



REVISED

Date: May 7, 2015
To: Honorable Mayor and Members of the City Council
From: Patrick H. West, City Manager *T.M.*
Subject: **Private Lease of Public Waterways, Naples Island Permanent Seawall Repair (Phase One)**

The purpose of this memorandum is to introduce the process for complying with a special condition of approval imposed on the City of Long Beach by the California Coastal Commission (CCC) related to the Naples Seawall Repair Project. The CCC requires the City to implement a new lease program for private use of public waterways in the project area, which is located in the northeast quadrant of Naples Island, between the Ravenna Bridge and the eastern portion of The Toledo Bridge. The City Council will need to adopt a new lease program in June 2015.

Attached to this memo are the details of the City's proposed lease program to adhere to the Coastal Commission requirement. The lease program was designed with the following criteria in mind:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

The City will host a public meeting to discuss these proposed changes and to get feedback from the community. City staff is also scheduled to discuss these proposed changes at the May 14, 2015 Marine Advisory Commission meeting. The item will then be brought forward to City Council for a hearing. All changes to the schedule of fees and charges require fourteen (14) day public noticing before being brought to Council. Once approved by Council, new fees and charges become effective immediately.

- Marine Advisory Commission – Thursday May 14, 2015 at 2:30 pm
- Public Meeting – Thursday, May 21, 2015 at 6:00 pm
- City Council – Tuesday, June 9, 2015
- Lease Implementation – June 9, 2015 onward

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In addition to these public meetings, the City is attending the Naples Improvement Association Board meeting on May 7, 2015 at 7:00 pm at the Long Beach Yacht Club.

For additional information or questions on the program, please contact Rachael Tanner, Program Specialist, at (562) 570-6999.

cc: Charles Parkin, City Attorney
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Public Seawall Mooring Lease Proposed Program Design

Introduction

This report provides details regarding the City's proposed Public Seawall Mooring Lease Program. This lease program will affect the owners of docks, piers, and floats attached to public seawalls in Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge. The report discusses the impetus for the proposed program, methodology used in designing the program, as well as program implementation.

Executive Summary

The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures. For most users, this rent results in a lower annual payment. The proposed lease term would be for five (5) years. At the conclusion of five years, the property owner would be required to renew the lease. The Marine Bureau would administer the lease program. Revenue from the rent is assigned to help maintain new infrastructure in the canal and the adjacent public rights of way.

Background

On June 15, 2010, the Long Beach City Council authorized \$9.5 million in funding for the Naples Seawall Repair Project. Funded with Tidelands Funds, the Project seeks to permanently address the serious infrastructure concerns with the seawalls surrounding Naples Island. Permanent repair of the entire system has been divided into six phases, with Phase One addressing the area in the most imminent danger of collapse.

On October 9, 2013, the CCC unanimously approved the City's application to proceed with the Naples Island Permanent Seawalls Repairs, Phase One (Phase One). The CCC imposed 17 special conditions of approval. Special Condition #10 requires the City to institute a new lease program for dock floats and piers in the Phase One project area. The condition is based on Section 6 of Article XVI of the California Constitution, which requires the City of Long Beach to charge appropriate prices for the use of State tidelands. The City currently charges two different fees related to private docks and piers in public waterways, but does not have a formal, temporal lease program as required by the CCC.

Specifically, Special Condition #10 states:

Dock Float and Pier Leases Prior to the placement of any dock floats into Rivo Canal after the completion of the approved Phase One seawall repairs, the applicant shall institute a lease program for the project area (at a minimum, the Phase One area), with appropriate prices established in relation to the lease area and temporal length of each lease. The lease program shall allow for the limited-term private use and occupation of state tidelands for development associated with recreational boating activities (i.e., private docks and piers). The money generated

by the leases shall be deposited into the City's Tidelands Fund to be utilized for public access improvements, including the public walkway required by Special Condition Fourteen of this coastal development permit, and future seawall repairs.

Presently, individuals who moor private property to public seawalls pay an annual Seawall Mooring Fee. The fee is set at \$10.10 per lineal foot of vessel docked or moored to private docks that are adjacent to public seawalls. The Marine Bureau, in compliance with the Long Beach Municipal Code, performs annual safety inspections of all private docks. The associated Harbor Structure Inspection Fee is exclusively to recover the cost of the inspections. Of these fees, only the Seawall Mooring Fee is being considered for revision pursuant to Coastal Development Permit No 5-11-085. Attachment B, Summary of Existing Fees for Alamitos Bay, provides more detail regarding these two fees.

