

RESPONSE TO NOVEMBER 9, 2010 BOARD DIRECTIVE
Office of the Performance Audit Director Report on Harbor Patrol

Introduction

On November 9, 2010 in response to the Office of the Performance Audit Director Report on Harbor Patrol, a Board directive was issued to establish an ad hoc committee consisting of Supervisors Bates and Moorlach to work with the County Executive Office (CEO) and the Orange County Sheriff's Department (OCSD) to look for strategies to fund Harbor Patrol.

Funding History

The report completed by the Office of the Performance Audit Director provides detailed historical information related to Harbor Patrol. A summary of relevant funding highlights are provided below.

- In 1933, the County created the "Orange County Harbor District" to improve and develop Newport Harbor, and levied a Countywide property tax to fund those costs and the ordinary expenses of the Harbor District.
- In 1961, due to growth in Harbor District property tax revenue, the County successfully sought legislation that allowed the Harbor District to pay for acquisition and development of public beaches.
- In 1971, due to further growth in Harbor District property tax revenue, the County successfully sought legislation to allow the Harbor District to acquire and operate inland parks. At this time, the Harbor District was renamed "Harbors, Beaches and Parks." Before this legislation, park funding was a General Fund responsibility. (Today, parks are funded primarily by property tax revenue that was originally established for harbor costs in 1933 as well as rents, concessions and fees generated at County harbors, beaches and parks.)
- On May 21, 1975, the Board of Supervisors approved transfer of Harbor Patrol to the Sheriff-Coroner, and Harbor Patrol continued to be funded by the District.
- Upon dissolution of the Harbors, Beaches and Parks District in 1988 and formation of County Service Area (CSA) 26, the County was authorized to exercise the same powers as were available to the District and the cost of Harbor Patrol continued to be funded in the same manner.
- Today, Harbor Patrol continues to be funded from CSA 26, as well as the Dana Point and Newport Tidelands funds.

Historically, the cost of Harbor Patrol started with, and continues to be supported by, Harbors, Beaches and Parks funds. County Counsel concurs with the use of these funds for Harbor Patrol activities that primarily benefit the harbors or users of the harbors.

Recommended Funding Strategy

CEO and OCSD recommend a continuation of the historical funding strategy with the following changes:

- 1) OCSD to discontinue the use of OC Parks and the Dana Point and Newport Tidelands funding sources for:
 - a. Homeland Security activities (to be funded from grants or other funding sources), and
 - b. Harbor Patrol activities that benefit the public as a whole rather than primarily benefiting the harbors or users of the harbors.
- 2) OCSD to work with the CEO on strategies to further reduce Harbor Patrol costs.

Cost Reductions Implemented

Over the last several months, CEO, OCSD and County Counsel staff met numerous times to develop a recommended strategy for reducing Harbor Patrol costs. Previous actions that have reduced Harbor Patrol costs include:

- Removal of the Harbor Patrol Captain position in 2008 reducing costs by \$158,000. Since then, Harbor Patrol Operations has been managed by the Lieutenant position.
- In FY 2009-10, OCSD deferred replacement of a fireboat saving approximately \$430,000.
- OCSD Harbor Patrol is awarded State grant funds to conduct marine firefighting classes for agencies throughout the State. The cost of providing the training is covered by the grant and Orange County personnel receive training without incurring costs related to travel, hotel, and enrollment fees.
- OCSD secured \$1.2M in Stonegarden Grant funds from the Department of Homeland Security to fund overtime and equipment (including a patrol boat) related to multi-agency efforts to address human and drug trafficking along the Orange County coastline.

In response to the Performance Audit Director's report, OCSD has already implemented elimination of the Office Technician position in Dana Point resulting in an annual savings of \$65,049, is preparing to change Sergeants' schedules which could reduce overtime, has had discussion with Dana Point staff regarding the method of acquiring fuel, and will continue to seek grant opportunities.

Cost Reduction Recommended

In order to further examine the possibility of reducing charges to OC Parks and the Dana Point and Newport Tidelands funds, OCSD analyzed calendar year 2010 Harbor Patrol activity and identified a percentage of calls for each of the harbors that were homeland security activity (and not paid by Stonegarden Grant funds) or activity that would be considered a benefit to the public as a whole rather than a primary benefit to the harbors or users of the harbors. The approximate cost of this activity when those percentages are applied to the FY 10-11 budget is detailed on the next page by harbor.

Using this methodology, the total savings in FY 10-11 would be approximately \$104,926. A mid-year implementation of this methodology would result in a savings of approximately half that amount. County Counsel concurs that the cost of this activity should be the responsibility of OCSD, and that other costs incurred from activities that primarily benefit the harbors or users of the harbors may continue to be charged to OC Parks, or the Dana Point and Newport Tidelands, as appropriate.

