

**COUNTY OF LOS ANGELES BEACH COMMISSION
MINUTES OF APRIL 27, 2011**

COMMISSIONERS PRESENT

Clare Bronowski, Vice Chair
Rosi Dagit
Jeffrey Jennings
Walt Dougher
Catherine McCurdy
Kelly McDowell
Charles Milam
Wayne Powell
Norma Pratt
Don Rohrer
Jeffrey Sallee

EXCUSED ABSENCES

Thomas Barnes, Chair
Ronald Chatman
Gary Dimkich
Don Doyle
Andrew Stern

STAFF PRESENT

Santos Kreimann, Director
Kerry Silverstrom, Chief Deputy Director
Steve Napolitano Deputy, Supervisor Knabe
Mike Frazer, Chief, Lifeguard Division, Los Angeles
County Fire Department
Kenneth Foreman Acting Division Chief, Facilities and
Property Maintenance Division
Catrina Love, Community & Marketing
Services Division
Penelope Rodriguez, Community & Marketing
Services Division
Walter Popoff, Executive Assistant
Dona Kordich, Community & Marketing
Services Division
Pamela Miller, Community & Marketing
Services Division
Kathline King, Planning Division

GUEST SPEAKERS

None

MEETING LOCATION

Burton W. Chace Park Community Room

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The Vice Chair, Commissioner Bronowski called the meeting to order at 9:45 a.m. The Commissioners, staff and the public stood and recited the Pledge of Allegiance.

2. APPROVAL OF MINUTES

Commissioner Bronowski asked for a motion to approve the minutes from the last meeting. **Commissioner McCurdy moved, for a motion to approve the minutes from the March meeting, seconded by Commissioner Pratt. Motion was carried unanimously.**

3. OLD BUSINESS

A. Beach and Harbor Use Permit Policy Revision

Mr. Kreimann reminded the commission about the April 7th Use Permit Workshop that was held in the Burton Chace Park Community Room. The meeting was held to go over the County's beach use permit policies and receive input from the business community and surf/day camp operators. There was a lot of input from the operators and as a result some modifications were made to the proposal. Mr. Kreimann said there were concerns about if the gross receipts percentage should be part of the bidding process. Various operators felt very strongly that this component be eliminated from the evaluation. It was changed from a bidding situation to a 15% gross receipts rate for all beach use permits. There was significant discussion about selection criteria for beach operators. Originally for financial remuneration was 20% for all points that were allowed, applicant qualification 15% and some safety requirements. There was strong desire from the operators to reevaluate the 60/40 split; they felt the criteria should be based on merit, experience and operating plan as opposed to a large percentage being allowed for compensation. So DBH identified the selection criteria for the new percentages that are appropriate and reduced the amount of the selection criteria that was for compensation. Now the new percentage is for responsible application, identify all the components of being a good plan equals 5%. Professional experience is 15%. The group talked about financial capability, responsibility and the possibility that someone could submit a large bid to the County to operate on a specific location. Financial capability is 10%. Safety of the participants is very important and is weighted at 30%. Operating plan is 30%. Community service component, plans that offer reduced rates to the community get 5%. The Financial remuneration went back and forth, between staff and the operators on whether or not this should be included. It is anticipated that with the high number of established operators that we currently have, and that would score the maximum points, it was decided that this component be 5%, in case a tiebreaker was needed. Mr. Kreimann said he and staff identified the maximum number of participants per permit that can be allowed at any location in terms of eligible lifeguard towers. The maximum number of participants per permit is 100 for day camps and 50 for surf camps. There will be some flexibility with the permits as far as some operators will have a permit for 5 days a week and only operate 3 days. As a result of that DBH would be able to offer more services to the public. The appropriate amount of safety training was discussed at the workshop; there was a requirement for an EMT to be at the site. DBH evaluated what San Diego County is doing and adopted their plan. In terms of requiring the Red Cross Lifeguard Training and CPR, there is a test for surf camp instructors. Another requirement is a medical plan for any injured participant as well as first aid supplies as part of the evaluation process. Mr. Kreimann said those were the major revisions that were talked about. Mr. Kreimann thanked the operators for their input and participation in the workshop and welcomed additional comments from the Commissioners and the public.

