

CITY OF NEWPORT BEACH HARBOR COMMISSION STAFF REPORT

Agenda Item No. 2
October 15, 2008

TO: HARBOR COMMISSION

FROM: Harbor Resources Division (City Manager's Office)
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SUBJECT: Sea Lion Time Limits for Compliance

ISSUE

Should the Harbor Commission recommend the current time limits for sea lion deterrent measures in Title 17 (§17.25.020.I.4 and §17.50.100) be tightened from a (30) thirty day written notice to a more stringent deadline schedule?

RECOMMENDATION

If desired, the Harbor Commission may chose any of the following options:

1. Advise staff to tighten the deadline schedule for the first warning letter for sea lion deterrence to (14) fourteen days in §17.25.020.I.4 (Anchorage, Berthing and Mooring Regulations) and §17.50.100 (Securing of Structures), or;
2. Advise staff to tighten the deadline schedule for the first warning letter to an alternate time schedule as determined by the Commission, or;
3. Advise staff to maintain the current time schedule already in place in §17.25.020.I.4 and §17.50.100.

HC approved (10)
ten days from first
warning letter;
balance remains as
existing code.

BACKGROUND

In an effort to confront the sea lion issue in January 2006, the Ordinance that specifically described both the mooring and pier to keep their vessels / piers free from sea lions. This method included a written thirty (30) day warning letter, then a second (7) day final warning letter that threatened issuance of Administrative Citations (\$100, \$200, & \$500 daily increments) for non-compliance.

§17.25.020.I.4 – Mooring, Anchoring and Vessel Condition Requirements

If, based upon the appearance of the vessel, inspection by the City or Orange County Harbor Patrol or other facts, the Harbor Resources Manager determines that a sea lion has boarded a moored vessel, the Harbor Resources Manager shall provide the permittee with a notice of determination and the permittee shall take

any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within **thirty (30) days** of the mailing of the notice of determination. If the Harbor Resources Manager determines that appropriate deterrent measures have not been taken within **thirty (30) days** of the mailing of the notice of determination, the Harbor Resources Manager shall provide the permittee with a second notice of determination and the permittee shall: (1) take any and all necessary action to employ and maintain appropriate sea lion deterrent measures within seven (7) days of the mailing of the second notice of determination; or (2) remove the vessel within seven (7) days of the mailing of the second notice of determination. Appropriate deterrent measures shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of vessels assigned to a mooring.

§17.25.020.I.4 – Securing of Structures

If, based upon an inspection by the City or Orange County Harbor Patrol or other facts, the Harbor Resources Manager determines that a sea lion has boarded a permitted structure and/or any vessel or other appurtenances attached to the structure, the Harbor Resources Manager shall provide the permittee with a notice of determination and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the structure and/or any vessel or other appurtenances attached to the structure within **thirty (30) days** of the mailing of the notice of determination. If the Harbor Resources Manager determines that appropriate deterrent measures have not been taken within **thirty (30) days** of the mailing of the notice of determination, the Harbor Resources Manager shall provide the permittee with a second notice of determination and the permittee shall take any and all necessary action to employ and maintain appropriate sea lion deterrent measures within seven (7) days of the mailing of the second notice of determination. Appropriate deterrent measures shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of a permitted structure and/or any vessel or other appurtenances attached to the structure.

During the summer months of 2006 and 2007, the sea lion problem appeared to subside without any major noise issues. The program described above had some effect with the mooring and pier permittees who very quickly learned that it was much easier to deter sea lions than it was to deal with the costly after-effects (damaged vessels/docks, etc...) When there are issues, staff attempts to reach the permittee via the phone to gain compliance; then, if unsuccessful, the first warning letter is sent. To date, Harbor Resources has not issued citations.

However, 2008 has been challenging because it appears the sea lions have migrated to other areas of the harbor to haul out, particularly between Via Lido Soud and the peninsula. Unfortunately, the H and J mooring areas have several vessels that provide ample room for many sea lions, creating competition for space and dominance for position resulting in endless hours of barking during the evening.

In response, the City has followed the same protocol described above. However, the community feedback is discouraged with the lengthy thirty day time frame for the first warning letter. Originally, this thirty day period was designed to allow for mailing and to give the permittee ample time to come up with a plan to deter the sea lions. Staff feels

that because of the awareness of the problem via the local media coverage and the damage to vessels, the permittees are more receptive to the issue and that thirty days is too long to wait for compliance. Several residents have strongly encouraged staff to re-evaluate this time period.

PROPOSAL

Staff proposes to tighten the time frame for the first warning letter from thirty days to fourteen (14) days. This shortened time frame still allows plenty of time for the permittees to react to the problem even when taking the three day mail delivery process into account. The proposed language reads:

§17.25.020.I.4 – Mooring, Anchoring and Vessel Condition Requirements

*...the Harbor Resources Manager shall provide the permittee with a notice of determination and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within **fourteen (14)** days of the mailing of the notice of determination. If the Harbor Resources Manager determines that appropriate deterrent measures have not been taken within **fourteen (14)** days of the mailing of the notice of determination, the Harbor Resources Manager shall provide the permittee with a second notice of determination...*

§17.25.020.I.4 – Securing of Structures

*...the Harbor Resources Manager shall provide the permittee with a notice of determination and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the structure and/or any vessel or other appurtenances attached to the structure within **fourteen (14) days** of the mailing of the notice of determination. If the Harbor Resources Manager determines that appropriate deterrent measures have not been taken within **fourteen (14)** days of the mailing of the notice of determination, the Harbor Resources Manager shall provide the permittee with a second notice of determination*

No other changes are proposed. The second seven day warning letter will remain at seven (7) days to account for mail delivery.

Combined, the permittees will have a total of 21 days (3 weeks) to resolve their problems. The Harbor Commission may consider other time frames to recommend to the Council.

ENVIRONMENTAL REVIEW

The Harbor Commission's approval of this item does not require environmental review.

PUBLIC NOTICE

This agenda item has been noticed according to the Ralph M. Brown Act (72 hours in advance of the public meetings at which the Harbor Commission considers the item). It was posted at City Hall and on the City's website.

Prepared by:

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