

REPORT OF GENERAL MANAGER

NO. 05-220

DATE August 9, 2005

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: VENICE BEACH BOARDWALK PUBLIC EXPRESSION PERMIT PROGRAM - TEMPORARY SUSPENSION OF REGULATIONS 1, 12 AND 13 AND MODIFICATION OF REGULATION 16 OF THE PROGRAM RULES; AND REQUEST FOR AN ORDINANCE TEMPORARILY SUSPENDING PORTIONS OF SECTIONS 63.44 AND 42.15 OF THE LOS ANGELES MUNICIPAL CODE

*J. Combs 	J. Kolb _____
H. Fujita _____	F. Mok _____
S. Huntley _____	K. Regan _____
B. Jensen _____	M. Shull _____


General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board:

1. Approve the temporary suspension pending re-drafting of Regulations 1, 12, and 13, and a modification of Regulation 16 that would allow any person or organization whether or not a permit holder, to use any designated but unoccupied space under the conditions set forth in Regulation 16 of the Venice Beach Boardwalk Public Expression Permit Program Rules attached to this report; and
2. Request the City Attorney to submit to the City Council the ordinance attached to this report which will temporarily suspend portions of Los Angeles Municipal Code (LAMC) Sections 63.44 and 42.15 to include the changes described in this report; and
3. Approve the dismissal of all Notices of Violation previously issued pursuant to the Program Rules.

SUMMARY:

On October 1, 2003, the Board of Recreation and Park Commissioners approved Report No. 03-313, the Public Expression Participant Program at Venice Beach Boardwalk. This permit program establishes the policies and procedures for those individuals who wish to conduct public

REPORT OF GENERAL MANAGER

PG. 2

NO. 05-220

expression activities on the public portion of the Venice Boardwalk. The Board requested the City Attorney to draft an ordinance amending LAMC Section 42.15 to authorize enforcement of the program by the Los Angeles Police Department (LAPD).

Following the adoption of the Board Report, a working group began meeting to plan the implementation and enforcement of the public expression program. This group consisted of representatives from the City Attorney, LAPD, Council District 11, and the Department. Revisions to the program rules were approved by the Board on April 7, 2004 (Report No. 04-96). Those changes included renaming the title to make it easier for the public to identify the program's purpose, clarification that violations of LAMC Section 42.15 would also constitute administrative violations of the rules, and technical changes to the program regulations regarding the one-time processing fee of \$25 and the permit revocation process.

On October 27, 2004, the City Council adopted Ordinance No. 176270 amending LAMC Section 42.15, requiring that the public expression activities allowed by Section 42.15 be exercised in designated spaces on the Venice Beach Boardwalk and that the use of those spaces be regulated by a permit process. A technical correction to Subsection D of Section 42.15 was approved by City Council on December 7, 2004 by Ordinance No. 176358.

On February 2, 2005, the Board approved additional revisions to the rules to further define the process used to select permit holders and to authorize a semi-monthly lottery procedure (Report No. 05-44). The first lottery was held on February 26, 2005. Currently, 712 permit holders are in the program. A total of fifteen lotteries have been held, with an average of 30 performers and 120 general expression assigned spaces. On average, 22 permittees have been turned away from obtaining a designated space for the weekends at each lottery, due to the limited number of spaces. In some cases, permit holders have been issued spaces but have not used them at all times, leaving them periodically empty. Permit holders who have been unable to obtain spaces have complained about the unused spaces. A total of 123 written notices of violation of the program rules have been issued. A few notices have been appealed and over-turned. No permits have been revoked. The Department's purpose in citing people is to achieve compliance with LAMC Section 42.15 as implemented by the program rules adopted by the Board.

On June 1, 2005, the Board considered Board Report No. 05-146 and approved a revision to change the lottery drawings from semi-monthly to weekly, in two parts: one for weekdays and one for weekends. On June 15, 2005, the Board adopted another recommendation from Board Report No. 04-146 providing that all spaces for general expression and performers would be the same size, 10 feet by 8 feet, thereby creating approximately 46 additional spaces for public expression on the Boardwalk. This latter change cannot be implemented without adoption by the City Council of an ordinance amending LAMC Section 42.15.

