

October 4, 2001

Honorable Rodney S. Melville
Presiding Judge, Santa Barbara Superior Court
312-C East Cook Street
Santa Maria, CA 93456-5369

Subject: Response to 2000-2001 Grand Jury Report on City of Santa Barbara Harbor

Dear Judge Melville:

At the Santa Barbara City Council meeting of September 4, 2001, Council voted to receive the Santa Barbara County Grand Jury 2000-2001 Report on City of Santa Barbara Harbor, pursuant to Penal Code Section 933.

The Santa Barbara County Grand Jury's Findings and Recommendations regarding Santa Barbara Harbor and the City's response to such Findings and Recommendations are as follows:

MARINA SLIP ASSIGNMENT POLICIES

Finding 1a: There is a demand for Marina slips significantly in excess of the existing supply.

The City agrees with Finding 1a.

Finding 1b: While slips are licenses/permitted to individuals for their use, the slips continue to be owned by the City of Santa Barbara.

The City agrees with Finding 1b.

Finding 1c: The Waiting List for slips has not been an effective way for a person to obtain a permit or license for a slip.

The City partially disagrees with Finding 1c. Regarding effectiveness, the Waiting List is one means by which the Waterfront Department assigns slips in Santa Barbara Harbor. The other is via the slip transfer process. The wait list process has continually been used by the City to assign slip permits. This

includes assignment of newly constructed slips and those returned to the City for reassignment.

Finding 1d: Waterfront Department Rules permit the seller of a boat to transfer the slip the boat occupies along with the boat.

The City partially disagrees with Finding 1d. Rules applicable to slip transfers are found in the City's Municipal Code or in City Resolutions approved by the City Council, not the Waterfront Department.

Finding 1e: The selling price of boats that include the assignment of a slip in the Santa Barbara marina generally is appreciably higher than the price the same boat would command if sold without the slip.

The City agrees with Finding 1e.

Finding 1f: The Transfer Fee that the Waterfront Department collects upon the sale of a boat (with slip attached) is generally only a small percentage of the "premium" collected by the seller in the price of the boat and slip over what the boat alone would otherwise cost.

The City partially disagrees with Finding 1f. The Waterfront Department does not track or record the "premium" collected by the seller in the price of the boat and slip over what the boat alone would otherwise cost.

Finding 1g: Many slips are effectively transferred by the "owner", who forms a partnership for ownership of the boat and license of the slip, and subsequently withdraws from the partnership, leaving the former "new partner" as the sole licensee of the slip.

The City agrees with Finding 1g.

Finding 1h: There are a significant number of slip transfers each year done within the Waterfront Department Rules.

The City partially disagrees with Finding 1h. Rules applicable to slip transfers are found in the City's Municipal Code or in City Resolutions approved by the City Council, not the Waterfront Department.

Finding 1i: The Waterfront Department could charge considerably more for a Slip Transfer Fee without appreciably reducing the demand for such transfers.

The City agrees with Finding 1i.

Recommendation 1a: The Waterfront Department Rules should be changed (possibly after a limited, e.g., five-year, transition period) to eliminate the ability of a permit holder for a slip to transfer that slip along with the sale of a boat.

Recommendation 1b: Appropriate new Rules should be adopted, along with a strong City ordinance, to prevent subterfuges, around the basic idea that all slip transfers should be by way of the official Waiting List, and that attempts to circumvent this policy will be punished severely (e.g., major fine plus loss of slip).

RESPONSE TO RECOMMENDATIONS 1a AND 1b:

The recommendations will not be implemented because they are not warranted or reasonable.

The City does not intend to eliminate the Slip Transfer Policy, but instead will continue to assess and pursue a substantial transfer fee for the privilege of transferring slip permits to new vessel owners

The City Council intends to direct the Harbor Commission and Waterfront staff to further evaluate intrinsic values involved in the slip transfer process and request that the Commission and staff develop recommendations regarding slip transfer fee adjustments that will further address this issue. The direction from Council is not focused on eliminating the Slip Transfer Policy, but intends that the analysis and recommendations focus on substantial fees or other economic disincentives geared toward eliminating profiteering or private financial benefit from the license transfer of public assets (slips).

WATERFRONT ADMINISTRATION BUILDING

Finding 2: Construction of the proposed new Waterfront Administration Building may not be practical at the proposed site as planned. Additionally, the Chandlery store would have to be compensated for months of inconvenience during construction.

The City agrees with Finding 2.

Recommendation 2: Re-evaluate the need for this building, considering its cost, appropriateness to the environment, and proposed method of construction. Consider whether the second floor of the City-owned building nearby could be converted from its present use as a yacht brokerage office and training room to offices for Waterfront staff. Other sites should also be explored.

RESPONSE TO RECOMMENDATION 2:

The recommendation has not been implemented, but will be implemented in the future. An implementation plan for the Waterfront Department administrative offices will be completed by September 2002.

The Waterfront Department has completed or is pursuing all of these suggestions. The Department, Harbor Commission, and City Council have determined that the administrative offices should be consolidated to the maximum degree possible for effective operation and economy. It has also determined that the offices should be located in the harbor for optimal service delivery to the public. Accordingly, several alternative sites have been and continue to be investigated for locating the offices.

