



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

REPORT DATE: August 31, 2001
TO: Mayor and Councilmembers
FROM: Sandra E. Tripp-Jones, City Administrator
SUBJECT: RESPONSE TO 2000-2001 GRAND JURY REPORT ON CITY OF SANTA BARBARA HARBOR

RECOMMENDATION: That Council:

- A. Receive the Santa Barbara County 2000-2001 Grand Jury Report on City of Santa Barbara Harbor; and
- B. Authorize the Mayor to send a letter to the Presiding Judge of the Superior Court, forwarding the Council's response to the Santa Barbara County Grand Jury findings and recommendations.

Note: Copies of the Santa Barbara County 2000-2001 Grand Jury Report are available for review in the Council Reading File and City Clerk's Office.

DISCUSSION: See Attached Page

ATTACHMENT: Council's response to the Santa Barbara County Grand Jury findings and recommendations

PREPARED BY: Mick Kronman, Harbor Operations Manager
APPROVED BY: John N. Bridley, Waterfront Director

REVIEWED BY: _____ Finance _____ Attorney

STAFF USE ONLY

TO:

FROM: City Administrator

ACTION TAKEN:

DIRECTIONS:

Meeting Date September 4, 2001

Agenda Item No. _____

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DISCUSSION:

California Penal Code Sections 933c and 933.05 require that affected agencies respond in writing to the findings and recommendations of a Grand Jury report within 90 days. The final response is forwarded from Council to the Presiding Judge of the Superior Court (Honorable Rodney S. Melville) with a copy to the Grand Jury Foreperson (William L. Cathey). The Deadline for submittal is September 12, 2001.

The Harbor Commission is scheduled to review the Waterfront Department's draft response to the Grand Jury on August 23rd in a special meeting. Upon review and consideration, the Commission will forward its comments and recommendations to the Council. Staff will present this information to the Council, and it is likely Harbor Commissioners will be present at the Council meeting to answer questions.

SANTA BARBARA COUNTY 2000-2001 GRAND JURY REPORT AND RESPONSE

Background Information and Commentary

Staff has prepared background discussion, commentary, and a status report on the various issues, projects and programs identified in the Grand Jury Report. Those items include Marina Slip Assignment Policies, Waterfront Administration Building, Harbor Way, East Beach Anchorage, and Navigability. The following discussion is keyed to the Grand Jury's report and is intended as both an analysis of and a commentary on the Grand Jury's findings and recommendations. Separately, staff has developed a specific response to the Grand Jury's recommendations, which is included as an attachment to the Council Agenda Report (Attachment 1). In forwarding the City's response to the Grand Jury, staff recommends that the Council send a copy of this agenda report as part of its review, deliberation, and commentary related to that response.

INTRODUCTION

Waterfront Department staff would like to thank the 2000-2001 Grand Jury for the acknowledgement that overall the harbor is well managed and maintained. Also, staff compliments the members of the Grand Jury for their thoughtful, and thorough investigation and report on matters concerning the harbor and waterfront area.

MARINA SLIP ASSIGNMENT POLICIES

1. Transfer Fees; A Brief Overview

The City of Santa Barbara, via its Municipal Code, acknowledges and permits individuals who hold moorings and/or slips in the harbor to transfer those licenses. This policy has existed since the late 1960's and early 1970's. Several agencies, including the State Lands Commission and prior Grand Juries, have studied and reported on the complexity of this policy and its perceived role in prohibiting the general public's access to harbor slips. In addition, concerns have arisen about the intrinsic value this transfer policy confers to boat owners who are in the process of selling their vessels. Admittedly, Wait List applicants are less served by the policy, though a limited number of slips are assigned from the wait list each year.

For the privilege of being allowed to transfer a slip permit to a new owner or boat partner, the City imposes a substantial transfer fee. In turn, the City (and thus the State Tidelands Trust property) derives revenue from this process, which in turn is used to help keep user fees like slip fees at modest, if not under-market, levels

2. Revisions, Refinements, Improvements

Over the past 20 years, the City has revised, refined and improved its slip assignment and transfer policies, so that substantial financial benefit continues to accrue to the City and State Tidelands. In tandem with this process, the City has developed economic disincentives geared toward eliminating profiteering or private financial benefit from the license transfer of public assets (marina slips). In particular, the City has continually increased the transfer fee, which was originally \$10 per lineal foot, and, having recently been increased, will be \$75 per lineal foot on October 1, 2001. Further increases are being considered for this fee, which generates \$250,000 to \$300,000 in annual revenues to the Waterfront Department, which manages and maintains State Tidelands property. One alternative under consideration is a graduated fee increase, by which transfers associated with larger slips would require a higher fee than transfers for smaller slips, reflecting the respective differences in their inherent value.

