



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**REPORT DATE:** April 23, 1999  
**TO:** Mayor and Councilmembers  
**FROM:** Sandra E. Tripp-Jones, City Administrator  
**SUBJECT:** REVIEW OF SLIP TRANSFER POLICY

**RECOMMENDATION:**

That Council receive a staff presentation on the slip transfer policy report, and as appropriate, provide further direction to staff.

**DISCUSSION:** See Attached Page

**ATTACHMENTS:**

1. Appendix
2. Slip Assignment Policy (§ 17.20.005)
3. Values of Transfer Fees to City
4. Slips Offered to Slip Waiting List Applicants
5. Slip Waiting List
6. Summary of Port/Harbor Survey Results

**PREPARED BY:** John C. Greer, Waterfront Business Manager  
**APPROVED BY:** John N. Bridley, Waterfront Director

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REVIEWED BY: \_\_\_\_\_ Finance \_\_\_\_\_ Attorney

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STAFF USE ONLY

TO:  
FROM: City Administrator  
ACTION TAKEN:

DIRECTIONS:

Meeting Date April 27, 1999

Agenda Item No. \_\_\_\_\_

**BACKGROUND:**

The purpose of this report is to provide the Council with sufficient background, information, and identification of possible issues relating to the current slip transfer policy. The report is intended to provide the Council with sufficient information to determine their next action with regard to the slip transfer policy.

On February 2, 1999, the Council and Harbor Commission held a joint work session resulting in the adoption of Resolution No. 99-014, approving the Marina One and Four Expansion Slip Assignment Policy and Procedures Document. At the same meeting, the Council requested that the Harbor Commission review the current slip transfer policy. However, the Council reconsidered that action on February 16, 1999. At that meeting, the Council directed staff to prepare a report on the slip transfer policy and related issues, and return to Council within 60 days.

The staff has spent the past two months accumulating and cataloging information pertaining to the Tidelands Trust Act, State Land Commission Reports, Grand Jury Reports, possessory interest tax, slip transfers within Santa Barbara Harbor, and Slip Transfer Policies established by the Council. The staff has also updated a 1997 survey of other marinas within California.

An appendix of the materials used by staff in the preparation of the report is attached (Attachment 1). The materials listed in the appendix, which were not attached to the report, are available in the Council Reading File and at the Waterfront Department Administrative Offices.

**DISCUSSION:**

What is a Slip Transfer

A transfer occurs when a slip permittee sells his/her vessel and requests the new owner of the vessel be assigned his/her slip permit. Additionally, if a slip permittee adds or replaces a partner on the permit, a transfer has occurred.

In either case, the vessel owner must notify the Waterfront Department that a transfer has occurred within 15 days of the sale of the vessel. To complete the transfer, an application including proof of ownership, proof that the vessel is navigable, verification of vessel length, payment of transfer fees, deposits, and rents are required.

This policy is codified under Santa Barbara Municipal Code 17.20.005 (C) and (D). Boat owners with comparably sized slips can

trade slips. An exchange of this nature is not considered a transfer.

## **HISTORY**

### Tidelands Trust Grant

California's navigable waters are called sovereign lands. They became State property when California joined the Union on September 9, 1850. In Chapter 78 of the 1925 Statutes, the Legislature granted to the City of Santa Barbara certain State owned sovereign tidelands and submerged lands. The grant emphasizes the public right of navigation, commerce, and fishing. In 1975, the Legislature amended the prior grant to allow leases of 66 years and specifically enumerated permissible uses of these granted lands. Among other uses, the lands can be used for harbors, wharves, docks, and marinas.

### Slip Transfer Policy

For over two decades, the growing scarcity of slips at Santa Barbara Harbor has caused the evolution of a complex and sometimes controversial system for boaters to obtain and transfer individual slips. In many harbors, there is less demand than supply. Therefore, transfers are not an issue, immediate assignment may be possible, or slip waiting lists are utilized. However, in Santa Barbara, the opposite is true, and the current transfer policy evolved due to the high demand for and low supply of slips.

The Council first adopted a slip assignment policy allowing slip permit transfers in 1975. A part of that policy became the cornerstone of today's slip transfer policy and procedures. The City accepted an additional name on a slip permit as long as there was no break in the chain of title of the vessel. In practice, an existing slip holder could add a partner as an owner of the boat. At the same time, the partner would be added to the slip permit. The City required a bill of sale as proof that both parties were owners of the boat. However, the City also allowed a boat owner to be deleted from the slip permit upon written notice of a subsequent ownership change.

