

COMMITTEE MEMORANDUM

Item #3

COMMITTEE: Committee of the Whole
FROM: Alvin G. Coby, City Manager
DATE: March 8, 2010
SUBJECT: Designation of the Community Maritime Park Associates as an Instrumentality of the City of Pensacola

RECOMMENDATION:

That City Council consent to and accept the power to appoint and remove Trustees of the Community Maritime Park Associates.

SUMMARY:

On December 21, 2009, the City of Pensacola issued \$45.6 million in tax-exempt and Build America Bonds (BAB's) for the Community Redevelopment Agency (CRA) as the means of funding construction of the Community Maritime Park. It is the intent of the City to utilize bond proceeds as the equity investment to secure approximately \$66 million in New Market Tax Credits (NMTC) for additional project funding. The CMPA as a qualified low income community business will then become the recipient of a loan from the Community Development Entity (CDE) (comprised of \$43 million in bond funds and approximately \$13 million from the monetized NMTC's) to fund the site improvements, public improvements and maritime museum.

In order for the CMPA to serve as the recipient of tax-exempt Build America Bond and New Market Tax Credit proceeds, it is necessary for the CMPA to remain a not-for-profit 501(c)(3) organization and to also become a public agency of the City of Pensacola. The CMPA must become an "instrumentality" of the City through City Council having the authority of appointment and removal of the Board of Trustees. Hence, the bonds issued by the City will then be considered to be repaid by the City even with the payment flow through the CMPA.



City of
Pensacola

Committee of the Whole

Subject: Designation of the Community Maritime Park Associates as an Instrumentality of the City of Pensacola

March 8, 2010

Page Two

The proposed resolution would amend the 2006 Master Agreement between the City and CMPA and provide for:

- 1) the City to appoint and remove all twelve (12) CMPA Trustees;
- 2) at the discretion of City Council, allow all eleven (11) of the current Trustees to retain their positions; and,
- 3) allow for dual office-holding by members of City Council or other public officers.

At the March 12, 2010 meeting, the CMPA will consider amendments to their Articles of Incorporation and Bylaws that establish City Council appointment and removal of Trustees.

PRIOR ACTION: March, 2006 – Master Agreement

FUNDING: Budget: \$ N/A
Actual: \$

FINANCIAL IMPACT: N/A

ATTACHMENTS: 1) Resolution

STAFF CONTACT: Richard Barker, Jr., Director of Finance

PRESENTATION: No

RESOLUTION
NO. _____

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, EXPRESSING THE ACCEPTANCE OF AND CONSENT TO THE POWER TO APPOINT AND REMOVE TRUSTEES OF THE COMMUNITY MARITIME PARK ASSOCIATES, INC.; DETERMINING THE COMMUNITY MARITIME PARK ASSOCIATES, INC. TO BE A SPECIAL DISTRICT OF THE CITY OF PENSACOLA, FLORIDA FOR PURPOSES OF EXECUTION AND MANAGEMENT OF THE DEVELOPMENT OF A MARITIME PARK ON LAND OWNED BY THE CITY OF PENSACOLA; TO BECOME EFFECTIVE UPON APPROVAL OF THE BOARD OF TRUSTEES OF THE COMMUNITY MARITIME PARK ASSOCIATES, INC.; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Community Maritime Park Associates, Inc. (hereinafter referred to as CMPA) was established as a corporation not for profit under the provisions of Chapter 167, Florida Statutes, as reflected in the original Articles of Incorporation, filed with the Florida Secretary of State on July 26, 2005, and as amended and restated in the Articles of Incorporation filed with the Florida Secretary of State on January 24, 2007; and

WHEREAS, CMPA is organized exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for the purpose of operating for the benefit of and carrying out the public purposes of the City of Pensacola, Florida, to undertake the development, improvement and operation of public amenities, public spaces and coordinating private economic development strategies on real property in the City of Pensacola, Escambia County, Florida, generally described in the following manner: Approximately 31 acres, bordered by Pensacola Bay on the south, Main Street on the north and as extended, DeVilliers Street on the west and Spring Street on the east; and

WHEREAS, the City Council of the City of Pensacola has the opportunity and responsibility of the appointment of four (4) of the twelve (12) trustees of the CMPA; and

WHEREAS, in order for the CMPA to effectively and lawfully receive and disburse for development purposes the proceeds of funds derived from the sale of Municipal Bonds, Build America Bonds, and New Markets Tax Credits, it is necessary for the CMPA to become an instrumentality of the City of Pensacola, Florida, as a Florida not for profit corporation, by amendment by the Board of Trustees of the CMPA to the Articles of Incorporation and bylaws to provide the City Council of the City of Pensacola, Florida, with the opportunity, responsibility and authority to appoint and remove all of the twelve (12) trustees of the Board of Trustees of the CMPA; and

WHEREAS, in order to permit public officers of the City Council of the City of Pensacola and other governmental entities to serve as appointed trustees to the Board of Trustees, the CMPA is hereby designated as a special district of the City of Pensacola for the purpose of developing, operating and maintaining a Maritime Park on property owned by the City of Pensacola on the Pensacola waterfront, NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Upon affirmative vote of the Board of Trustees of the Community Maritime Park Associates, Inc. (CMPA) amending and restating the Articles of Incorporation of the corporation to authorize the appointment and removal of all twelve (12) trustees of the Board of Trustees by the City Council of the City of Pensacola, Florida, the City Council hereby grants its consent to and acceptance of such power of appointment and removal.

SECTION 2. Subject to the power of appointment and removal of the City Council of the City of Pensacola, Florida at its discretion, all incumbent trustees of the Board of Trustees of the CMPA shall retain their position as trustees.

SECTION 3. The CMPA shall be regarded as a special district of the City of Pensacola for purposes of application of the dual officeholding prohibitions of Florida law, thereby allowing the appointment of members of the City Council or other public officers of other governmental entities to the Board of Trustees of the CMPA without violation of dual officeholding principles.

SECTION 4. This resolution shall take effect immediately upon its adoption by the City Council.

Adopted: _____

Approved: _____

Mayor

Attest:

City Clerk

Legal in form and valid
if adopted:

City Attorney