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Recently, the City also imposed a five-year graduated Wait List Transfer Fee for individuals assigned a slip permit from the waiting list. The fee is intended to prevent profiteering from the cost-free assignment and subsequent transfer of slip permits obtained from the waiting list. In the first year, the Wait List Fee ranges from \$250 per lineal foot to \$750 per lineal foot, depending on the size of slip assigned (the larger the slip, the larger the fee). The fee for any slip transferred under this policy declines annually to the "standard" transfer-fee level after five years. Additionally, individuals who receive a slip from the wait list are limited to placing only themselves and their spouse on the slip permit.

Recently, the City adopted additional slip-transfer limitations. Based on legal advice from the City Attorney, the City does not allow heirs, family members or others to act on behalf of a deceased slip permittee to either obtain ("inherit") the slip permit or transfer it to a buyer of the deceased's vessel. Only spouses and registered domestic partners can act on behalf of a slip permittee who dies without other partners on his or her slip permit.

The City has also, as of July 31, 2001, limited the number of persons who can be added to a slip permit through the assessment and payment of a transfer fee. Only two persons can be added to a slip permit upon payment of a transfer fee. In addition, Council has adopted a policy requiring that slip permittees must be at least 18 years old.

3. Eliminating Transfer Fees: Lessons From Other Ports

Much has been said about the wait-list process and how long it takes to receive a slip permit after placing a name and maintaining a position on the list for a berth in Santa Barbara Harbor. In 1998, the Waterfront Department had 212 individuals on wait lists for various slip sizes within the harbor. At that time, the Waterfront Department closed the wait list application process due to the pending expansion of Marina 1 & 4 and the slip assignment process associated with that effort.

Since November 1998, the City has assigned 90 slips from the wait list, including 75 as part of the expansion project and 15 through attrition. Currently, 80 individuals remain on the list. Currently, three additional slips (35 ft., 30 ft., and 20 ft.) are pending assignment to wait list applicants. The wait list remains closed due to policy considerations involving slip

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assignment priorities for commercial fishermen, re-evaluation of the wait list process (now that the last major marina expansion of the harbor has been completed) and staff concern about creating false expectations regarding assignment of slips from the list.

The Grand Jury recommends that the City adopt a 5-year "sunset" date for eliminating slip transfers, stating that the City will be able to enforce and control vessel ownership and slip partners should such a policy be adopted. The assumption is that when an individual, partnership or family sells their vessel, the slip permit will be returned or revert to City control. Pattern, practice, and the experience of other harbors similar to Santa Barbara portray a different outcome, demonstrated by the following:

The City of Monterey Harbor and City of Santa Cruz Port District have grappled with the administration and enforcement of a no-slip-transfer policy for approximately 20 years. Santa Cruz still maintains a no-slip-transfer policy. However, over 1,200 individuals remain on a wait list for approximately 1,000 slips available in their harbor. Enforcement remains difficult, due to "underground" transfers, unrecorded vessel ownership documents, phony receipts and exchanged checkbooks for slip payments. The Harbormaster in Santa Cruz even has a check-in procedure to determine owners' use of boats. Other harbor managers, meanwhile, suggest that if Santa Barbara eliminated slip transfers and opened its waiting list, the list would grow 10 to 20-fold, exacerbating the unrealistic expectation of acquiring a slip in a harbor where supply and demand are dramatically out of sync.

Monterey has implemented and enforced both a no-transfer policy and, subsequently, a slip transfer policy. Eventually, Monterey changed its policy due to unsatisfactory enforcement of the no-transfer rules and the resultant practice of allowing slip transfers despite a City ordinance to the contrary. Acknowledging that slip permits have inherent value in a market where, like Santa Barbara, slips are scarce and demand is high, the City in 1997 adopted a policy similar to Santa Barbara's, which focuses on benefits to the State Tidelands through increased revenues to the harbor area.

