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## Senate Rejects Summer's End Marina Permit Extension Amid Accusations of Bypassing CZM and Violating Virgin Islands Law

CZM leaders told lawmakers the Summer's End Group failed to request extensions as required, leaving permits "null and void." Senators said the move to bypass CZM undermined public rights and Virgin Islands law, voting 9–2 against the extension.

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Aerial view of the proposed Summer's End Marina, showcasing extensive yacht docking set against St. John's scenic Coral Bay. By. SUMMER'S END.

Tears, accusations of slander, threats of litigation, allegations that local laws were circumvented, and assertions of "manufactured" urgency punctuated what could have been a brief discussion in

the Committee of the Whole on Thursday.

Instead, the atmosphere in the legislative chamber grew more contentious with each testimony – 9 in total. Up for discussion was Bill 36-0145, an act ratifying Governor Albert Bryan's approval of the Modification and Extension of Consolidated Major Coastal Zone Management Permit Nos. CZJ-04-14 (W) and CZJ-03-14 (L). The permittee in question is the Summer's End Group, LLC, the developers behind the Summer's End Marina project.

Expected to be the first marina on St. John, the project commenced [over a decade ago](#), but no shovel has yet hit the ground. Instead, the Summer's End Group had been occupied with permitting, environmental assessments, reengineering the project's scope, lawsuits from project opponents, and property disputes. Bill 36-0145 notes that the development has also been delayed due to various modifications requested by the United States Army Corps of Engineers. Their input is necessary given the scope of the work, its potential environmental impact, and the marina's footprint in territorial waters.

Now, Summer's End Group, with the endorsement of Governor Bryan, is asking the Legislature to extend the permit that they acquired from the Coastal Zone Management Commission in 2020. Evidence of local permitting is necessary to receive corresponding federal permitting from the Army Corps of Engineers. According to Bill 36-0145, that permit is expected in the "upcoming quarter."

However, Thursday's lengthy testimonies revealed that the marina project's CZM permit expired years ago.

Andrew Penn, chair of the St. John CZM Committee, testified that it has been more than four years since the original permit was ratified by the Legislature in December 2020. Because the developers failed to begin work within 12 months of the permit's approval, the permit was not just expired, but "null and void," Mr. Penn explained.

"Failure to perform at least 50% of the work within such period and continuously construct thereafter, shall cause a permit to terminate automatically and render it null and void," he noted. A permittee, however, can request an extension in writing. That extension will be granted "to the satisfaction of the committee that good cause exists for granting such extension."

It became clear on Thursday that the Summer's End Group never requested such an extension. Instead, they bypassed the CZM committee and wrote to Governor Bryan, stressing the economic benefits of the marina project. The governor, in turn, wrote to the Legislature, requesting the ratification of the extension.

According to Mr. Penn, this failure to request an extension from the CZM Commission constitutes an action to "circumvent" and "undermine" the Commission's authority.

When requesting an extension from CZM, the permittee must provide "clear and convincing evidence" to justify the need. There must also be a period of public comment. Mr. Penn asserted that any attempt to circumvent the regular process is "a direct violation of the public right to provide comments, the Virgin Islands Code, and the Virgin Islands Rules and Regulations."

The chair of the Virgin Islands CZM Commission, May Adams Cornwall, agreed. She reemphasized that "there is no existing valid CZM permit for this project to extend and or modify." According to Ms. Cornwall, the CZM Commission is the "only legal body with statutory authority" to extend or reinstate a CZM permit. "There is no provision in the CZM law that

permits the governor to unilaterally and administratively modify or extend an expired or null and void CZM permit,” she testified. The Legislature’s legal counsel agreed with that assessment.

Ms. Cornwall also informed the Legislature that “modifications of the current proposed project has not been properly submitted or reviewed by the St. John committee, as required by law.” Therefore, she argued that it is “impossible to determine if the project described and approved in the permit truly reflects and conforms to the applicant's current proposal.”