Methodology

The Long Beach City Council has adopted a policy of full cost recovery for fees and charges when appropriate. As such, these Marine Bureau fees are intended to recover the full cost of the City's private dock inspection program, and the operation and maintenance of the public seawalls and adjacent right of way areas. While the City does not typically pursue full cost recovery for capital improvement projects, it is important to ensure that the costs of the Marine Bureau for maintaining the new seawalls and associated improvements are fully recovered. This will help ensure the expected 75-year useful life of the new seawalls. As outlined below, staff is proposing to modify the Seawall Mooring Fee and convert it to a lease program: The Public Seawall Mooring Lease Program. The rent related to the program is designed to approximate the current annual amount charged to the majority of dock owners.

The Tidelands CIP Division has employed several methods in order to establish an appropriate lease rate and developed several criteria to guide the assessment. Criteria included:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

Towards this end, the City sampled the current fees paid by residents of the Phase One area who have docks and vessels in the canal. The sample provided a baseline of costs

to compare to proposed lease rates. In addition, the City retained the services of Netzer and Associates to conduct an evaluation of Fair Market Rent for submerged tidelands located adjacent to the residential properties around Alamitos Bay and Naples Island. Netzer and Associates also provided profiles of the costs of renting a slip at private and public marinas as well as the fees charged in other coastal communities. Finally, the contractor and engineer assigned to the Phase One project are developing a maintenance and repair program schedule that will allow the City to preserve the aesthetics of the area, as well as maximize the useful life of the new seawalls and associated improvements. Though the schedule is not yet complete, revenue from the rent is assigned to help maintain new infrastructure, which includes storm drains, catch basins, stairs, benches, the irrigation system, handrails, guardrails, and the steel piles.

Proposed Rent

The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures. Berthing space is defined as waters around the edge of the structure where a vessel could be tied. The width of the berthing area extends from the outer edge of the structure to the pierhead line. The length of the berthing area follows the contours of the dock. By incorporating the berthing area in the rent, the City can ensure that every dock owner pays fairly and equally for the use of the public waterways, including, but not limited to, the possibility of mooring a vessel to the dock. Administration of the lease program becomes clearer, as staff do not have to monitor if a boat is permanently moored at the property in order to determine the annual assessment. Additionally, the Marine Bureau has a practice of prorating the existing fee at a property owner's request if, for example, the vessel is moored there for part of the year. This process, which requires an inordinate amount of staff time, would not be needed under the new lease program.

In the Phase One project area, this lease program would replace the \$10.10 per lineal foot Seawall Mooring Fee. The City proposes to maintain the \$50 Annual Harbor Structure Inspection Fee, which covers important safety inspections of all private docks. Attachment C, Table 1, provides details regarding the lease rate. For the average dock, the City does not expect this new program to cost more than the current fee structure. Out of five typical users sampled, the lease rates are slightly lower for four of the five users under the proposed methodology. Users that have a dock, but do not have a vessel on record will have to pay more; such users currently pay only \$50 annually for the Harbor Inspection and nothing for their dock, float, or pier.

Comparison to Market Rent and Other Jurisdictions

As mentioned above, a number of factors were included in the generation of the lease rate, including the cost of providing services and comparison to the market. The City of Newport Beach recently adopted a rate of \$0.50 per square foot per year for residential tidelands. An appraisal conducted in 2014 using a State Lands Commission methodology concluded that \$0.26 was the fair market rent in Long Beach for rent alone. That rent,

however, did not incorporate the costs of the services and maintenance provided to the area, which are substantial, and used public and private marinas as the comparison, which are different from exclusive use of public waterway. To show how this compares to a public marina, a 20 foot slip in Alamitos Bay Marina costs \$179.50 per month (\$2,154 annually) or \$403.82 per month (\$4,846 annually) for a 30 foot slip—several times the amount of the proposed rent.