Monterey currently allows individuals to transfer slip permits to buyers of their boats. Persons who receive these slip permits through a transfer process are then assessed slip rates

equal to 1½ times the current slip fee rate in perpetuity, or, if they are on the City's wait list, until their name comes up for the next slip assignment. These slip-fee revenues are similar to the substantial transfer fee imposed by the City of Santa Barbara. For the most part, Monterey is satisfied with its transfer policy, although individuals on the wait list are (like individuals on Santa Barbara's wait list) infrequently served, since only a few assignments occur annually. The Council may wish to consider an approach similar to Monterey Harbor's, whereby an individual receiving a slip via the transfer process pays a higher slip fee than the regular rate.

4. Slip Transfers: Maintaining the Current Policy

Waterfront Department staff believes that although the current policy of slip permit transfers is not "perfect," it should be continued. The oversimplified perspective that a no-transfer policy "solves" the challenge of providing the general public with improved access to slips in Santa Barbara Harbor is unfounded. In fact, such a policy would likely drive slip and vessel partnerships/ownerships totally underground. Boat owners would encounter escalating difficulty selling boats, since potential buyers would have no place (at least in Santa Barbara) to berth them. People would become very creative and likely engage in subterfuge to prohibit slips from reverting to City control. In turn, the City would lose valuable revenues it currently earns from the slip-transfer process, and potentially need to raise slip fees and visitor fees to compensate for that loss.

WATERFRONT ADMINISTRATION BUILDING

1. Some History: Seeking Consolidation

The Waterfront Department has needed a permanent, consolidated administrative office for many years, to facilitate the efficient management of Waterfront matters. Moreover, the office needs to be located at the harbor, to provide timely attention and response to boaters, tenants and visitors alike. Without a harbor location and the ongoing interaction with the public it affords, staff's understanding and management of waterfront affairs (both operational and administrative) would be seriously diluted, as would its service to the community at large.

During the 1980's, administrative staff was scattered among several buildings throughout the waterfront area. After acquiring the Naval Reserve Center in the early 1990's, administrative staff occupied two wings of the first floor of that building until renovation of the structure began. In 1997, the Department acquired four modular office units and assembled them into an "interim" office in the Harbor Parking Lot near Marina 3, where the administrative staff currently works. This temporary arrangement led to an analysis and investigation of available alternative sites for a permanent office.

2. The Search for a Permanent Location

Ultimately, 132 Harbor Way (Chandlery Building expansion) was selected for further study and design work, as an option for consolidating the Department's administrative staff together with Harbor Patrol Operations. Other locations considered were 125 Harbor Way (Marine Center Building) in the commercial area, the Harbor Maintenance Yard at the western end of the commercial area, and the rock groin near Sea Landing, at the eastern end of the harbor. The Harbor Maintenance Yard was not pursued, primarily due to 1) incompatibility of administrative work in proximity to continuous maintenance and construction activities; 2) site limitations; and 3) coastal development permit issues. The rock groin location was not pursued due to the excessive cost of rebuilding the groin to accommodate a new structure. Also, it was determined that this proposed site would have significant coastal permitting issues.

During the course of design work on 132 Harbor Way, the scope of work changed. The first significant change occurred when the preliminary design concepts were not accepted by the Architectural Board of Review, due to a conflict with architectural guidelines contained in the Harbor Master Plan. This led to an extended series of discussions, culminating in a joint meeting of City Council, Planning Commission, Architectural Board of Review, and Harbor Commission to resolve the issues of architectural style in the harbor. The current architectural style being designed ("Monterey style") has added significant costs to the project along with potential construction impacts on the existing tenant. However, the proposed project has long-term benefits, since the 40-year old structure would be completely remodeled and updated to current building codes.

