

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: January 19, 2017
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: **Appeal of Slip Permit Termination for Slip 3-A-015, Mr. Jerome Betts**

RECOMMENDATION:

That Harbor Commission consider an appeal of a slip permit termination for Mr. Jerome Betts at slip 3-A-015 in Santa Barbara Harbor; and take action to either:

- A. Uphold the slip permit termination; or
- B. Uphold Mr. Betts' appeal.

BACKGROUND:

The Waterfront Department rents slips on a month-to-month basis to boaters who own a boat docked in a particular slip and are registered with the Department as a slip permittee. Slip fees are due on the first of every month and are late beginning on the 2nd of every month. The Department has a very generous and thorough billing process allowing ample time for slip permittees to pay their fees including a 14-day grace period before a \$35 late fee is placed on the account. Attachment 1 provides more detail on the exhaustive approach to slip fee collection that the Department undertakes to make sure every effort is made to keep slip permittees in their slips. Attachment 2 includes the pertinent sections of Municipal Code Chapter 17 regarding slip terminations.

DISCUSSION:

Mr. Betts has been a slip permittee at slip 3-A-015 since July 2007 and has a chronic history of late slip payments dating back to December 2007. Mr. Betts also has a liveaboard permit. The current slip permit termination under consideration is for unpaid slip fees for October 2016. Attached is a chronology of the past four years of late slip fee activity regarding Slip 3-A-015. Please note that the chronology does not list the 1st Late Slip Fee Notice that is sent out soon after the 15th of the month, but please note that this notice has been sent on nearly a monthly basis for Slip 3-A-015 during this period. Prior to the current Notice of Termination, Mr. Betts received a previous Notice of Termination, which was appealed to the Waterfront Director and a waiver granted in March 2015.

It should be noted that although not required, Waterfront Department staff always makes an extra effort to call or make personal contact with slip permittees prior to sending out 30- and 45-day notices. Staff has been in contact with Mr. Betts including visits to his slip numerous times during this slip-termination process.

A slip permit termination for unpaid fees is an action the Department only rarely undertakes. Most late-slip-fee issues are resolved by Department staff and the slip permittee well in advance of a termination letter. The last termination for unpaid slip fees took place in January 2014 and before that, November 2007. Those terminations were appealed to the Harbor Commission and the Harbor Commission denied both appeals and upheld the terminations.

Based on the history of the late payments and prior termination notices received by the appellant, Waterfront staff recommends that the Harbor Commission uphold the termination of slip 3-A-015.

Attachments: 1. Waterfront Department Slip Fee Billing Process
2. Municipal Code Title 17 Section 17.20.005 I and J
3. Chronology of Late Slip Fee Activity for Slip 3-A-015

Prepared by: Brian Bosse, Waterfront Business Manager

Waterfront Department Slip Fee Billing Process

The slip fee billing process is as follows:

- Slip fees are due on the first of the month.
- 1st Late Slip Fee Notice: If slip fees have not been paid in full by the 15th of the month, the Department mails a reminder (via First Class U.S. Mail) to the slip permittee and a late fee of \$35.00 is assessed.
- 2nd Late Slip Fee Notice: If slip fees have not been paid in full by the end of that month (30 days past due) the Department mails a “30-Day letter” (via Certified Mail & U.S. First Class) to the slip permittee on the first day of the following month. This letter notifies the slip permittee that if payment is not received in full by the first of the following month (60 days past due) the slip permit will be terminated. The potential termination date is stated in this letter. This is referred to as a **30-Day Intent to Terminate Notice**.
- 3rd Late Slip Fee Notice: If slip fees has not been paid 45 days after they were initially due, the Department mails a 45-day letter (via Certified Mail & U.S. First Class) reminding the slip permittee that payment is due by the first of the upcoming month and if full payment is not received the slip permit will be terminated. This is referred to as the **2nd Notice of Intent to Terminate**.
- Notice of Termination: If all due slip fees are not received by the first of the following month (now 60 days past due), the slip is officially terminated and a letter is sent (via Certified Mail & U.S. First Class) to the slip permittee, informing them of the decision. The slip permittee is provided 10 calendar days from the date of the decision to request a waiver of termination from the Waterfront Director, per 17.20.005 (J) of the Santa Barbara Municipal Code.
- Decision on Waiver Request Notice: If a waiver is requested, the Waterfront Director sends a letter (via Certified Mail & U.S. First Class) to the applicant explaining the Director’s decision regarding that waiver request. If the Director waives the termination the slip permittee must pay all outstanding fees in full. If the Director does not waive the termination the slip permittee has 10 calendar days to appeal the decision to the Harbor Commission. The Harbor Commission can uphold the appeal or deny the slip permittee’s appeal. The Harbor Commission’s decision is final.