The first major change in the slip transfer policy occurred in 1982. Resolution 82-118, adopted on June 29, 1982, established the first slip transfer fee in the amount of \$10 per foot of vessel length or slip length, whichever is greater. In 1985, Resolution 85-092 outlined an incremental increase in the transfer fee to \$20 in August 1985, \$30 in February 1986, and \$40 in August 1986. The current fee of \$50 per foot was implemented July 1, 1987. The reasons for the incremental increase in slip transfer fees are explained in the following section of the report.

1982 Grand Jury and State Lands Commission Reports

In 1982, the State Lands Commission and the Attorney General's staff prepared a report on the Santa Barbara Trust Lands because of inquiries from members of the public, City officials, and the Grand Jury of Santa Barbara County. The report studied disposition of interest earned on granted lands, trust accounts, revenues derived from the so-called "accreted lands", accounting methods used to record revenues to and expenditures from the granted lands trust funds, use of the granted lands by live-aboard vessels and boat brokers, and **slip transfers**.

The report indicated that two problems may result from the transfer policy.

First, the allowance of slip transfers limits the availability of berths and moorings through a waiting list procedure and prevents equal access by the general public. Regarding this problem, the report recommended that the Council consider discontinuation of its policy permitting slip transfers. Specifically, the study said, "It (the City Council) may wish to implement such a change by providing a transition program such as the State Lands Commission has done in one instance, whereby present slip lessees may be allowed to transfer their slips once during a specified period of time. Thereafter, slips would be assigned only through a waiting list."

The second problem identified by the report is that slip transfers may result in private financial gain with little or no monetary benefit to the trust-owned property. The report recommended, "Imposition of a substantial transfer fee, reflective of the value of the slip transfer" as one means of alleviating this concern.

The Grand Jury forwarded their recommendations to the State Lands Commission on April 16, 1982. An excerpt from that letter follows:

- ".... Slip Transfers. The committee found substantial evidence of loopholes in the slip transfer procedure including dummy partnerships, forfeited options to buy, reversal of sales contracts after submission of evidence of sale to the Harbor Master's Office, and other means invented as fast as the need arose. In fact, testimony was heard that an actual price (in the area of \$7,500 for a 35' slip) was better and more easily understood than the under-the-table or add-on price system otherwise operating. Ads in the paper were seen directly offering a slip for sale.

- Recommendation: Either eliminate the transfer altogether, requiring the sold boat to vacate and the slip to pass to the top name on the waiting list, or require, as suggested by the State Lands Commission, a deposit similar to the going value on the black market. Since this would be refunded upon vacating the slip, it might remove the amount as an add-on to the boat price. This deposit would be in the name of the actual owner of record who pays property tax on the boat. . . ."

In a document dated November 15, 1983, a quote attributable to the State Lands Staff indicates that, ". . . the City has now made substantial progress in addressing those concerns raised in our May, 1982 report." Referencing the slip transfer policy, the remarks appear to indicate that increasing the slip transfer fee satisfied the State Lands Commission.

#### 1983 Grand Jury Report

The 1983 Grand Jury again addressed the issue of slip transfers. Their report recommended that the City make a new slip assignment policy to preclude abuses. Specifically, the Grand Jury report acknowledged that, ". . . revisions to the current policy have been accomplished by staff and the Harbor Commission and are currently with the State Lands Commission for review and comment. This is a major issue in the Harbor and what the Grand Jury or others may consider "abuse" is considered a "right" by some. Since the value of a slip assignment is considerable, the City will proceed with care to insure all opinions are heard before changing existing policy. . . ."

The City Council, on September 11, 1984, acknowledged and approved the 1983-1984 Grand Jury's findings and recommendations as noted above.

#### 1989-1990 Grand Jury Report

The 1989-1990 Grand Jury again examined the issue of slip transfers at the Harbor. The Grand Jury made the following findings:

- ". . . The slip transfer policy provides that the permittee of a slip, upon sale of his/her vessel or upon the addition of a partner to his/her own ownership of the vessel, may transfer the slip permit to the new owner or add the partner to the permit upon payment of a transfer fee.
- The Harbor officials interviewed acknowledged that the boat slip transfer policy is being subverted, and that

slips are being sold by slip licensees who agree for a cash settlement to enter a partnership with the slip "buyer" and subsequently remove themselves from that partnership, leaving the "buyer" as the sole slip licensee.