Commissioner Bronowski asked if the Commissioners had any questions.

Commissioner Dagit asked about the gross receipts percentage being charged at the time the permit is applied for. Commissioner Dagit commented that it seemed it would be difficult for a non-profit or small operator to come up with those fees at that time and would make them uncompetitive in this

process. Mr. Kreimann answered that camp operators generally get paid up front for their service so we believe they would have done all their marketing and funds would be available at that time. Commissioner Dagit asked if that is true for non-profits as well. Mr. Kreimann said non-profits were generally a hybrid situation, where we don't have a lot of operators that are 100% non-profit, where they do not accept fees from participants. DBH is not treating them any different than for-profit. Commissioner Dagit asked about school groups that want to come to the beach on a field trip. Mr. Kreimann said schools are under community service, depending on availability, working with staff and the lifeguards. One day events are not part of this process.

Commissioner Powell asked about the gross receipt percentage regarding municipalities. Mr. Kreimann answered that city programs are under community services and get charged a lesser rate because they are doing community service.

Commissioner McDowell asked if that would apply to any government agencies. Mr. Kreimann said that would be under the discretion of the Director, but the long collaborative history that we have with coastal cities and trying to partner with cities to increase the programs on our beaches.

Commissioner Pratt asked about renewing the permits if it would be automatic or would other applicants that want the space be considered. This would be an opportunity for the County to evaluate an increase in the percentage. Mr. Kreimann answered it would not be automatic; there would be an evaluation of the operation's safety and business record. Commissioner Pratt asked would the County entertain other operators at this time. Mr. Kreimann said no, DBH would negotiate exclusively with the current operator unless we were not satisfied with the operator. Then we would go to the competitive bidding process. Commissioner Pratt asked if DBH would lose out by giving the operators such a long period of time. There may be good businesses waiting to get in. Mr. Kreimann said continuity of the service being provided is important. It would take a new operator some time to recover the initial investment. The three to five year term is to help new operators build and market their business. Also it gives DBH staff and me the ability to monitor the quality of the business. Commissioner Pratt asked if DBH has gotten any concerns from the public on this. Mr. Kreimann said at the public workshop the operator thought the time was sufficient.

Commissioner Dougher asked about the selection and appeals process. Mr. Kreimann said staff would prepare a solicitation document; it will be publicized that we are accepting applications for specific locations. There would be an evaluation committee in place to review the information and make a recommendation to the Director. Then the Director would make a selection. Mr. Kreimann also said there is no appeal process. The Director has always had the last say in what can or cannot be done on the beaches.

Commissioner Rohrer commented the safety of that the kids is preeminent. We have good operators out there and maybe some waiting. But safety of the kids is the most important item in the evaluation process. It should not be about the money.

Commissioner Milam questioned how long the evaluation process would take for surf camp operators. Mr. Kreimann said that would depend on the amount of applications received. It would be done on a flow basis. Proposals are done by location, starting with the most active and the permits would be issued as DBH goes through the evaluation process. Mr. Kreimann said he is hopeful this will be determined by the end of the calendar year.

Commissioner Sallee asked how would the gross receipts be audited. Mr. Kreimann answered by the Audit unit of DBH. The operator is required to retain their records for 5 years. Every operator would

be audited before the initial three year period is completed. Commissioner Sallee asked are the documents transferable. Mr. Kreimann answered they are not. Commissioner Sallee asked if the business sells and the permit belongs to someone else, they lose the permit? Mr. Kreimann said, that is correct.

Commissioner Dougher asked what kind of applicants is the Department anticipating. Mr. Kreimann answered there is a fee that is required to apply and was put into place specifically to discourage inexperienced operators from applying.

Commissioner Pratt asked if DBH would post the information online so operators would know what is available. Mr. Kreimann said that's not normal for DBH. Commissioner Pratt said transparency. Mr. Kreimann said we can make that adjustment.

Commissioner Jennings commented there was a lot of speakers and suggested going to 2 minutes per speaker in the interest of time.

Commissioner Powell asked about penalties if a gross receipt is submitted but the actual comes in less than expected and was submitted to secure the bid. Mr. Kreimann said because there are a specific number of spots available. The applicant would be paying up front for the maximum spots available. But as part of the audit they would get a refund or they meet the requirement with no refund needed. This should not be an issue.

