

## **Marina complaint sent to Port council**

Written by Kristyn Halbig Ziehm  
Wednesday, 17 November 2010 19:00

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### **Harbor Commission declines to act on allegation that tenant improperly used slip for charter fishing service**

The Port Washington Harbor Commission on Monday referred a complaint issued by Harbormaster Dennis Cherny against a marina tenant to the Common Council.

The commission's decision came after City Attorney Eric Eberhardt told members that attorney Steve Cain, who is representing marina tenant Vern Forman, had serious concerns about the process used to hear the complaint.

To eliminate these concerns, Eberhardt recommended the commission stop its proceedings and refer the matter to the council.

"It is an effort to afford Mr. Forman a full and fair hearing," Eberhardt said.

This is the first time that the Harbor Commission has been asked to take up a complaint against a marina tenant, officials said as they tried to sort through the matter.

Cherny has alleged that Forman conducted a charter fishing service in the main marina in violation of the marina rules. Because of that, the harbormaster said, he decided not to rent Forman a slip in the marina for 2011.

Cherny told the commission he had confronted four men leaving Forman's boat on May 22 and they admitted paying for their fishing trip.

Forman and Cain told the commission last week that Forman was not providing charter fishing trips.

Eberhardt told the commission that the due process concerns expressed by Cain relate back to Oct. 11, when Cherny initially told the commission about the alleged rule violation and his recommendation not to lease a slip to Forman.

According to the minutes for the meeting, "The commission agreed," he said.

Eight days later, Cherny sent Forman a letter outlining his allegations and decision not to renew his slip for 2011, Eberhardt said. That letter also outlined the procedure to appeal the matter to the Harbor Commission.

Last week, the commission held a hearing in the case, during which Forman and Cain denied the allegations. The commission held the matter over to Monday so members could review a

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Department of Natural Resources report on the matter.

After last week's hearing, Cain e-mailed him a list of concerns about the case, Eberhardt said. Among those is the fact that, based on the Oct. 11 minutes, the commission appeared to have made a decision to back Cherny before holding a hearing, he said.

That same entry could indicate that the commission was not an impartial body when hearing Forman's appeal, Eberhardt said.

Eberhardt told the Common Council on Tuesday that it may be called on to hear a complaint referred by the Harbor Commission, but did not go into detail about the matter. He did, however, caution aldermen not to discuss the matter with each other or constituents.