- The current policy, although admittedly open to manipulation, is believed by these officials to be "the most fair" for the marina constituency, that is, the present slip licensees. People on the waiting list are less well served.
- Harbor officials say that they have not been able to determine an alternate method of slip assignment that does not penalize present boat owners in the harbor.
- The Chair of the Harbor Commission reported that the majority of the Commission opposes a no-transfer policy.
- In the past two years, nine slips have been assigned to wait list applicants, only one of these slips being over thirty feet in length. There were 131 applicants on the waiting list in October 1989.
- Other small marinas successfully enforce forms of no-transfer policies that appear less discriminatory against wait list applicants.
- The present slip transfer fee is \$50.00 per lineal foot. There is only a small registration fee collected subsequent to the \$50.00 wait list fee for slips assigned from the wait list. . . ."

Based on those findings, the Grand Jury made the following recommendations:

- "...The Santa Barbara City Council should require strict compliance with current regulations, or in lieu thereof, revise current regulations to reflect current practice.
- Following the negotiation of a slip license, the adding of partners by the licensee should not be permitted. . . ."

In a memo dated August 16, 1990, the Waterfront Director indicated that:

". . . .the current Slip Assignment Policy was adopted by the City Council by Resolution 80-113 in September 1980. The policy has been discussed and studied by the Harbor Commission on several occasions since 1980 with no revisions

being recommended to City Council. The Harbor Commission reviewed the Grand Jury Report at its July meeting and found that the current method of handling slip transfers was equitable and reasonable and is enforced pursuant to the adopted policy. They recommend no changes be made to the existing policy..."

His response was accepted and approved by the Council at the September 18, 1990 meeting. The Council's response was forwarded to the Grand Jury.

#### Personal Interviews

In an attempt to illuminate the history of the slip transfer policy, staff contacted William Rogers and Steve Lewis. Mr. Rogers served on the Harbor Commission for 13 years as both a member and Chairman. He was on the Commission during the period when many changes in the slip transfer policy occurred. He indicated that great concern was expressed regarding the "windfall profits" made by some individuals by transferring their slips. Mr. Rogers indicated it was the concern over "windfall profits" that resulted in adding and increasing the slip transfer fees.

Steve Lewis retired as the Harbormaster in 1991. Mr. Lewis served as Harbormaster and a Harbor Patrol Officer for 20 years. He also indicated that the slip assignment policy including slip transfers was frequently questioned. Likewise, Mr. Lewis indicated that the major change in the policy was the addition of a slip transfer fee.

The Department also contacted staff of the State Lands Commission for their input on the slip transfer issue. The Commission requested copies of the previous Grand Jury reports. The Commission staff indicated they intend to respond but are not able to comment at this time.

#### **HARBOR COMMISSION REVIEW OF SLIP TRANSFER POLICY**

In January 1999, the Marina 1 & 4 Expansion Slip Assignment Committee of the Harbor Commission (Commissioners Ken Owen and Wally Finger) discussed changes to the current slip transfer policy. Specifically, the Committee reviewed and discussed with Jack Hawxhurst a letter he had sent suggesting changes to the policy and procedures for upcoming slip assignments for the Marina 1 & 4 Expansion Project. The Harbor Commission also reviewed another letter from David Hamilton that suggested changes to the slip transfer policy. In essence, both Mr. Hawxhurst and Mr. Hamilton urged the Committee to recommend that additional restrictions be placed on the ability of parties to transfer slips

and/or institute a more substantial slip assignment or transfer fee.

The Committee reported their discussion to the Harbor Commission indicating that the timing was not right for any changes to the current slip transfer policy. The Harbor Commission concurred and reported this information to the Council. The Council subsequently adopted policies and procedures for the upcoming slip assignment process.

#### Current Slip Assignment Policy

On March 3, 1992, Ordinance 4757 was adopted. This Ordinance amended the Municipal Code by revising Title 17 relating to the City Waterfront and Harbor. Section 17.20.005(C) outlines the procedure for transferring a slip. Section 17.20.005(D) outlines the use of partnership agreements in the transfer of a slip. Section 17.20.005(I) establishes a procedure for maintaining a wait list including the charging of annual fees (Attachment 2).

A question which has been frequently asked relates to how many slip transfers annually occur, and what revenues are generated from these slip transfers? Similarly, how many individuals obtain slips from the slip waiting list? The Department's research shows that an estimated 1250 transfers took place from 1987 through 1998. The value of those transfers to the City of Santa Barbara as trustee of the granted lands has been approximately \$2,000,000 over the past 10 years (Attachment 3). During the same period of time, Department records show that 82 slip permits of various sizes were offered to applicants on the slip waiting list (Attachment 4). It is unknown if those people who have received a slip permit through the transfer process were also on the waiting list. The table on the following page summarizes those attachments.