Commissioner Powell asked if their term options were per location or per operator and what would keep operators from going to another location after the current term expires. Mr. Kreimann said it's per location and operators have up to three locations.

Commissioner Bronowski asked the public to come forward with their comments.

Michele Brancomier, American Camp Association – commented she was happy the percentages changed but is concerned about the 15% gross receipts. Ms. Brancomier asked about the enforcement.

Eric Naftulin, Aloha Beach Camp – Commented that in the first proposal his location was available but with the changes it looks like it's not, wants clarification. Also wants clarification on the difference between a day camp and a surf camp.

Mitchell Lachman, Coastal Coalition - Mr. Lachman thinks DBH and the surf/day camps are making money off the beaches that are meant for public use and surf lessons should be done by the lifeguards only.

Jack Tingley, Beach Sports, Inc. – Commented that 501C3 Non-Profit schools should be treated the same as Government agencies. Mr. Tingley also stated that they would need 9 months minimum to market and create the gross receipts needed up front. Thinks the 100 maximum is wonderful but to pay for that up front is hard to do. He also commented that the training by the American Red Cross is unnecessary and that a person should not have to be 18 to do the job and thinks another workshop would be beneficial.

Sina Monzazeb – Sandy Days Kids Camp – Mr. Monzazeb has a problem with paying for the maximum amount of kids and the fees have never been paid up front always at the end, within thirty days. He commented the spots that they are used too are not on the new documents. He also

questioned why the surf camps get to choose their locations first which gives them an unfair advantage over day camps.

Bradford Schlei, Aqua Surf – Mr. Schlei asked for a definition of “financial capability” as in Attachment B. He also asked if the new permit process would affect incorporated cities like Santa Monica and wondered about background and drug tests for instructors.

Allen King, Aqua Surf – Mr. King likes the changes that were made but thinks a ratio of 7 kids to 1 instructor is not appropriate. One to four or 5 is more appropriate. He asks how detailed do the operational plans have to be to not expose the proprietor methods of operation.

Chris Brown, CBVA/Camp Surf - The revisions are a step in the right direction, but there is still along way to go. He also wondered if the location permit was legal and said a section of state code states that it is unlawful to charge any organized youth group more than another organized youth group. He said any organized youth group is entitled to the best deal whatever that may be.

Bill Watkins, Pasadena-Beach Volleyball Player – Mr. Watkins is upset that the Orange Court, the men’s volleyball court on the strand in Manhattan Beach being moved to make room for a ladies court. He wants the courts changed back.

Bruce Kocgis, Hammerhead Beach Camp – Mr. Kocgis commented that changing the permit times will affect kids being dropped off to camp before parents head off to work.

Marion Clark, Surf Academy and LA Surf Bus – Ms. Clark’s concern was that their business does private lessons and kids parties and do not utilize the maximum capacity of their permit. She is also a non-profit with the Surf Academy paying the way for LA Surf Bus along with donations. Safety issues would be better addressed in the three-year review.

Eric Colton, Fitness by the Sea – Mr. Colton said safety starts with the operator’s relationship with the lifeguards. Site location fees will price some kids out of the recreation and force some good operators out.

Dennis Marlow, Beach Volleyball Camps – Commented the Location bid should come down to seniority and experience and paying gross receipts up front is really hard. He asks if a church group comes to the beach, do they need a permit for the day and is there a limit also how that would be regulated.

Kip Jerger, Kanoa Aquatics – Commented that his non-profit group works with inner-city kids, abused and blinds kids. If the fees are raised and needed up front, it will put an end to these programs. The things they asked for in the last workshop were glossed over.

Jason Flentye, The Friendship Circle of the South Bay – Mr. Flentye does not agree with the rating scale change and thinks the community service aspects needs to be changed.

John Jones, City of Torrance – Mr. Jones is concerned that additional fees will close some low cost programs, however, he thinks Torrance is exempt from these fees.

Kirk Lantz, Alive Surfing – Mr. Lantz said he is a small business that books private lessons, sometimes at the last minute and cannot pay the up front fees.