Harbor	Number of Calls in Calendar Year 2010	Number of Homeland Security Calls [2]	Percent Homeland Security Calls [2]	FY 10-11 Harbor Patrol Budget/ Cost	Budget/Cost related to Homeland Security Calls [2]
Sunset/Huntington	3,710	75	2.02%	\$ 3,839,074	\$ 77,609
Newport	5,205	6	0.12%	5,118,765	5,901
Dana Point	4,123	23	0.56%	3,839,074	21,416
Total	13,038	104	n/a	\$ 12,796,913	\$ 104,926

Notes: [1] Sunset/Huntington is funded 100% by OC Parks Fund 405 (CSA 26); Newport is funded 62% by OC Parks Fund 405 and 38% by Newport Tidelands Fund 106; Dana Point is funded 100% by Dana Point Tidelands Fund 108. Of the total \$12.8M cost, 55% is funded by OC Parks Fund 405, 30% is funded by Dana Point Tidelands Fund 108, and 15% is funded by Newport Tidelands Fund 106. [2] The table above does not include Stonegarden-related calls.

CEO and OCSD staff recommend the following:

- 1) In the current year, OCSD will immediately begin excluding charges to OC Parks and Dana Point and Newport Tidelands for homeland security activity and activity that would be considered a benefit to the public as a whole rather than a primary benefit to the harbors or users of the harbors. OCSD will establish a separate code for charging these activities in order to track them in the current and future fiscal years. The separate code will also be used for tracking management staff time spent outside of Harbor Patrol such as for attending non Harbor Patrol related meetings.
- 2) Charges for all of these activities have been excluded from the FY 11-12 cost apply agreements between OCSD and OC Parks and Dana Point and Newport Tidelands. Because actual FY 11-12 Harbor Patrol activity cannot be known until it occurs, the budget and related cost apply agreements for FY 11-12 were developed based on the calendar year 2010 percentages for each harbor.
- 3) Actual charges during FY 11-12 to OC Parks and Dana Point and Newport Tidelands will be based on actual activity, not the estimated activity, and will not exceed the cost apply agreement amounts.
- 4) Future years' budgets and cost apply agreements will be developed based on prior fiscal year activity and reconciled during the year to charge based on actual activity, and will not exceed the cost apply agreement amounts.
- 5) Amounts not charged to OC Parks and Dana Point and Newport Tidelands are the responsibility of OCSD.

Use of this methodology will be re-evaluated by the CEO and OCSD during the FY 12-13 budget development process. Any findings resulting in a recommendation for modification would be brought back to the ad hoc committee for consideration, and to the full Board as required. OCSD will continue to explore options for further reducing the cost of Harbor Patrol services including those already identified in the Performance Audit Director's report and grant revenues. Any reduced costs will be incorporated into future cost apply agreements with OC Parks and the Dana Point and Newport Tidelands funds. The Performance Audit Director was provided with a copy of this report during a meeting with CEO staff. The Office of the Performance Audit Director concurs that the proposed actions are consistent with the recommendations in their report.

Continuation of Historical Funding Strategy

The CEO and OCSD recommend a continuation of the historical funding strategy for Harbor Patrol for a variety of reasons as discussed below.

- 1) Budget projections. For the next several years it is anticipated that there will be continued difficulty in funding core OCSD operations along with an increased "risk" of losing funding sources such as State Grants, Immigration and Customs Enforcement (ICE) and U.S. Marshal contract revenue. A change to the historical Harbor Patrol funding approach, even on an incremental basis, would remove a funding source from the OCSD budget (currently about \$12 million) requiring potential additional reductions in the OCSD budget.
- 2) Funding of Regional Harbors, Beaches and Parks Facilities. The Funding History section of this report and the Performance Audit Director's report document the County's history of using what are now CSA 26 (Parks) funds for Harbor Patrol costs. Since the harbors are regional recreational facilities, the use of CSA 26 funds is appropriate from a nexus and legal point of view. The question of appropriateness of the use of these funds for Harbor Patrol costs will probably never be resolved to everyone's satisfaction. In fact, the CEO, in better economic times, recommended funding these costs from the OCSD budget. The CEO's position is that the use of the CSA 26 funds for Harbor Patrol is discretionary and is a recommended use under the budget realities facing the County in the next five years.
- 3) Enterprise Funds. To the extent possible, enterprise operations (Airport, Landfill, etc.) fund all of their costs through user fees or other revenue sources available and restricted to use for their operations. While the Harbor operations are not technically enterprise operations, the County has traditionally funded Harbor operations without General Fund support. Continuation of the historical funding approach is consistent with this principal of limiting General Fund support of enterprise type operations.
- 4) Services. Changing or eliminating the historical funding source would put pressure on OCSD to reduce Harbor Patrol services. As stated in Recommendation #2, the CEO and OCSD should continue to work on reducing Harbor Patrol costs.