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TO: Policy – Operations Committee  
- Dennis Smith  
- Toby Goddard

FROM: Latisha Marshall, Harbormaster

DATE: April 2, 2019

SUBJECT: Electronic Key Access for Outside Marine Service Providers

**Recommendation:** *Develop recommendations regarding dock, restroom and shower access for outside marine service providers for consideration by the Port Commission.*

## BACKGROUND

In March 2019, the Santa Cruz Port District successfully completed implementation of the Harbor Security Project which transitioned all dock gates, restrooms and shower facilities to an electronic key system.

Leading up to the transition, the Policy and Operations Committee met on February 15, 2019, to discuss implementation of, and timing for the changeover to electronic access. Staff and the committee did not recommend making any changes to existing policy relative to outside marine service providers, making business operators with no affiliation to a landside business ineligible to purchase electronic key fobs. The committee recognized that a future policy discussion would be needed to provide direction.

At its regular public session on February 26, 2019, the Commission took action to establish policies and fees prior to implementing the electronic access system. It was acknowledged that dock gate, restroom and shower keys are not currently issued to outside marine service providers, though many have obtained hard keys over time. No changes were made to the existing policy. The Commission directed staff to schedule a committee meeting to further discuss this topic.

### Previous Commission Action:

This topic has been previously considered by the Commission. The Policy and Operations Committee presented a report to the Port Commission on April 14, 2005, concerning dockside access for outside marine service providers. The Commission took action directing staff to require all outside marine service providers to sign a document indicating their understanding of, and agreement to comply with, all Port District ordinances and policies, and utilize best management practices in providing service. The document was also to contain a hold harmless clause, protecting the Port District (see Attachment B). In following up with staff, no historical record of such a vendor agreement has been located and it is not current practice. It appears that demand for dockside access by new, outside marine service providers was so low at the time of implementation that the Commission's action inadvertently dropped out of practice; however, it is clear the Commission recognized that outside marine service providers have and need dockside access.

Current Fees:

Slip licensees may purchase three (3) electronic fobs for \$20 each. Any additional fobs beyond the allotted three may be purchased for \$80 each.

Vessels held in approved partnerships may purchase four (4) electronic fobs for \$20 each. Any additional fobs beyond the allotted three may be purchased for \$80 each.

Visitors may purchase an electronic fob for \$20.

Marine-related landside concessionaires may purchase electronic fobs for \$80 each and are required to associate an employee's name with each purchased fob. Outside first responder agencies are given a key code at no cost.

All fobs for all users are non-refundable.

**DISCUSSION TOPICS**

In consideration of whether outside marine service providers should be granted electronic access to dockside facilities, restrooms and showers, staff is seeking guidance in the following areas;

- Should electronic access be allowed for outside marine service providers? If yes,
  - should providers be required to provide documents validating that the provider does, indeed, own or work for such a service? If yes, what type of documents are acceptable?
  - should providers be required to submit proof of insurance? If yes, what type and amount of minimum coverage should be required? What documentation and follow-up should be required of staff?
  - should any restrictions be placed on access (such as: day of the week, time of day, duration of activation, access to all facilities or partial access, check in at the office, sign an agreement as previously directed by the Commission, etc.)? The electronic system is capable of setting up restrictions, but it is recommended that the design of any such restrictions be fairly simplistic.
  - what fees should be established?

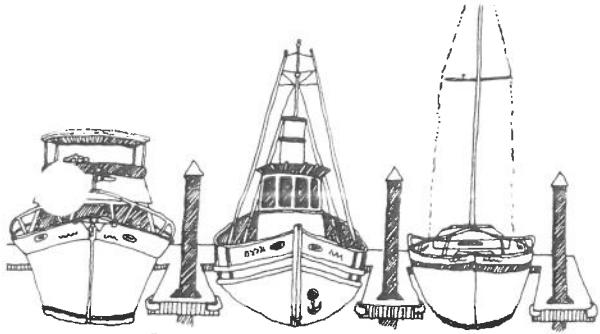
Staff conducted a survey of ten coastal marinas on these topics (see Attachment A).