Noel Torres, Day Camp Operator – Mr. Torres does not operate on the beach but comes to the beach on a field trip. Mr. Torres does not think its fair for his group to pay 15% fee for a field trip a day or two during the summer.

Patrick Murphy, Learn to Surf LA – Mr. Murphy thinks the operational plan can be taken off the internet and should not be weighted 30% does not reflect the experience of the operator.

Commissioner Bronowski closed the public testimony and asked Mr. Kreimann to respond and then let the commissioners follow up.

Mr. Kreimann responded the biggest issue is the 100% of the fee being charged and paid up front maybe a payment sliding scale that may work for everyone: twenty-five percent up front, fifty percent during the season and twenty-five after. Another concern was the enforcement. Supervisor Knabe and Supervisor Antonovich have helped DBH to add a few new enforcement positions. DBH has a deal with the Sheriffs to do initial walk-throughs. Mr. Kreimann thinks we should not have a lot of trouble after that. It was asked if Tower 13 at Zuma was for day camp only. Staff and the lifeguards went through this list of locations and these are the types of camps being offered at that location. If there is something different that we are not aware of, please let us know. The difference between a day camp and a surf camp is that day camp can only have their participants in the water 25% of the time. Mr. Kreimann asked Mrs. Silverstrom to answer the question regarding the legality of a location fee. Mrs. Silverstrom stated there is a provision, related to a specific exemption of fees related to special facilities or locations, Sub Section C of the State Code, with respect to the non-profit camps. Mr. Kreimann stated that County Counsel was consulted and agreed that it is legal for DBH to charge a fee for a specific location. DBH can charge government entities any fee or no fee at all because they are exempt. Mr. Kreimann also stated the DBH was in negotiations with the City of Torrance. Mrs. Silverstrom said DBH has not authorized Torrance to run a camp; however their camp is on city beach not county beach. Mr. Kreimann said regarding background checks and drug tests, as part of any proposal the operator would be responsible for that. Mr. Kreimann also said the start times regarding the permits could be modified to address the particular concern about dropping off kids. Overlapping permits are also being considered. The safety provisions that are in place are minimum standards. The operators are expected to provide a higher level of safety, that is a business decision and DBH does not want to tell operators how to run their business. The operators do need to operate at a level that DBH thinks is appropriate. This is public land so any process that is in place needs to be fair, and not only allow existing operators, but also new operators that want to get into the business.

Chief Frazer commented that his department shared the vision and mission to help shape the lives of the children. The Junior Lifeguard program is expected to have 3200 kids this year. It is the most competitively priced program in the State. Chief Frazer stated that Mr. Kreimann is correct about the minimum safety standards and hopes the camps strive to be more professional. At one time the standard was they had to be certified under to California Surf Life Saving Association standards which would be a more appropriate level of safety. Professional experience and safety standards are going to be weighted and it's up to the individual camps to prove they are more qualified and will provide a higher level of safety. The American Red Cross Life Guard training is for pool life guard qualification. Chief Frazer said that is minimum standard and hopes the qualifications of the instructors are much higher including EMT. Chief Frazer mentioned the staffing and hours is important in reviewing the list of locations and times. The times were not picked for the convenience of the parents but for safety because of the operational hours of the lifeguard towers. He said that he can be flexible on this, no water activity until the lifeguard is on duty. Chief Frazer would like to propose if the time is adjusted where there is not going to be a lifeguard on duty that we mandate that

