

*What follows is a summary of each issue presented to harbor management, our DPBA position on each issue, and harbor management's written response. We welcome boaters' additional input and feedback.*

## **1. Harbor Revitalization Plan: Landside vs. Waterside Development Plan**

*Issue:* The Harbor Revitalization Plan is a massive \$180 million dollar renovation of our harbor, including the existing commercial core as well as and all new marinas. The timeline of the project calls for construction of the commercial areas of the harbor (shops, restaurants, etc.) to precede waterside redevelopment. This has naturally raised concerns by boaters that our new marina may be compromised by the commercial center, or that boaters will bear the expense of any missteps or excessive expenses on the landside development.

*DPBA Position:* At this time DPBA does not necessarily object to the phases of the redevelopment plan, primarily because there's no altering it now. However, DPBA strongly believes that Dana Point Harbor is a boat harbor first, not a boat themed shopping center. Yet, as Dana Point boaters, we enjoy our shops and restaurants as much as - maybe more than - anyone else. We want to see them thrive in new facilities. But not at the expense of replacing our crumbling docks and marina infrastructure. It is essential that the cost and scope of the commercial revitalization not compromise the budget and scope of the marina renovation, or add disproportionately to the expense of keeping our boats in Dana Point Harbor. As always, DPBA remains committed to scrutinizing every step of the Revitalization Plan and working with all stakeholders to ensure that Dana Point boaters get the new marina they deserve.

*OC DPH Response:* Some time ago the County Board of Supervisors determined the landside amenities would be replaced, to be followed by the waterside amenities. Soon after construction begins on the landside (2014/15) the focus and majority of work being pursued will then be on the waterside. There is a sensible strategic approach to the entire Revitalization Project based on this early decision and those projects for which permitting is completed, or will be completed soon. It is well known that the Harbor has developed into a vibrant, multi-interest, regional recreational facility experiencing pressure from all of the users. The County has done their best working with the public, the City of Dana Point, the Department of Boating and Waterways, and the California Coastal Commission to balance these interests and we will continue to strive towards maintaining this balance while ensuring the boaters of Dana Point Harbor continue to receive the level of attention they deserve.

The Harbor's Revitalization will create a Commercial Core area that will be new, attractive and highly functional, not old and tired like the referenced facilities. Commercial tenant vacancy often follows functional obsolescence and neglect of facilities. Once the commercial core is revitalized, it is easy to conclude the revenues will increase from the merchants and those revenues will continue to support Harbor operations. All revenues generated in the Harbor must remain dedicated to the Harbor and the County does not differentiate between landside and waterside expenses or revenues.

## 2. Harbor Budget Management: Dana Point Tidelands Trust

Issue: The Dana Point Tidelands Trust, overseen by the State Lands Commission, requires that all revenues generated within the Trust (Dana Point Harbor) remain within and in service to the Trust. Specifically, revenues generated from slip fees cannot contribute to the Orange County general fund or other expenses outside of our harbor. However, during challenging economic times, boaters may naturally be concerned that their slip lease fees could be redirected to non-harbor expenses. Is there a process to audit the harbor budget and can it be viewed by the public?

DPBA Position: Of course, OC DPH must comply with the requirements of the Tidelands Trust, and DPBA has no evidence today that they don't.

Budget information is indeed viewable by the public. Our harbor's budget narrative is embedded annually with the larger County of Orange budget, which can be viewed [here](#). The DP Harbor operational summary begins on page 44. This link may take you there directly, depending which the internet browser you use. For a categorical overview of income and expenditures, both actual and planned, click [here](#) and then go to page A103.

We believe these documents are a well done recap of harbor operations and Tidelands Trust financial matters and that they provide excellent information, both proper and complete, at a high level. However, they lack specific detail as to harbor operations and expenditures, as well as Revitalization Project financing plans. Note that your DPBA has repeatedly requested this, as well as a complete and concise construction budget for the Dana Point harbor revitalization, clearly describing all sources and uses of funds. We've learned quite recently that the latter information (a revitalization financial plan) may finally be going before the OC Board of Supervisors by the end of the summer.

Also at issue, and as was specifically noted within this boater's BLP submission, is the need for segregation of boater revenues from income generated by other harbor stakeholders (shops, restaurants, etc.). While it is understood that the Tidelands Trust does not clearly, specifically and legally distinguish between boaters and other Trust stakeholders, and therefore does not mandate any financial segregation between the two, DPBA believes that the commercial center of our harbor must be "self-sufficient" and not rely on boater revenue (slip fees) to supplement funding for commercial operations. Further, that proper disclosure to the general public is simply the right thing to do.

OC DPH Response: All revenues generated in the Harbor, in compliance the Tideland Grant, remain dedicated to the Harbor. The annual budget as well as the 5 year strategic plan is prepared and approved per County requirements and remain available for public review under the CEO Budget web site at [www.ocgov.com](http://www.ocgov.com). Furthermore, the California State Lands Commission periodically reviews expenditures for compliance with Grant Requirements.