YEAR	NUMBER OF SLIP TRANSFERS PROCESSED	ESTIMATED REVENUE FROM TRANSFERS	NUMBER OF SLIPS OFFERED TO WAITING LIST
1987	77	\$116,050.00	16
1988	99	\$165,150.00	9
1989	84	\$138,250.00	4
1990	114	\$179,500.00	8
1991	120	\$194,400.00	2
1992	101	\$159,700.00	4
1993	96	\$151,000.00	5
1994	88	\$145,050.00	8
1995	106	\$168,400.00	14
1996	120	\$192,100.00	4
1997	135	\$223,700.00	6
1998	110	\$175,400.00	2
<b>TOTAL</b>	<b>1250</b>	<b>\$2,008,700.00</b>	<b>82</b>

Additionally, the Department compared the current number of slip permit holders listed as residents of the County of Santa Barbara with those residing outside the County. Out of the approximately 1000 slip permit holders, 136 have mailing addresses outside of Santa Barbara County (See appendix for addresses). Furthermore, out of approximately 200 applicants on the slip waiting list, 55 have addresses outside of Santa Barbara County (Attachment 5). Currently, existing policy does not prohibit individuals who reside outside the City or County from obtaining a slip permit.

**REVENUE CONSIDERATIONS FROM SLIP TRANSFERS**

In reviewing slip transfers, the issue of revenue to the State Tidelands Trust and the City must be considered. The areas potentially impacted by changes to the current slip transfer policy are possessory interest taxes, transfer fees, slip fees, and tenants such as yacht brokers and retailers specializing in boat supplies and service.

Possessory Interest Tax

A possessory interest tax is a property tax levied on private property rights held in publicly owned property. The tax specifically applies to berths (slips) in public marinas and is assessed by the County of Santa Barbara.

The tax is based on the present value attributed to the slip. The present value is calculated by taking five years of rent payments and determining the present value. Then the assessor's office adds an additional known value of approximately \$200 a foot to the capitalized rental value of a slip resulting in the fair market value. The County then multiplies the fair market value of the

slip by the effective tax rate and assesses the possessory interest tax on the slip holder.

Using a 30-foot slip as an example, the five year capitalized value is \$8,761 plus an additional \$6,000 in known value creating a fair market value of \$14,761. At the current effective tax rate of (.010221), this results in an annual possessory interest tax of \$150.87 for a 30-foot slip holder.

The City Finance Department has information on the amount of property tax received from the County. However, the County does not identify what portion of the property tax is derived from the possessory interest tax. It would appear that the possessory interest tax is reported to the City under unsecured property tax assessed in the harbor. However, the amount of possessory interest tax assignable and received by the City pertaining to slip transfers in the harbor is negligible.

#### Transfer Fees/Slip Fees

As previously noted, the Waterfront Department has collected more than \$2,000,000 in transfer fees since 1987. Currently, the Department budget projects revenue for slip transfer revenues of \$178,500. The proposed budget for the next two fiscal years, FY 2000 and FY 2001 projects approximately \$200,000 in revenue each year from slip transfer fees.

In addition to transfer fees, monthly slip rental fees comprise a significant portion of the Waterfront Department's Budget. In the current fiscal year, slip fee revenue is budgeted at approximately \$2,600,000 or 37% of the Department's total budget. The proposed budget for the next two fiscal years is approximately \$2,900,000 for FY 2000 and \$3,000,000 for FY 2001.

As noted above, slip transfer fees in conjunction with slip rental fees comprise a significant portion of the Waterfront Department's budget. Any significant change to the current slip transfer policy has the potential to impact the Department's budget.

#### **CITIZEN AND WATERFRONT TENANT RESPONSE**

Numerous letters from slip holders and concerned citizens on the issues involved with the slip transfer policy have been received by the City during the last 60 days. The opinions offered by these individuals are varied. There have also been several articles in local newspapers about this topic.

Additionally, discussions of the slip transfer policy prompted a meeting with tenants who might potentially be impacted by a change in the current slip transfer policy. The following tenants

attended the meeting: The Chandlery, Sunset Kidd Yacht Sales, Sea Coast Yacht Sales, and Santa Barbara Boat Rentals. All four businesses showed a definite concern about any change to the existing policy.

The letters from citizens and tenants are included in the appendix.

#### **UPDATE OF 1997 PORT/HARBOR SURVEY RESULTS**

In 1997, the Department prepared a summary comparing Santa Barbara Harbor with other California ports and harbors. The survey looked at what the average permanent slip fee was, whether or not slip transfers were allowed, if they had slip waiting lists, vacancies, and several other questions. The Department in conjunction with current review of the slip transfer policy updated the survey. The following questions were added: whether or not the port or harbor operated under the Tidelands Trust Acts and if a possessory interest tax was assessed. The summary is attached (Attachment 6), and the complete survey is included as part of the appendix.