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The possibility of moving the Department's administrative offices to 125 Harbor Way (Marine Center Building—the building adjacent to 132 Harbor Way), has also received careful consideration. Early in the year 2000, a preliminary analysis of utilizing 125 Harbor Way was prepared and reviewed by the Harbor Commission as an alternative due to the increasing costs for the 132 Harbor Way project. One facet identified with the 125 Harbor Way option was the impact on existing 2nd floor office tenants (fuel dock operator, yacht broker, Brophy's accounting office, boat surveyor, coastal chart makers, harbor users classroom). Although displacement of these tenants would be necessary, the space may be adequate for most of the Department's administrative functions. Currently, the space available on the second floor of 125 Harbor Way is fully occupied and barely adequate for current harbor users and tenant needs. Eliminating this tenant space is not considered a good long-term planning solution for existing and future needs of the harbor. Based on this analysis, the Harbor Commission voted to pursue 132 Harbor Way and not study 125 Harbor Way any further.

Since that time, additional costs and potential liabilities have been discovered, including soils beneath the Chandlery building that could possibly allow settlement during seismic events, plus additional design problems. In response, the Waterfront Department, in conjunction with the Public Works Department, is currently hiring an architect to conduct a feasibility study, prepare conceptual drawings, make presentations to the Architectural Board of Review, and prepare an estimate involving the cost to renovate 125 Harbor Way for the administrative offices. Following completion of this work, expected during autumn 2001, an evaluation and recommendation will be made whether to pursue renovation of 132 Harbor Way, the design work for which is presently continuing, or to consider "changing course" and remodeling 125 Harbor Way for the Department's administrative offices.

HARBOR WAY

The Grand Jury made a finding that, "the area between the Maritime Museum and the Harbor Marine Works is a bottleneck, creating traffic problems for both vehicles and pedestrians in a small area." The Grand Jury offers several suggestions, including removing parking, adding sidewalks, reducing traffic, widening the traveled way, restricting the size of vehicles, and/or staggering delivery times. After review of this location Public Works staff disagrees with the Grand Jury's finding.

While the area between the Maritime Museum and the Harbor Marine Works is an extension of Harbor Way, it functions more like a parking lot. As in any parking lot, pedestrians walk in the traveled way, sharing the aisles with vehicular traffic. The paved area is just over 60-feet in width, which according to City Parking Design Standards is more than enough room to accommodate the existing angled parking on both sides, as well as two directions of traffic.

A review of reported collisions revealed no incidents involving pedestrians in this area in the last five years. In addition, only two collisions in this five year period involved large vehicles or vehicles with trailers. The majority of collisions during this period (10, or 2 per year) involved passenger vehicles backing into other vehicles or stationary objects. These were all minor collisions and typical of most parking lots.

A sidewalk is programmed for construction along the west side of the Coast Guard Building. In addition to the sidewalk, consideration is being given to eliminating several 90-minute parking stalls. If the overall number of parking stalls is reduced, the angle of the remaining stalls can be changed. This would widen the traffic lanes slightly, allowing more room for pedestrians and traffic. This may benefit some pedestrians who choose to use the sidewalk. However, experience has shown that pedestrians are likely to travel the most convenient path. Therefore, it is likely that many pedestrians will continue to share the travel lanes with vehicles, even after construction of the sidewalk.

EAST BEACH ANCHORAGE

The Waterfront Department is actively working to abate pollution and navigational hazards associated with craft moored east of Stearns Wharf and groundings of vessels on East Beach. With input and guidance from a subcommittee of the Harbor Commission, the Department intends to implement, within 18 months, a permit system for mooring vessels east of Stearns Wharf. At a minimum, the permit program will include:

- Identification of the registered owner of each craft to be moored within two designated areas (summer and winter), including contact address and two sets of phone numbers;

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- Requirement that all California registration documents (or U.S. Coast Guard documents) are current and properly posted on the vessel;
- Determination of a vessel's seaworthiness (non-dereelict craft);
- Inspection of ground tackle (anchor, chain and mooring "can") to ensure they meet minimum industry standards for the craft designated to be moored;
- Release of liability and indemnification for the City;
- Placement of dye tablets in a vessel's Marine Sanitation Device (MSD), to prevent pollution of near-shore waters;
- Separate areas for mooring and anchoring; and
- Designated placement of individual, permitted vessels in specified locales, to facilitate administration of mooring permits and compliance monitoring by Harbor Patrol

As a first step in this implementation process, the California Department of Boating and Waterways, in June 2001, approved a \$103,000 grant for removal of abandoned watercraft and other navigational hazards east of Stearns Wharf. This effort will help clear the seafloor of debris that could interfere with safe mooring, and may disclose areas that need to be set aside as "exclusion zones" in which mooring is disallowed.

