

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: March 17, 2011
To: Harbor Commission
From: John N. Bridley, Waterfront Director
Subject: **Berthing Policy—Designated Commercial Fishing Slips**

RECOMMENDATION:

That Harbor Commission receive a report on the berthing policy for designated commercial fishing slips in Santa Barbara Harbor and recommend to City Council amendments to that policy regarding earnings requirements from commercial fishing and methods of reporting those earnings.

BACKGROUND:

In March 2001, the Harbor Commission recommended that City Council approve policy guidelines governing specially designated commercial fishing slips in Santa Barbara Harbor. The policy designated certain slips as “commercial fishing only” (Attachment 1) and established performance standards for maintaining permits for those slips, to support commercial fishing and help protect the future of our working waterfront. City Council adopted the policy by Resolution in November 2001. The Resolution required the City to review the policy every five years. Along with other amendments, the review period for the Resolution was changed to three years, as part of its re-adoption in June 2007. This staff report and its recommendations constitute that three-year review. A “showing changes” draft of proposed amendments to the current Resolution is included as Attachment 2.

DISCUSSION:

The Commercial Fishing Policy identifies and designates 42 historic fishing slips in the in Fish Float North, Fish Float South and Marina 1A. It also includes two slips in Marina One and one in Marina Four that were preferentially assigned to fishermen during expansion of those marinas in 1999. The heart of the policy is an earnings requirement (\$15,000 every two years) for vessels in Marina 1-A who forgo a “grandfather” exemption from this requirement in exchange for a “rollback” to slip rates equal to those in Fish Floats North and South (\$4.40 per foot per month in FY '11—approximately 50% of rates charged for a 35' vessel berthed elsewhere in the harbor). The earnings requirement also applies to vessels transferring into any specially designated commercial fishing slip, including slips granted “grandfather” status otherwise exempting them from earnings requirements (i.e. slips on Fish Floats North and South, plus slips on Marina 1-A whose permittees chose grandfathering over a rate roll-back.)

Currently, 31 of 45 vessels berthed in designated commercial fishing slips must demonstrate fisheries earnings (\$15,000 every two years), either because they transferred into a commercial fishing slip since adoption of the policy in 2001 or because, in the case of slip permittees in Marina 1-A, they chose the earnings requirements in exchange for a partial slip fee subsidy.

In preparation for the current three-year review of the Commercial Fishermen's Berthing Policy, staff reviewed the existing Resolution, drafting proposed changes it believes will help clarify the policy and facilitate accounting of required fisheries earnings. In addition, on February 1, 2011, staff met with eight fisheries representatives who have slip permits in designated commercial fishing slips to discuss proposed staff changes to the policy and hear changes proposed by the fishermen.

Reflecting a combination of recommendations from staff and affected fishermen, the draft, amended Resolution includes the following three (substantive) proposed changes:

- **Section 4, proof of earnings.** Section 4 describes how earnings from commercial fishing shall be demonstrated. In the past, the Department has only required presentation of California Department of Fish and Game Landing Receipts as proof of earnings from commercial fishing. Because these receipt books are readily available to fishermen holding certain types of state-issued licenses, they can be manipulated and, as such, are less than adequate proof of earnings. Staff recommends adding receipt records from Cal Fish and Game's Custodian of Records (see Information Request Form - Attachment 3), as confirmed proof that copies of the earning were forwarded to Sacramento.
- **Section 5, proof of earnings.** Section 5 describes how earnings from commercial fishing shall be demonstrated for fishermen who earn up to 50% of the \$15,000 required of them on vessels other than their own. Since they may not be the licensed permittee on such vessels (e.g. crew in lobster or sea urchin fisheries, where only the license holder may make landings and obtain fish landing receipts or receipt records from Cal Fish and Game's Custodian of Records), staff recommends that earnings requirements for this 50% would be demonstrated by a combination of cancelled payroll checks or their equivalent *plus* copies of Internal Revenue Service 1099 tax forms.
- **Section 13, proof of earnings.** Section 13 provides opportunity for a fisherman who successfully meets earnings requirements during at least three successive earnings periods to lease his boat to another party for the purpose of continuing to meet those requirements. Consistent with Section 5, Section 13 has been amended to require that at least 50% (not 100%) of earnings intended to meet the requirement must be made by the lessee aboard the permitted vessel assigned to a slip in Santa Barbara Harbor. Staff recommends that up to 50% of the income requirement may derive from the lessee's employment aboard a commercial fishing vessel or vessels other than the designated vessel, demonstrated by a combination of cancelled payroll checks or their equivalent, plus copies of Internal Revenue Service 1099 tax forms.

CONCLUSION - TIMELINE:

Staff believes proposed amendments to the berthing policy for designated commercial fishing slips will help ensure that the policy remains current, providing fishermen reasonable opportunities to make required earnings without diluting the intention of the policy to ensure that boats berthed in designated commercial fishing slips continue fishing. Following the Commission's vote, staff will proceed to City Council in April 2011 to request adoption of a new Resolution reflecting the proposed changes.

Attachments:

1. Designated Commercial Fishing Slips—Marina 1 A, Fish Floats North and South
2. Proposed "Showing Changes" Amendments to Resolution 07-041
3. Information Request Form For Commercial Fishing Logbook Information

Prepared by: Mick Kronman, Harbor Operations Manager