitary District	\$75 per meeting	None
San Mateo County Harbor District	\$600 to \$1000 per month	Extensive health care and retirement benefits
Sewer Authority Midcoast	\$100 per meeting	None

A review of compensation practices among nine governing bodies that serve the Coastsides shows that the San Mateo County Harbor District, which is responsible for both Oyster Point Marina and Pillar Point Harbor, offers its commissioners pay and benefits that dwarf those of any other district.

Typically, local government boards pay their governing members a token stipend of one hundred dollars per meeting with no other benefits beyond limited expense reimbursement (in the cases where members are required to travel on government business).

For example, the Coastside Fire Protection District, a local government agency with a multi-million dollar budget and several dozen emergency personnel under its contract with Cal Fire, pays directors one hundred dollars a meeting with a maximum payment of \$400 a month a maximum that, to my knowledge, hasn't been reached in at least five years, if ever. In 2011, a time period with an unusually high number of meetings, the total annual expense per director was \$1600.

The Midcoast Community Council ranks as the least compensated local governing body. MCC directors receive "zero zip nada not even gas mileage reimbursement" according to council member Lisa Ketchum. According to Ketchum, however, the county does offer members the courtesy of free parking in the county parking structure in Redwood City if they are visiting on official MCC business.

The Half Moon Bay City Council pays its members three hundred dollars on a monthly basis with no health or retirement benefits.

In what is perhaps the most innovative compensation arrangement on the coast, the Cabrillo Unified School Board doesn't pay its board members or offer them paid benefits. But it does allow them, at the full cost of the premiums, to buy health insurance in the school employee health and welfare program. This appears to offer members a significant benefit (if they have no other coverage) while not incurring any costs for the school district.

Dwarfing all other agencies serving the Coastsides, the San Mateo County Harbor District offers its commissioners generous and extensive pay, health and retirement plans. Each commissioner receives an automatic stipend of six hundred dollars per month, whether they attend meetings or not. Total cost this fiscal year? \$36,000.

The members of the commission enjoy the benefits of the \$42,801 allotted to health insurance this fiscal year, covering the five members. Commissioners are also covered by workers compensation insurance (\$2400 in the current year) and receive the benefits of an "Employment Assistance Program," budgeted at \$542.

Retirees from the commission can rely on financial support from the commission. Although it is not clear whether the insurance offered by the Harbor District is available to new members or just to the two longest serving members and their families (who are grandfathered in) and the retirees, the District has set aside nearly \$20,000 a year to cover these expenses.

And it goes on and on. Meetings, travel, and training run \$8300. Mileage reimbursement? \$400. Employee appreciation dinner? \$3750.

All told, the compensation of the commissioners at the Harbor District appears to not only be larger than the costs of the other eight governing bodies combined, it appears to cost *twice as much* as all eight other districts combined even before you add in the nearly \$20,000 for the retired commissioners.

The Harbor District commissioners will be meeting to discuss their budget on Wednesday, May 1st and again on June 5th, both meetings at 7:00 pm at the Comfort Inn on Highway One. They will also soon be appointing a new member to replace the late Leo Padreddii, who passed away two weeks ago.

SAN MATEO COUNTY HARBOR DISTRICT
FISCAL YEAR 2013-14 PRELIMINARY BUDGET

HARBOR COMMISSION EXPENSES

DESCRIPTION	PRIOR YEAR ACTUAL	FY 12-13 FINAL BUDGET	FY 12-13 YEAR TO DATE THRU 3/31/13
SALARIES AND BENEFITS:			
Salaries and Wages Expense:			
Base Salary and Wages	36,000	36,000	27,000
Total Salaries and Wages	36,000	36,000	27,000
Benefits Expense:			
Pension Contributions	1,521	0	0
Health Insurance Costs - Current Employees	46,252	60,762	24,492
Worker's Compensation Insurance	14,308	15,658	1,763
Other Insurance - Current Employees	270	365	152
Insurance Costs - Retirees	0	19,656	14,742
Social Security and Taxes	2,688	3,139	2,341
Employment Assistance Program	546	600	452
Liability for Termination Benefit	-35,912	-44,050	-45,831
Total Benefits	29,674	56,130	-1,890
OPERATING EXPENSES:			
Advertising	1,196	23,200	5,685
Election Liability	0	469,100	0
Postage	160	500	95
Meetings/Travel/ Training	3,235	6,050	5,582
Auto Mileage Reimbursement	256	400	114
Memberships/ Exams/ Subscriptions	114	0	0
Property & Casualty Insurance	9,534	14,500	14,456
Office Supplies	446	1,500	895
Legal Services	6,930	5,000	3,949
Professional Services	666	3,200	3,188
Outside Contractual Services	1,306	1,200	942
Employee Appreciation Dinner	1,725	2,000	3,257
Total Operating Expenses	25,568	526,650	38,160
TOTAL EXPENSES	91,241	618,780	63,271

Chart from [San Mateo County Harbor District Board of Harbor Commissioners Meeting Minutes, April 3, 2013,](#) page 53.

(Article sources From interviews plus these online resources, where you can read about some of the details of reimbursement and the like):