Santa Barbara Municipal Code - Section 17.20.005 I. and J.**I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS.**

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

J. APPEAL.

If the Waterfront Director terminates a Slip Permit, the slip permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the slip permittee must file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Slip Permit is terminated. If the Waterfront Director denies the waiver, the slip permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the slip permittee may appeal the Waterfront Director's decision to terminate the Slip Permit to the Harbor Commission. The slip permittee must file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the Slip Permit is terminated. The Harbor Commission's decision on the appeal shall be final.

Chronology of Late Slip Fee Activity for Slip 3-A-015

Date	Action	Attachment #3
1/1/13	30-day Intent to Terminate Notice	
1/24/13	2nd notice of Intent to Terminate Notice	
1/9/13 and 2/5/13	Paid past due fees	
3/1/13	30-day Intent to Terminate Notice	
3/22/13	2nd notice of Intent to Terminate Notice	
4/22/13	Notice of Termination	
4/29/13	Paid past due fees	
7/1/13	30-day Intent to Terminate Notice	
7/26/13	2nd notice of Intent to Terminate Notice	
8/6/13	Paid past due fees	
9/3/13	30-day Intent to Terminate Notice	
9/23/13	2nd notice of Intent to Terminate Notice	
10/6/13	Paid past due fees	
11/1/13	30-day Intent to Terminate Notice	
11/22/13	2nd notice of Intent to Terminate Notice	
12/3/13	Paid past due fees	
3/7/14	30-day Intent to Terminate Notice	
3/24/14	2nd notice of Intent to Terminate Notice	
4/2/14	Paid past due fees	
5/2/14	30-day Intent to Terminate Notice	
5/23/14	2nd notice of Intent to Terminate Notice	
6/3/14	Paid past due fees	
7/2/14	30-day Intent to Terminate Notice	
7/25/14	2nd notice of Intent to Terminate Notice	
8/4/14	Paid past due fees	
9/2/14	30-day Intent to Terminate Notice	
9/23/14	2nd notice of Intent to Terminate Notice	
10/6/14	Notice of Termination	
11/10/14	Paid past due fees	
12/1/14	30-day Intent to Terminate Notice	
12/23/14	2nd notice of Intent to Terminate Notice	
12/14/14 & 1/6/15	Paid past due fees	
2/2/15	30-day Intent to Terminate Notice	
2/19/15	2nd notice of Intent to Terminate Notice	
3/17/15	Notice of Termination	
	Appealed and Waiver of Termination granted by staff	
5/7/15	Paid past due fees	
10/1/15	30-day Intent to Terminate Notice	
10/20/15	2nd notice of Intent to Terminate Notice	
10/27/15	Paid past due fees	
7/1/16	30-day Intent to Terminate Notice	
7/19/16	2nd notice of Intent to Terminate Notice	
8/1/16	Paid past due fees	
9/1/16	30-day Intent to Terminate Notice	
9/21/16	2nd notice of Intent to Terminate Notice	
9/30 and 10/5/16	Paid past due fees	
11/1/16	30-day Intent to Terminate Notice	
11/18/16	2nd notice of Intent to Terminate Notice	
12/6/16	Notice of Termination	
12/16/16	Submitted Appeal for Waiver of Termination - Not granted. Same appeal to be submitted to Harbor Commission.	