Agitated, Ms. Cornwall questioned the "justification for bypassing the St. John CZM Committee and thereby, the Virgin Islands law and CZM permit processes.” The CZM Commission chair publicly expressed her “doubts” about the reasons that the Summer’s End Group offered for bypassing the Committee, specifically to “avoid misalignment with the federal permitting process and to avert financial risk.” She instead blamed the developers for their failure to “simultaneously submit project modifications to the United States Army Corps of Engineers and the St. John CZM Committee.” Ms. Cornwall testified that she found it “equally disturbing” that the applicant failed to “comply with CZM permit conditions to timely request extension before expiration.”

Ms. Cornwall’s perspective on who has the authority to approve ratifications or extensions conflicted with that of Boyd Sprehn, one of the Summer’s End Group’s many attorneys.

He argued that “this Legislature is the proper body to consider the governor's request, and that there is no requirement to return these permits for further review by the CZM.” He says that the current request, laid out in Bill 36-0145, “seeks only to extend the effective date of the permit and to reduce the size of the marina project.”

Thursday’s hearing with the Summer’s End Group, four hours in total, was a complicated mix of emotions and perspectives. It quickly became clear, though, that most lawmakers sided with the Coastal Zone Management Commission. As Senator Alma Francis Heyliger observed, the developers seemed to adopt an approach of “if we could get to the governor, we could skip the process.”

Senate President Milton Potter, too, found their decision difficult. He informed Chaliene Summers, managing member at the Summer’s End Group, of the collective disapproval of the St. John CZM committee. “Every single one of them found it imperative...to send a letter to us, saying, please no,” he said, asking Ms. Summers to account for that position.

The committee members were simply being “influenced by the opponents,” Ms. Summers responded. The opponents “want to stop all development, especially from native St. Johnians,” continued Ms. Summers, who has lived on St. John for “over 18 years.”

Lawmakers, however, were not convinced. Senator Clifford Joseph also questioned the developer’s decision to request the governor’s intervention, instead of simply following the CZM’s extension process. Ms. Summers informed him that “we've been advised that as long as it's a reduction in impact...the process for extension could be brought to the governor and brought to the Legislature and there was no need to go back through CZM.” She repeated that explanation to Senator Kurt Vialet, who questioned whether her “experts” thought it “would be easier to circumvent CZM.” She denied his assertion.

She was reminded by Senator Kenneth Gittens that “ignorance of the law is no excuse.” The lawmaker opined that the developers presented a “manufactured sense of urgency,” and lamented that the Legislature was being “pushed somehow, to abandon the process that's in place.”

Senator Violet was among those who questioned whether the Summer's End Group felt entitled to different rules than other applicants and permittees. "You're making up reasons as to why you didn't go through the process," he told Ms. Summers and her team. He rubbished the developer's claims that any additional permitting delays would hinder construction and chase investors away. Summer's End Group expects to make a \$130 million investment in constructing the marina.

Ultimately, 9 of the 11 present senators voted against Bill 36-01245. Senators Carla Joseph, Alma Francis Heyliger, Dwayne DeGraff, Milton Potter, Franklin Johnson, Ray Fonseca, Kurt Violet, Kenneth Gittens, and Clifford Joseph felt that following CZM's process took precedence over the developer's arguments.

Former Republican congressman, Garret Graves, had been invited by the Summer's End Group to provide details on the federal lags that have affected the marina development. "This is a project where the federal government is preventing you from getting \$130 million in investment for this community. I'd be mad at the feds," he told the committee. He had encouraged lawmakers to defer the vote, stating, "I think it sends an awful message to the rest of the potential investors."

The only lawmakers to side with that perspective were Senators Novelle Francis, Marvin Blyden, and Avery Lewis. Senator Francis went so far as to call laws guiding permitting "unfair." "Army Corps of Engineers is not a sprint race...It's a slow process that presents tons of obstacles here in the Virgin Islands...What is the expectation, colleagues, truly? I mean, let's be reasonable," he urged. "There's no way on God's earth you can have such a project, and within a year you start construction," agreed Senator Blyden.

Nonetheless, Sen. Potter reminded all that "the law might be unfair, but the law is the law." With no assistance forthcoming from the Legislature, Summer's End — should they wish to proceed with the project — will likely now have to return to the St. John CZM committee for clearance to move forward.