there be a qualified lifeguard there, not American Red Cross. And also there should be EMT's as well. Because that's what you get during lifeguard hours. But the times were put into place for a reason, for safety. Regarding surf camp locations and Zuma Beach Tower 13, this is an option most of the time. However this beach is black-balled a lot of times and surfing is not permitted due to weather conditions. Chief Frazer mentioned that they try to keep Venice open for surfing all day long. Regarding the age limit, eighteen is minimum standard for L.A. County Lifeguards. In Huntington Beach the age limit is sixteen; however they go through background checks, a full training academy and on the job training the first few summers. There is a lot of oversight with the sixteen year olds. The way it is written is the lead instructor has to be eighteen and the water instructors have to be eighteen; the younger ones can handle the beach stuff. Chief Frazer said a couple of people think the lifeguards should review the policy however there is conflict of interest as three lifeguards have permits. But they are very involved in the project and are working closely with DBH. They will review some of the safety standards and look at the qualifications when it's weighted out. By ordinance the Captain on duty will be watching the camps and if they are out of line, they have the ability to revoke the permit. They are reviewing the actions taken by the permit groups daily. Most of the camps are very responsible. The people here today are the responsible ones but it's the ones that are less responsible and don't have any permit process that spoil it for other groups. He concurs with the background checks and drug testing for the instructors and hopes it is weighted in the review process. If the instructors present certification that they were live-scanned that should be given preferential treatment. When church groups show up lifeguards immediately talk with the organizers of the group and direct them to the safest location. It's in the policy for permit groups to check in with the Captain when arriving and anytime you have water activities. Chief Frazer stated the lifeguards would be working with all groups to keep kids safe but they are not babysitters. Mr. Kreimann commented about people stealing plans and submitting them and said it may happen but it's to your advantage to put as much detail in your plans. And adds they will be comparing them to one another and then assign scores. Also as part of your submittal always mark anything that is proprietary as proprietary so we don't have to disclose that part.

Commissioner Bronowski reminded commissioners that this is the third lengthy meeting on this topic and would like to move it forward today so please ask questions or make your comments. Commissioner Sallee asked Chief Frazer if the attendance at the beaches was still going up. Chief Frazer said there will probably be a steady increase economically driven. Commissioner Sallee stated the up front payment is very difficult on a small business owner and suggested smaller monthly or quarterly payments. Commissioner Milam asked what about establishing a daily use permit. Mr. Kreimann stated that could be a good compromise for someone who comes infrequently that could be looked at as opposed to a percentage-based fee. DBH would have to check with County Counsel to see if it can be done; the issue is charging everybody the same rate. Commissioner Milam said there are new provisions in the policy and was concerned about taking a vote today. The Commissioner said it has been a lengthy process but still had concerns regarding the selection criteria and wants another workshop. Commissioner Rohrer agreed with Commissioner Milam and was not ready to vote today. Commissioner Dougher has some safety concerns as far as American Red Cross Lifeguards and is in favor of another workshop. Commissioner McCurdy had concerns about charging the non-profits and private lessons the same as the other camps. Commissioner Pratt is concerned about the up front fees and thinks they should be reevaluated and the same with non-profit organizations. Commissioner Jennings commented he is not ready to vote today and is concerned about the timing of the applications and had questions regarding day camps not located on the beach. Commissioner McDowell was not in favor of a vote today and talked about the need to keep things affordable in this economy and asks if the new procedures would impose more work on the lifeguards. Commissioner McDowell asks if the County has a financial draft of the impact the changes made. He also added that unfortunately non-profits cannot be treated any differently than for-profit.

Mrs. Silverstrom added that there is a difference between a non-profit that charges for example \$335 per week per participant with a non-profit that charges under \$200 per week. There are non-profit organizations that charge the participants a substantial amount of money so just because they have non-profit status does not mean they are providing a community service. DBH is examining it from the perspective of the fee being charged and who is the participant being helped as opposed to the particular status of the organization. Commissioner Powell thanked the public for the feedback and agreed with not voting today but was not in favor of another workshop and thinks all the issues have been resolved and would like to see the final product. Commissioner Powell also had safety concerns and would like to see priority given to non-profits. Commissioner Bronowski commented that she agreed with Commissioner Powell in thanking the public for attending these meetings and that progress had been made. Commissioner Bronowski had questions regarding the location fee. Mr. Kreimann stated that DBH would look into the start times for the camps, talk to the lifeguards about putting safe zones in certain areas and there may be a need for a lifeguard and EMT to be there and will address safety issues with Chief Frazer. He also said DBH would talk about changing the payment flow to more match the operator's revenue flow and will look at changing the operating plan to lower and increasing the community service and will talk about capping the location fees. Mr. Kreimann said we will continue this next month as opposed to another workshop.

4. **NEW BUSINESS**

A. Presentation of the Department of Beaches and Harbors Strategic Plan for 2011-2013

This presentation was postponed until the next meeting.