### 3. Slip Waitlist Management

Issue: Demand for boat slips larger than 30' far exceeds supply, with some boaters waiting 15 to 20 years for a slip. There are more than 1100 names on the east and west marina waitlists, nearly all waiting for the 614 slips 30' and larger. Boat slips would be a hot commodity if they were for sale. So, are they? Dana Point Harbor policy prohibits slip transfers with boat sales or any other transaction between private parties; all boat slip license agreements (BSLAs) must be assigned to boaters on the waitlist on a first-come, first-served basis. However, there is a concern among waitlist boaters that, due to the extreme demand for slips, slips may occasionally trade hands off the waitlist.

DPBA Position: DPBA believes that all boat slip assignments must be based on a public policy that ensures fair and equal access by all applicants. Harbor management must effectively monitor and enforce their waitlist and slip transfer policies. The waitlists and slip assignments must be publicly available information in order to ensure the public's trust in the process for assigning this high-demand public asset to private boaters. Also, a combined east/west marinas waitlist would simply and improve the waitlist process.

OC DPH Response: The Harbor strictly prohibits the transfer of slips with the sale of a vessel and has one of the strictest policies in southern California in this regard. To ensure this policy is enforced a number of methods are utilized; for example, only allowing a tenant of record to pay slip rent or be named as billing party; and requiring that the tenant's name to be on insurance and registration documents. In addition there is rigorous scrutiny of vessels owned in partnerships and corporations by the Marina staff.

There are times when current Boat Slip Licensees take on a boat partner or partners. This is allowable with restrictions: the partners are not named on the Boat Slip Licensee Agreement; they are not allowed to pay the slip rent or have dealings with the marina office regarding the boat slip; they have no interest in the boat slip; and are required to wait their turn on the appropriate slip waiting list in order to be added to the Boat Slip License Agreement. In the event we suspect a boat has sold and the buyer has taken possession of the slip, further investigation is performed to determine the percentage of interest sold. Attempts to circumvent waitlist policies have and will result in the termination of the Boat Slip License Agreement.

An annual fee for partnerships equal to the cost to order requisite reports to verify ownership and further refinement of the existing rules about partnerships has been recommended and is now under consideration. Random audits will also be conducted. It is our goal to manage the waitlist in a fair and equitable fashion on a first come, first served basis. There are no "special deals" offered and we are always watching for signs of unauthorized subleases and/or slip transfers.

#### **4. Five MPH and Wakeless Rule Enforcement**

Issue: All boaters within Dana Point Harbor are required to maintain a speed of 5mph or less and also to create no wake. Boaters, kayakers and paddle boarders alike have expressed concerns over speeding boats, which create a safety hazard, and may damage boats exposed to excessive wakes.

DPBA Position: All boaters must comply with both the 5 MPH and wakeless rule. Harbor Patrol must fully enforce the rule, warning minor and first-time offenders, and citing extreme and repeat violators. For example, DPBA has received multiple reports of repeat violations by a prominent commercial operator.

OC DPH Response: OC Dana Point Harbor has discussed this with the Dana Point Harbor Patrol and the station commander has provided the following response: The harbor patrol has maintained the 5mph Speed limit and no wake rule as one of its top priorities. The enforcement and education of this law is paramount for public safety as well as the protection of public and private property. We take all complaints serious and continually maintain a proactive approach. *Please inform all boaters that it is essential they contact the Harbor Patrol 24 hour Dispatch at [949-723-1003](tel:949-723-1003) when they observe a violation. We will dispatch a unit to respond on all complaints.*

#### **5. Embarcadero Trailer Boat Storage: Boat Size Restrictions**

Issue: Is there a policy that specifies the size and types of boats permitted at the Embarcadero, and is it consistently applied?

DPBA Position: DPBA appreciates that there has been an informal policy followed by Vintage Marina Partners (VMP) in the past. However with recent changes in administration at VMP, a formal, written, publicly available policy is necessary to describe how all boats, including the largest vessels, will be assessed for potential placement. This policy should describe the size and types of boats permitted within the existing facility and should allow for the greatest variety of boat sizes and types that can be safely and securely stored and maneuvered. Obviously this policy must then be applied equally to all interested boaters.

OC DPH Response: Historical practices at the Embarcadero Dry Boat Storage facility determined that vessels 33' in overall length (tongue tip to propeller) and under could be accommodated in the dry storage spaces inside the gated lot, and longer vessels would be offered space in the outside as available. In an effort maintain an appropriate balance between secured storage and day use launch ramp parking, the lots outside the gate are no longer offered to new tenants, and all customers for monthly storage are placed behind the gate inside in the dry lot without exception. VMP had been accepting larger vessels on a case by case basis depending on the availability of safe and practical spaces outside of the gate. This practice proved to be impractical and inconsistent. Therefore, it has been the goal of VMP to progressively work to have all appropriately sized vessels moved inside the gate. When providing space behind the gate for a specific vessel, there are three factors besides overall length to consider: beam width, (longer boats tend to be wider - the longer spaces

average 9'-5" wide) safety and ease of maneuvering to and from a space. Spaces outside of the gate are still available for short term stays for boaters without monthly spaces and for users paying a daily rate. This practice as described has been an informal policy, however with recent changes in administration at VMP, a formal written policy will describe how the largest vessels will be assessed for potential placement.