Currently, an architect has been hired to conduct a feasibility study, prepare conceptual drawings, make presentations to the Architectural Board of Review, and develop a cost estimate to renovate 125 Harbor Way, Marine Center Building, for the possible location of Waterfront administrative offices. Following completion of this work, expected in autumn 2001, an evaluation will be made whether to continue pursuing renovation and expansion of 132 Harbor Way, The Chandlery, or the remodeling of 125 Harbor Way, Marine Center Building.

HARBOR WAY

Finding 3: 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 City partially disagrees with Finding 3. Though arguably a bottleneck, this area has not created “problems,” defined as accidents involving pedestrians or vehicles.

Recommendation 3: The City of Santa Barbara Public Works Department should take action to correct these problems.

RESPONSE TO RECOMMENDATION 3:

The recommendation will not be implemented because it is not warranted or reasonable.

Based on review of available information and field observations, including a review of vehicle collisions and the confirmation that no collisions in the past five years have involved pedestrians, the Public Works Department disagrees with the Grand Jury’s finding and does not recommend changes to this area beyond those already planned or programmed. The Waterfront Department is developing an improvement plan for this area, which will include analysis of a possible sidewalk along the west side of the Coast Guard Building.

EAST BEACH ANCHORAGE

Finding 4: The East Beach anchorage is, in reality, a home to squatters who often live on non-navigable derelicts without proper toilet and safety facilities. These boats frequently break loose during storms and end up on the beach, at considerable cost to the City, and at risk to other anchored boats.

The City partially disagrees with Finding 4. The statement about “squatters” is a generalization that the City cannot confirm or deny. In addition, the Waterfront Department does not have data regarding navigability or availability of sanitary vessels anchored or moored east of Stearns Wharf.

Recommendation 4: While this anchorage does provide affordable housing for some and should still be considered a traditional boater’s refuge, it remains that boaters must be responsible for not polluting the waters with their waste and not to invade East Beach with their beached boats. Permanent mooring and increased regulation may be one answer. However, it should also be noted that there might be considerable resistance to this major change to tradition, as well as obligating the City to provide equal marine-like services (i.e. storm protection, parking, restrooms, showers, security, etc.) in return for charging mooring fees.

RESPONSE TO RECOMMENDATION 4:

The recommendation has not yet been implemented but will be implemented in the future. It is expected this mooring permit process will take 18 months to complete (by April 2003).

The Waterfront Department intends to obtain City Council approval and implement a permit system for vessels mooring east of Stearns Wharf, to reduce pollution, navigational hazards, vessel groundings and related costs to the City. That process will begin with a seafloor survey and debris removal project targeting abandoned equipment or watercraft that pose hazards to navigation or mooring in the area. In addition, the Department will study long-range alternatives for a seasonal mooring system east of Stearns Wharf. Although mooring fees are not contemplated as part of the proposed permit system (only a modest, administrative fee is anticipated), the advisability of such fees, as well as infrastructure facilities support, will be studied during review of long-range options.

NAVIGABILITY

Finding 5a: Many boats berthed at the Santa Barbara Marina do not appear to be truly seaworthy.

The City partially disagrees with Finding 5a. “Many” is not defined. Waterfront Department staff believes Santa Barbara Harbor marinas have a small percentage of vessels that are either non-navigable or not “seaworthy.”

Finding 5b: The present Waterfront Department Rules do not require boats to pass a navigability test that includes going into the open ocean.

The City partially disagrees with Finding 5b. Though it is true that navigability tests do not require going into the open ocean, rules governing these tests are captured in the Municipal Code and approved by the City Council, not the Waterfront Department.

Finding 5c: Many other West Coast marinas require open-ocean seaworthiness tests.

The City agrees with Finding 5c.

Recommendation 5a: Amend the Waterfront Department Rules to require an open-ocean seaworthiness test for all boats, if requested by the Operations Manager, no more frequently than twice per year.

Recommendation 5b: Direct the harbor Patrol to check all boats during its regular rounds for safety violations, safety equipment, California or other registration, proper electrical cords, and similar matters of public concern, to note any violations found, with such violations to be subject of follow-on action by the Waterfront Department.

RESPONSE TO RECOMMENDATIONS 5a AND 5b:

Recommendation 5a has not yet been implemented but will be implemented in the future. The Waterfront Department intends to implement requirements for a seaworthiness test within the next 18 months (by April 2003).

The Waterfront Department intends to change navigability standards to seaworthiness standards and to implement a program that will identify derelict boats and provide their owners opportunities to upgrade them or remove them from the harbor. The City believes this program and ongoing enforcement of these standards will provide increased general public access to marina slips.

Recommendation 5b has been implemented.

Harbor Patrol has established an enforcement program, which has reduced the number of unregistered vessels in the harbor 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 and motorboat use inside (summertime) swim buoys.

In closing, I would like to thank the members of the Grand Jury for their conscientious effort and very thoughtful analysis regarding the City's Harbor and the Waterfront Department.

Sincerely,

Peter K. Wilson
Acting City Administrator

Enclosure: 3.5" disk

cc: Harriet Miller, Mayor
Joan Kent, Assistant City Administrator
John N. Bridley, Waterfront Director