B. Presentation of Proposed County Code Revisions to Title 2, Administration and Title 17, Parks, Beaches and Other Public Areas

Mrs. Silverstrom said these proposed County Code revisions related to the operation of the County's beaches and the County's ocean lifeguards, in particular formalizing the transfer of lifeguard operations to the Fire Department. The revisions further identify the specific responsibilities and authority of the Fire Chief and the Director of the Department of Beaches and Harbors. These proposed ordinance revisions place additional restrictions on certain activities upon the beach, also requiring permits for various enumerated activities on the beach. The proposed revisions are to cleanup the relevant County Code sections. Specific changes include: Formally transfers responsibility for the County lifeguard service to the Fire Department and includes the authority for lifeguards to issue citations. Specifies that the Director of the Department of Beaches and Harbors has the authority to issue right-of-entry permits to third parties for construction related activities on the beaches and beach use permits for beach events and activities. Proposes reduction in the number of Beach Commissioners from 20 to ten once the current terms of members have expired, this is to reflect the difficulty in meeting quorum requirements on a regular basis. Mrs. Silverstrom stated there are currently 16 commissioners out of twenty. Commissioner Powell asks if those vacancies go away now. Commissioner Bronowski asked if we had commissioners from the first, second and fifth districts. Mrs. Silverstrom stated that we did not have a commissioner from Supervisor Molina. Commissioner Dougher asked if stricter adherence to the rules on attendance and enforcement do the same thing. Mrs. Silverstrom said it is almost impossible to have someone removed involuntarily. Commissioner Bronowski said she didn't think this would help and might make it worst. Commissioner McDowell suggested not to remove people from the board, but removed them from the quorum count after a certain number of absences until they start coming again. Commissioner McCurdy concurred and said there should be other ways to get a quorum. Commissioner Pratt stated there was no quorum to approve this. Mrs. Silverstrom advised that County Counsel actually wrote

the revisions this is just a presentation. She also said the commissioners terms would change to four years. Mrs. Silverstrom read through and explained much of the proposed county codes. Commissioner Milam asks if this has to be adopted before the beach use policy could be put into affect. Mrs. Silverstrom said DBH already has the authority this is clarifying the language. Mrs. Silverstrom said one of the codes is to loosen up a restriction on ball playing on the beach. It is unlawful for any person to play with any kind of ball, tube or any light object other than beach balls, beach volleyballs or water polo balls on any beach unless you obtain a permit. Commissioner Bronowski asked Mrs. Silverstrom to let the public speak since they had been waiting for this portion of the code revisions.

Danny and Ginger Young, West Coast Beach Tennis - Mr. Young said he had been waiting for three years to get this passed in L.A. County. They have permanent tennis courts on Hermosa Beach and people from all over come there to play. Mrs. Silverstrom said this would be a permitted activity and that's where the Department and Mr. Young disagree, they would like to have permanent courts or share the volleyball courts. Mr. Young did not understand why they need a permit because the ball is very soft. Mrs. Silverstrom explained that DBH didn't want individuals all over the beach with different balls and possibly not be responsible with these activities and that could hurt someone. Commissioner Bronowski commented she was not comfortable with the way this is written. Commissioner Mccurdy asked if this is a fee-based permit like a surf camp. Mrs. Silverstrom answered yes; and that there is an administrative fee that applies. Commissioner Pratt asks how it is done in other parts of the world and is it permitted. Mr. Young said there are some permanent courts. Commissioner Powell suggested this be a one-time permit for a designated area. Commissioner Bronowski agreed with Commissioner Powell. Commissioner McCurdy asks if they charged fees. Mr. Young said no; however, if it is approved, they would work with the different cities' Parks and Recreation Departments as far as fees for classes. Mr. Kreimann said it should be a joint venture between the cities and the County.

Commissioner Bronowski suggested that we forego staff reports and adjourn.

ADJOURNMENT

Commissioner Bronowski adjourned the meeting at 1:00 p.m.

NEXT MEETING DATE AND LOCATION

The next meeting is scheduled for May 25, 2011 at 9:30 a.m. at Burton Chace Park.

Respectfully Submitted,

Cheryl McGee
Commission Secretary