In the survey, Santa Barbara Harbor was compared with 16 harbors to the south and four harbors to the north. Five of the harbors in the south are public and seven are private. In the north, three of the harbors are public and one is privately operated. Following is a list of those harbors.

#### South Harbors

Avalon  
Channel Islands Harbor  
Channel Islands Marina  
Peninsula Yacht Anchorage  
Dana Point Marina  
Dana West Marina  
Lido Anchorage  
Alamitos Bay (Long Beach)  
Downtown Shoreline Marina (Long Beach)  
Marina City  
Oceanside Harbor  
Ventura Harbor Village Marina

#### North Harbors

Fortman Marina (Alameda)  
Monterey  
Morro Bay  
Santa Cruz

The median monthly slip fee per foot in Santa Barbara Harbor, \$6.70, is considerably lower than the \$11.23 median monthly slip fee for the harbors south of Santa Barbara. To the north, the \$6.18 median monthly slip fee is more on par with Santa Barbara. Slip fees in Santa Barbara range from \$5.85 to \$7.55. Comparably, the range to the south is \$5.46 to \$17.00 and to the north, \$3.08 to \$9.28.

Looking at five public harbors similar in size to Santa Barbara, the median monthly slip fee is \$7.34. The range is from \$5.05 to \$9.63. Those harbors are Alamitos Bay, Downtown Shoreline (Long Beach), Monterey, Oceanside, and Santa Cruz. All five harbors maintain a slip waiting list and allow slip transfers.

Additionally, the Department received a survey from the Ventura Port District. The survey indicated that the Port District does not directly control any slips. They sublease to three private marinas, a yacht club, and two small marinas. Those marinas and the yacht club have approximately 1,350 slips. The average cost of a slip is \$8.50 per foot per month, and the range is from \$6.00 to \$13.00 per foot per month.

In conjunction with the survey, the Department conducted 12 personal phone interviews with Harbormasters or designated individuals within their offices. No significant additional information was gained from those interviews.

An observation can be made however, that Santa Barbara Harbor is in a unique position from many California ports because of its isolation, desirable location, and relatively low monthly slip fees. For the most part, there is adequate slip availability in other ports and harbors, especially in Southern California, that prevent significant slip waiting lists from occurring. With prevalent vacancies throughout the market, issues surrounding the transfer of slips do not arise. Out of the 16 harbors surveyed, 7 did not allow slip transfers. Five (5) out of the seven (7) ports not allowing transfers are privately operated and have vacancies.

#### **SUMMARY**

The basic intent of this report is to provide comprehensive background information and related materials pertaining to slip transfers in the harbor. Staff has not drawn any specific conclusions or recommendations regarding existing slip transfer policies. Should the Council determine further analysis is warranted concerning slip transfers, existing policies, or related fees, a request for further study and recommendations should be referred to staff and/or Harbor Commission.

The results of this study and report show that for over twenty years slip transfers have been a part of the process for obtaining a slip permit in the harbor. Several different Councils, Harbor Commissions, and outside review agencies have evaluated the issues surrounding slip transfers. For the most part, the process has remained basically the same with minor policy modifications and fee revisions in an effort to address potential abuses. Significant changes or elimination of the slip transfer process altogether have been rejected.

A related issue to slip transfers is the assignment of slips from a waiting list. This assignment process and procedure has recently come under scrutiny due to the Marina One and Four Expansion Project. It is important to note, that historically, individuals have been assigned slips upon the construction and addition of new slips. Assignments have also occurred when slips have been returned to the City, or when permits have been revoked. The current expansion project represents approximately 7% of the harbor's inventory of slips. As stated in the 1989 - 1990 Grand Jury Report, individuals on the wait list are less well served by the existing slip transfer policy. This statement is warranted because there are significantly more slip transfers than slip assignments from the wait list. However, the wait list does serve a purpose and is utilized annually.

The survey information of 16 ports and harbors provides interesting and useful information. It confirms each harbor is affected by the surrounding market and demand for slips. Policies and procedures are put in place to address these factors. Sometimes creative solutions or disincentives are implemented to compensate for changes in the slip market. Monterey is an example of one harbor that allows transferees to pay a surcharge of 50% more of regular slip fees until his/her name comes up on the wait list. Obviously, each harbor has its own market demand forces that require certain established policies or procedures.

Staff believes that this report and the information contained herein will be useful to any deliberations and decision making required by the Council.