- ATTACHMENT:
- A. Outside Marine Service Provider Survey
  - B. Commission Staff Report dated April 14, 2005

**Survey of California Harbors Outside Marine Service Contractors  
March 2019**

Facility	Access Allowed?	Proof of Business	Insurance Required	Proof of Insurance	If yes, Type/Amount	Restrictions	Additional Notes
Alameda Marina	Yes	Business license	Yes	Yes	1,000,000 G.L.*	None	Sign a waiver, provide insurance and check out key daily. 0700-1800 hrs. No deposit. Programmed as vendor key
Crescent City Harbor	Yes	No	No	No	N/A	None	Gates open during the day. If after hours, accompanied by slip renter
Dana Point Marina	Yes	No	Yes	Yes	1,000,000 G.L.	None	Sign contract, registered (similar to SCPD B.Y. contractors). Sign in daily for work
Monterey Harbor	Yes	If unknown	Yes	Yes, requested, but don't spend time tracking down	1,000,000 G.L.	Daylight hours, docks and restrooms	Soft enforcement. If infrequent visitor they must register, if frequent no registration.
Pillar Point Harbor	Yes	No	No	No	N/A	Docks and restrooms	Temporary vendor keys. Sign in, good for one month.
Port of San Luis Harbor	Yes	No	No	No	N/A	None	Open pier no monitoring
San Francisco Marina	Yes	No	Yes	Currently no, but moving in this direction	1,000,000 G.L.	No	Daily check in, name/location of vessel, keys are for one day only, turn off end of day if they don't return
South Beach Marina	Yes	Yes	Yes	Yes	1,000,000 G.L.	No	Vendor program similar to SCPD B.Y. registration. Pay annual fee \$25, website advertisement
Moss Landing Harbor	Yes	No	No	No	N/A	No	Soft enforcement. If infrequent visitor they must register, if frequent no registration.
Santa Barbara Harbor	Yes	Yes	Yes	Yes	Coverage tier system 3K-1,000,000.	No	Sign contract, registered (similar to SCPD B.Y. contractors).

\* G.L. = General Liability



## **SANTA CRUZ HARBOR**

*Gateway to the Monterey Bay  
National Marine Sanctuary*

TO: Port Commission

FROM: Policy / Operations Committee  
- Ron Merrill  
- Bill Lee  
Port Director Foss

DATE: April 14, 2005

SUBJECT: Consideration/Approval of Policy  
Requiring Freelance Boating Service  
Providers to Utilize Best Management  
Practices

***Recommendation:*** *Require service workers to sign a document indicating their understanding of, and agreement to comply with, all Port District ordinances and policies, and utilize best management practices in providing service (Option #1).*

### **Background**

The harbor has always had a cadre of freelance service providers. These include:

- underwater hull cleaning and service
- above-hull service and minor boat repairs
- engine / mechanical repair

These providers have never been regulated by the harbor. They have only been required to pay parking fees (a business parking permit is available for mid-week parking for \$50/year; or, service providers can pay meters). There are a few long-term, well-known service providers, but service providers typically have a fairly high turnover rate. They come for a time and then leave the harbor.

Various initiatives have occurred, in one form or another, over the years to regulate service workers. Initiatives have come from tenant harbor service providers who pay rent and insurance, and feel that the harbor is much too liberal in allowing such laissez-faire work. They feel that they pay rent and overhead year-round and that this unregulated group is not accountable, hurts the rent-paying group, and threatens their ability to stay in business.

The counter to this position is that many boat owners want maximum availability and maximum options for work that they want performed. They give keys to workers whom they've known for a long time, and they don't want those workers burdened by insurance requirements that drive up their costs, or put them out of business completely.

### **Analysis**

This is a difficult area and we have never really been able to resolve it because of the conflicting objectives of our boater clientele. The Policy Committee reviewed the following options:

As a minimum, the Port District should require:

1. Service workers should have to register with the harbor and sign a document indicating their understanding of, and agreement to comply with, all harbor ordinances, and use of best management practices in providing their service. This includes, but is not limited to, employing best management practices for underwater hull cleaning and for above-water containment of sawdust; chemical containment; waste disposal; protection of Port District docks and hardware, etc.

Other measures:

2. Some type of fee for a business permit. This would help level the playing field for tenants who pay rent. This would not be meant to be a major income source to the Port District as it would probably not amount to very much money.
3. Require service workers to carry liability insurance to protect the Port District and customers for acts of negligence that might occur.

### **Committee Recommendation**

The Policy Committee recommended option #1 be implemented, and that signing this acknowledgement is also a form of fulfilling option #2, though no fee recommendation was made.

The Policy Committee did not recommend implementation of option #3, but did ask that requiring proof of insurance from slip licensees be a future topic of discussion.