Plans for requiring permits to moor east of Stearns Wharf, it should be noted, are not intended to disrupt the "traditional boaters' refuge" concept that has accompanied this area for many years. Instead, they are intended to help ensure that mooring is undertaken in an orderly, safe and proper manner, with consideration for the consequential impacts of poor mooring systems, derelict craft and un-inspected MSDs.

Regarding long-term use of the anchorage east of Stearns Wharf, the Department, in conjunction with the Harbor Commission subcommittee, will also review future options for privately or publicly operated mooring systems designed to accommodate a broad range of boaters on a seasonal basis. This will include a "feasibility review" of leasing space to a managed-mooring company, for the purpose of designing, installing and maintaining such a system. Consideration of this long-range concept will include review of infrastructure support services such as a shore boat, MSD pump-out boat and the use of shore-based facilities such as restrooms and showers.

NAVIGABILITY

1. Changing Course to Seaworthiness Standards

The Waterfront Department concurs that navigability standards currently applied for slip occupancy in Santa Barbara Harbor, need to be revised to reflect a vessel's seaworthiness, which is a greater measure of its ability to traverse coastal, channel or island waters. Staff intends to work with Coast Guard officials, other harbor managers, Harbor Commission, and the City Attorney's Office for guidance on amending Chapter 17 of the Municipal Code and related policies to reflect a shift from reliance on navigability standards to reliance on seaworthiness standards during the assignment or transfer of slips.

The Waterfront Department also recognizes that some boats in the harbor have fallen into a state of disuse and deterioration, so much so that they encourage nesting seabirds and constant attention (including de-watering) from Harbor Patrol. Although the number of these types of vessels is down from years past, staff believes new rules and regulations regarding seaworthiness should be used to encourage the upgrade or removal of these boats. In practice, the Department has already begun this effort, facilitating the upgrade or removal of two derelict boats from the harbor in the past six months.

In conjunction with a subcommittee of the Harbor Commission, the Department will work to develop standards for identifying derelict boats berthed in the harbor and provide means by which their owners can comply with seaworthiness standards by upgrading their vessels. As currently conceived, failure to comply with such requirements will ultimately result in slip termination.

Besides advancing the Department's goal of maximizing the utility of berths in the harbor (not just their occupancy), implementation of a derelict-boat policy will compliment efforts to increase assignments from the waiting list. It can be expected that owners of some derelict vessels will likely give up their slip permits and return them to the City.

2. Safety Violations, Vessel Registration and Power Cords

During the past year, Harbor Patrol has implemented a "Task Officer" program, in which individual officers are assigned

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certain "problem areas" that need to be addressed. Two of these areas were unregistered boats and substandard electrical cords.

As a result of this program, the number of unregistered vessels in the harbor has dropped from over 100 to near zero. The use of substandard electrical cords (the primary cause of marina fires) has also decreased dramatically, aided by Patrol's vigilant attention and educational materials, such as an article about electrical cords ("Power-Cord Use: Making the Right Connection") that appeared in the Winter 2001 issue of *Docklines*, a quarterly Department newsletter that is mailed to all slip permittees.

If Harbor Patrol stops a vessel to warn or cite for any infractions, misdemeanors or felony, they will do a cursory review of safety equipment and advise boaters of shortfalls or substandard gear. Otherwise, the U.S. Coast Guard is the agency tasked with developing regulations regarding safety equipment and ensuring compliance with those regulations. The Coast Guard is also permitted to board vessels in U.S. waters at any time for any reason, whereas the Harbor Patrol is not. Meanwhile, Harbor Patrol continues to consistently monitor, warn and cite for safety-related violations such as insufficient supplies of Personal Floatation Devices (life jackets), substandard navigational lighting, speeding in the harbor or motorboat use inside (summertime) swim buoys.

RESPONSE TO THE GRAND JURY REPORT

The Santa Barbara County Grand Jury's Findings and Recommendations regarding Santa Barbara Harbor, and the City's response to each specific finding and recommendation, are provided in Attachment 1 to this report. The response was derived from the analysis described above.