

# ST. JOHN TRADEWINDS

## CZM Member Atty. Morrisette Is Cited In St. John CZM Marina Vote Challenge

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**Brion Morrisette speaks his mind at the August CZM hearing on the Coral Bay Marina permit application before recusing himself from the hearing. Morrisette stayed through the hearing but did not participate.**

**CRUZ BAY** — St. Johnian Attorney and long-time St. John Coastal Zone Management Committee member J. Brion Morrisette tried to stay out of the melee surrounding the “Coral

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Bay Marina, the Yacht Club at Summer's End" project and asserts he only acted in the best interest of the panel's deliberations.

Critics and competitors, through their attorneys, say he didn't try hard enough and he shouldn't have acted at all.

Morrisette, who grew up at the entrance to the Virgin Islands National Park overlooking Cruz Bay the site of what is now the restaurant Asolare, keeps getting sucked back in as if he were trying to wade through the muck of the shallow mangrove lining the west shore of the inner Coral Harbor to reach the pavement of Rte. 107.

Now, Morrisette's monologue of recusal from the three-member St. John panel's deliberations on the SEG mega-yacht marina plan for Coral Harbor and bantering with the hostile audience at the August hearing on St. John Marina, The Yacht Club at Summer's End — and a few surreptitious whispers to St. John CZM chairman Andrew Penn — have become fodder for environmentalists and bumper-sticker civic-leaders in Coral Bay and competing developers who have hired a gaggle prominent St. Thomas lawyers firing multiple lawsuits of innumerable, and sometimes unnumbered, pages to thwart the project.

## **"Unlawful" Participation by Conflicted Commissioner Is Alleged**

"Brion Morrisette, who is one of three members of the St. John CZM Committee, along with his partner, Robert O'Connor, Jr. leases these parcels under two long-term leases granting them possession and the right to develop the properties," lawyers for the Virgin Islands Conservation Society wrote in an appeal filed November 14.

"Both Morrisette and O'Connor provided a power of attorney to SEG granting it the right to apply for the Permit, as well as other required permits. The power of attorney was submitted to CZM and made part of the file. The right to develop remained in Morrisette and O'Connor. Neither Morrisette or O'Connor signed the application as owners or lessees," lawyers for The Virgin Islands Conservation Society alleged in its lengthy appeal.

Attorneys for the Moravian Council of the Virgin Islands filed their similarly lengthy, albeit numbered, challenge to the SEG project on November 24.

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“On August 20, 2014, the St. John CZM Committee held a public hearing on the Permit along with the Water Permit. At the hearing, commissioner Penn, Roberts and Morrisette established a quorum and heard testimony from SEG and many members of the public,” the VICS appeal continued.

“At the decision meeting of October 1, 2014, all three commissioners established a quorum and adopted all of the findings and recommendations of the CZM Staff without making any new findings. Mr. Morrisette, however, abstained from voting, but he still participated in the meeting to maintain the quorum, which allowed the other members to vote. The remaining members voted unanimously to grant the Permit to SEG,” the appeal brief continued.

## **Meetings “clearly held upon unlawful procedure”**

“The public hearing and decision meeting were clearly held upon unlawful procedure. Commissioner Morrisette participated in both hearings by establishing a quorum, sitting through the hearings and, on at least two occasions, whispering to the Chairman during the public hearing,” the appeal brief read.

“Moreover, he helped SEG’s application process by giving power of attorney to SEG to apply for the Permit. The right to develop the property remained with Morrisette and O’Connor,” the appeal brief continued. “

“Thus, as one of the lessees of the property who stands to benefit if the project goes through, Mr. Morrisette should not have participated in any way in the SEG application and should have disqualified himself or been disqualified by the Chairman,” the brief continued.

“Despite Mr. Morrisette’s conflict of interest, he helped to establish a quorum and engaged somewhat with the Chairman during the public hearing.”

“The CZM rules and regulations have provisions that allow for self-disqualification or disqualification by the chairman after appropriate proceedings.

See 12 V.I.R.R. s/s 904-6(d). The record is devoid of any such proceedings having been conducted regarding the SEG applications, and Mr. Morrisette never disqualified himself,” the legal brief continued. “Since no less than three members are required for a quorum, and Mr. Morrisette should have been disqualified, his participation made the public hearing and

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decision illegal. Thus, the decision is void under 12 V.I.R.R. s/s 904-6 AND 12 C.I.C. s/s 904(B).”

## **Morrisette Explains Attendance To Form Quorum — Bluntly**

One of only three current members of the St. John CZM — there are two unfilled vacancies — Morrisette participated in a vote on a request to the CZM for a major solar power installation at the Westin Resort on Great Cruz Bay at the August CZM meeting before recusing himself from participating in a subsequent hearing on the controversial plan for a mega-yacht marina in the sleepy backwater.

The St. John attorney addressed the audience before the panel’s hearing of the Coral Bay “mega-yacht” marina application to answer critics who publically had criticized his participation in any CZM matters related to the project because Morrisette, as Morrisette himself had acknowledged in his recusal, had been a partner in a previously-proposed project on the same site.

Morrisette stayed on for the hearing, however, telling the audience he did so because the short-handed panel would not have the necessary three members for a quorum to consider the marina application if he left the meeting.

If the CZM did not have a quorum, the marina plan the panel would not be able to conduct business, which would result in the pending application being automatically approved under the CZM rules, Morrisette explained to the audience.

Morrisette could not be reached for further explanation of the legal reasoning behind or ramifications of his comments at the contested CZM meetings or on the two appeals and the references to his participation in those meetings, or lack thereof.

## **St. Johnian O’Connor Stays in Project**

St. Johnian Robert O’Connor Jr., Chairman of the V.I. Port Authority and a partner with Morrisette in the earlier marina project, is now a partner in the newer, larger SEG project which assumed and incorporated land leases from the earlier project.

Morrisette has no interest in the new project other than through the executed sublease of the earlier lease he held in in partnership with O’Connor.

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That arms-length separation didn't cut the mustard with his critics, or apparently the attorneys for the V.I. Conservation Society, which has filed a challenge to the October 1 St. John CZM approval of the SEG marina project which was eventually approved by the two other members of the panel at the October CZM decision meeting.

Atty. Morrisette attended that meeting as well, again taking pains to inform the audience that he was in attendance to create the legally-required quorum but would not otherwise participate in the committee's action.