## **6. Embarcadero Trailer Boat Storage: After-hours Tenant Access**

Issue: Can after-hours access be granted by Embarcadero to boater tenants as is the case today slip tenants?

DPBA Position: Security must be the priority. However, it would be optimal if dry storage tenants could also access their boats after-hours without compromising security, such as with electronic gates and key cards. DPBA recognizes that given the existing state of the Embarcadero, providing the means for secure after-hours access would require at least facility improvements, if not also additional staffing, at added expense. DPBA believes that as the Embarcadero facility is renovated, the infrastructure should be included to allow secure after-hour tenant access to their boats.

OC DPH Response: The Embarcadero Dry Boat Storage area is secured after hours, which is how it is advertised and one of the amenities tenants typically request; most tenants appreciate this level of security. Allowing tenants 24/7 access to their boats would require additional staffing including security staff. To satisfy access and security concerns VMP implemented a system where dry storage tenants can call in ahead of time during business hours and have their boats placed in the public lot outside the gates. At the conclusion of the Revitalization Project, which includes the new Dry Boat Storage Building, and surface storage, extended hours access may be possible and can be considered.

## **7. Marina Wi-Fi Access?**

Issue: Request for Wi-Fi internet access for boat slip tenants

DPBA Position: Wi-Fi access has become a ubiquitous customer service feature at hotels, coffee houses, restaurants, and even many marinas. However, DPBA recognizes that Dana Point Harbor is a municipal not-for-profit marina. Whereas private marinas may offer Wi-Fi as a customer perk, Orange County government is not in a business of providing internet service. That said, boaters have demonstrated a strong desire for Wi-Fi internet service. DPBA supports the harbor department's plan to consider contracting with a 3rd-party internet service provider to offer subscription Wi-Fi internet service in our marinas.

OC DPH Response: The provision for Harbor-wide Wi-Fi service has previously been investigated and was not pursued due to the cost of implementing such a program. Wi-Fi is not a primary marina business, and the ongoing administration and maintenance of a Wi-Fi system is not something

familiar to the operators. Limited Wi-Fi is already offered through Dana West Yacht Club, Aventura Sailing and Dana Point Yacht Club.

Should Wi-Fi service be pursued, it is mutually understood that this would be a program for an outside contract and the best way to determine the viability of a successful Wi-Fi service Harbor-wide is through the County's RFP process. OC Dana Point Harbor will investigate opportunities for a Wi-Fi vendor in the near future. Any cost for such a venture that may be charged by a successful proposer will likely be passed on to the user.

#### **8. Marina Parking - East/West Marina Reciprocal Parking Access?**

Issue: Can slip tenants in the east marina have parking access to the west marina, and vice-versa?

DPBA Position: To maximize security, and to minimize demand in the busiest boater parking lots adjacent to the restaurants and shops, DPBA agrees that by default boaters should be permitted to park only in the boater lot closest to their boat slip. However, the slip marina operators (DPMC and TBW) should consider exceptions for boaters who frequently crew, fish or race on boats in other areas of the harbor.

OC DPH Response: Marina parking lots are designated to Boat Slip Licensees based on the location of their boat slip. Guests of boaters may also park in the parking lots closest to the visiting vessel on all days with the exception of the Fourth of July when boater parking lots are reserved for Boat Slip Licensees only. At this time, we do not think it is a good idea to allow all boaters access to all marina parking lots. Nor do we anticipate that parking lot access will be shared between the East and West Basin Boat Slip Licensees. Security is a factor that has led to the installation of parking lot gates. If circumstances arise, such as an east harbor tenant who happens to also be a Dana West Yacht Club member, which require a boater to have access to another area of the Harbor, they should contact the marina offices to discuss the possibility of this.

#### **9. Marina Parking - Concerns about open or unattended gates**

Issue: Boaters have raised concerns about observing their parking lot gates left open and/or unattended.

DPBA Position: To prevent unauthorized parking in boater lots, and to maximize security, parking lot gates should be closed 24/7.

OC DPH Response: There have been at least three factors in how this has occurred recently:

- 1) There were some hardware failures we had experienced with the gate system and the system's failure mode is to leave the gate open to allow users continual access to the facility while repairs or replacements are conducted.
- 2) When the gate arm has been broken, the gate is often left open while the gate arm is being replaced.

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3) During programming and system changes the system was required to be set in the open mode. Recent software upgrades for the East Basin system no longer requires the gates to remain open during programming and system changes.

4) It is our practice during selected non-peak time, and during regular business hours, that we will program the gate in the open position. For example, if we are having a meeting at OC Dana Point Harbor office with multiple attendees the gate will remain open during their arrival.