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deputies, and duties were redistributed – basic job descriptions were not changed. Port Director Foss stated that the organization chart was not changed.

The letters from Dave Vincent of State Parks, and City of Santa Cruz mayor Rotkin were briefly discussed. Commissioner Lee expressed his belief that it is enormously valuable to be able to get these letters when needed. Port Director Foss stated that these letters were obtained through the initiative and assistance of FOHG.

5. Consideration/Approval of Policy Requiring Freelance Boating Service Providers to Utilize Best Management Practices

Discussion: Port Director Foss reported that this issue comes up every few years, typically at the initiative of commercial tenants who are concerned about trying to compete with service workers with very low overhead. The Policy Committee considered several options, such as:

1. Requiring service workers to register with the harbor and sign a document indicating their understanding of, and agreement to comply with, all harbor ordinances and utilize best management practices;
2. Requiring some type of fee for a business permit;
3. Requiring service workers carry liability insurance.

Port Director Foss reported that the committee recommended option #1, which would require freelance workers to utilize best management practices to ensure they do not cause any pollution in the harbor. No permit fee was recommended, but workers would continue to be required to pay for parking. Requiring service workers to carry insurance was not recommended, but the committee asked that the question of whether boaters should be required to carry insurance should be a future topic of discussion.

Commissioner Merrall stated that the committee's objective was to protect tenants, but also recognize the value of freelance service providers. Commissioner Merrall recapped the committee recommendation, and suggested that the next issue of Anchor Watch advise boaters to ask freelance workers if they have completed the paperwork required to operate at the harbor.

Vice-chairman Thoits suggested a hold harmless clause protecting the Port District be included on the document, and that the language be provided or reviewed by legal counsel, if necessary. He also stated he'd like further study of the Port District's potential liability and whether insurance should be required.

Chairman Geisreiter suggested holding this item over to a future meeting, until appropriate language can be developed. Business Manager Smith reported that the Port already has hold harmless language which it uses in many documents, that can be incorporated. Commissioner Lee expressed a desire to continue deliberating this topic and at least move forward on the basic issue.

An audience member questioned whether he, as a slip renter, would be 100% responsible for any damage caused by a freelance service worker he hired. Commissioners and staff confirmed that he would be fully responsible.

Commissioner Lee stated that in getting service workers to acknowledge they understand the harbor's rules and regulations, and promise to utilize best management practices, does not mean that the Port District is sanctioning their work.

Audience member Eileen Sundet questioned whether this action is really necessary, and noted regulation will be burdensome for staff, especially since some workers only show up a handful of times per year. Port Director Foss noted that it is not the intent of the Port District to establish an unnecessary bureaucracy – it simply wants to ensure that freelance workers use best management practices in providing service.

Commissioner Nicklanovich noted that commercial tenants are required to carry insurance, and questioned why freelance workers don't have the same requirement. Commissioner Lee expressed his belief that the difference is that tenants have a contractual relationship with the Port District – freelance workers do not.

Commissioner Merrall reiterated that the purpose of requiring workers to sign a document agreeing to use best management practices is to protect the harbor – the Port is not guaranteeing the quality of freelance work. He stated that insurance issues will be discussed in more depth at a future meeting.

Tom McGuire of Monterey Bay Marine expressed his belief that if there is serious damage caused by an uninsured worker, the Port District will ultimately be liable.

Slip renter Barbara Karleen expressed her belief that any boat owner who hires freelance workers should carry insurance. She noted that anyone – boaters, guests, workers, etc. – can start a fire.

**MOTION:** Motion made by Vice-Chairman Thoits, seconded by Commissioner Merrall, to require freelance boating service providers to sign a document indicating their understanding of, and agreement to comply with, all Port District ordinances and policies, and utilize best management practices in providing service. The document will also contain a hold harmless clause, protecting the Port District.

*- Motion carried unanimously.*

6. Consideration/Approval of Request for South Harbor Slip Allocations for Business Use
  - a) Monterey Bay Marine (Mary and Tom McGuire)
  - b) Lighthall Charters (Krista and Scott Lighthall)

**Discussion:** Chairman Geisreiter outlined the procedure to be followed in discussing this item, as follows: public input limited to 3 minutes per person, followed by staff, committee members, and then Port Commission input and a vote.

Hank Cureton stated that the integrity of the waiting list is important, and suggested that slip allocation be the topic of a separate meeting. Mr. Cureton expressed his