Finally, the proposed rate will be comparable to neighbors on Naples Island who have not received the new seawalls. While the methodology is different, the annual amount collected on average will be similar to what neighbors are currently paying. In the sample of 5 docks used to illustrate the change, the current average is \$205.54 per year, while the new average rent under the proposed structure would be \$215.06. Attachment C provides further detail on the rates per the 5 properties. Given this information, staff believes the rate of \$0.50 per square foot will be in line with the market, will appropriately charge for the benefit of using public waterway, and help cover the costs associated with the maintenance, repair and services in the area.

Implementation

The Public Seawall Mooring Lease Program shall only apply in the Phase One area of Sewall Repairs, which is in Rivo Alto Canal from the Ravenna Bridge to the eastern portion of The Toledo Bridge. The CCC may require expansion of the lease area during subsequent phases of seawall repair. If such a condition is imposed on the City of Long Beach, the policies and rates will be reviewed for appropriateness of application in other areas. Alterations or changes may be made at that time.

After City Council considers the proposal and adopts a new lease program, the City Attorney's Office, Tidelands CIP, and the Marine Bureau will work together to ensure that all residents who plan to maintain docks and vessels in the Phase One area sign new leases. Per the CCC Special Condition, the new lease agreements must be in place before any docks can be reinstalled in Phase One.

Lease Terms

The proposed lease term would be for five (5) years. At the conclusion of five years, the property owner would renew the lease. In addition, a new lease agreement would be entered into when a property is sold or when a new dock or pier is installed. The payment would be made on an annual basis and cannot be waived in whole or in part. The fee may be prorated upon the sale of the property or if a property owner removes structures and vessels from the water.

SUMMARY OF EXISTING FEES FOR ALAMITOS BAY**SEAWALL FEES - Seawall Mooring Fee:**

Fee: \$10.10 per lineal foot of vessel docked/moored in private docks in Alamitos Bay

Billed: Once per year – normally in September

Revenue: \$330,000 estimated

Process: Every owner of a private slip connected to a public seawall in Alamitos Bay must report all vessel(s) docked or moored on the docks, to the Marine Bureau, throughout the year.

Each month, Marine Bureau staff take a boat check of all docks, noting all vessels moored on the docks. The Marina Agent then reconciles the boat check information with the vessel permits, to ensure that all vessels have a permit through the Marine Bureau. If there are non-permitted vessels, the Marina Agent contacts the property owners to update the permits and/or write new permits. While checking boats, the Marina Agent is looking for illegal mooring, damaged docks, illegal dock construction/repairs, and property line and pierhead line encroachment.

INSPECTION FEE - Harbor Structure Inspection Fee:

Fees: All Annual Fees:
\$44.50 (float and brow);
\$49.55 (float, brow and pier);
\$28.30 (davits)

Billed: Once per year – normally in January

Revenue: \$25,000 estimated

Process: The Marine Bureau makes an annual inspection of all private docks to check for the condition of the docks, including decking, structural members, flotation, connection points and wood damage. Additionally, the Marina Agent checks that the dock matches the configuration originally approved by the City.

If any dock is not in proper condition, the property owner is contacted to make repairs, and is instructed on the proper way to permit the repair or replacement of the dock or structure. The Marina Agent also looks for unauthorized/illegal attachments to the seawall, and works with Public Works to ensure that illegal structures are removed.

ATTACHMENT C

Table 1: Fee Proposals for Private Lease of Public Waterways

Example Property	Dock or Pier (sq ft)	Vessel (lineal feet)	Vessel (sq ft)	Berthing Area (sq ft)	Seawall Mooring Fee; existing (annual)	Lease Program; New (annual)
Example 1	237.5	21	168	77.5	\$262.10	\$207.50
Example 2	225	18	126	153	\$231.80	\$239.00
Example 3	172.5	20	140	117.3	\$252.00	\$194.90
Example 4	300	0	0	15	\$50.00	\$207.50
Example 5	210	18	117	142.8	\$231.80	\$226.40
Harbor Inspection Fee (unchanged)						
Seawall Mooring Fee (existing) vs. Public Seawall Mooring Lease Program (new)					\$50 Annual Harbor Inspection Fee	\$50 Annual Harbor Inspection Fee
					\$10.10 per Lineal Foot of Vessel per year	\$0.50 per Square Foot, Dock & Berthing Area