REPORT OF GENERAL MANAGER

PG. 3

NO. 05-220

In the response to the complaint that assigned spaces on the Boardwalk were frequently unoccupied, the Board held a special agenda meeting on June 28, 2005, and approved Report No. 05-192 approving an additional rule to be added to the permit program rules allowing daily "walk-on" use of assigned but unoccupied spaces by permit holders after 12:00 p.m. each day; provided, that if the assigned permit holder arrived after 12:00 p.m. and requested the use of his/her space, the "walk-on" permit holder would immediately relinquish the space.

On July 13, 2005, additional revisions were approved by the Board to address several issues. Due to noise complaints, changes were made to prohibit amplified sound before 9:00 a.m. and after dusk, to locate performer spaces away from street corners, and to prohibit sound that can be heard at a distance greater than twenty-five (25) feet from the space occupied by the permit holder. The unequivocal notification that: "Section 42.15 prohibits all commercial vending" was added to Regulation No. 1. Rules were added for processing appeals from notices of violation as indicated in the "Permit Suspension/Revocation" section of the program rules.

On July 8, 2005, suit was filed in Federal Court (Venice Food Not Bombs, et al v. City of Los Angeles, CV 05-4998 DDP (SSx), seeking declaratory and injunctive relief and damages on behalf of associations and individuals who allege that portions of LAMC Sections 63.44 and 42.15 are unconstitutional violations of their right to free expression. The City Attorney has advised that pending re-drafting of the Code Sections and Program Rules, the above cited provisions thereof should be temporarily suspended. Suspensions of Regulations 1, 12, and 13 would mean that permit holders could not be cited for receiving payments or accepting donations on the Boardwalk (i.e., commercial vending), with interfering with a staff person, and "verbally abusing" or "threatening" other persons (except to the extent other criminal laws are violated) pending re-drafting of those Regulations and further action by the City Council. Regulation 16 would be modified to allow "walk-on" use by organizations and persons who are not permit holders. Temporary suspensions of the indicated portions of Section 63.44B would mean that persons could not be cited for criminal violations consisting of engaging in commercial activities, assembling in places set apart for travel so that free passage of persons or vehicles is obstructed, or distributing or posting bills, notices, papers or advertising devices in City parks until re-drafting and further action by the City Council.

The attached ordinance temporarily suspends Subdivisions 3, 7, 22 and 23 of Subsection B of 63.44 of the Los Angeles Municipal Code and Subsections A and C of Section 42.15, while changing the first sentence of Subsection D of 42.15 to reflect that persons and organizations need not comply with the above referenced Regulations and modifying Regulation 16 to allow non permit holders as well as permit holders to "walk-on."

FISCAL IMPACT STATEMENT:

Temporary suspension and modification of the regulations and portions of the ordinances will have no impact to the General Fund.

This report was prepared by Vicki Israel, Superintendent of the West Region.

ORDINANCE NO. _____

An ordinance temporarily suspending the provisions of Subdivisions 3, 7, 22 and 23 of Subsection B of Section 63.44 of the Los Angeles Municipal Code and Subsections A and C of Section 42.15 of the Los Angeles Municipal Code, and deleting and replacing the first sentence of Subsection D of Section 42.15.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The provisions of Subdivisions 3, 7, 22 and 23 of Subsection B of Section 63.44 of the Los Angeles Municipal Code and Subsections A and C of Section 42.15 of the Los Angeles Municipal Code are suspended until further action, which shall be taken by Ordinance, of the City Council.

Sec. 2. The first sentence of Subsection D of Section 42.15 is hereby repealed and replaced with the following:

Within the limits of the public beach lands or beach properties adjoining the waterfront of the Pacific Ocean, or upon any boardwalk, sidewalk or public way immediately adjacent thereto between the southerly boundary of the City of Santa Monica and the northerly boundary of the City of El Segundo and between the northwesterly boundary of the City of Santa Monica and the northwesterly boundary of the City of Los Angeles, no person or organization shall occupy a space designated for expressive activity unless that person or organization is in compliance with the "Venice Beach Boardwalk Public Expression Permit Program Rules" adopted by the Board of Recreation and Park Commissioners on July 13, 2005 ("Program Rules") excepting Regulations 1, 12 and 13 of the Program Rules, and except that any person or organization, whether or not a permit holder, may use any designated but unoccupied space under the conditions set forth in Regulation 16 of the Program Rules.

....

....

....

....

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

FRANK T. MARTINEZ, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By
MARK L. BROWN
Senior Assistant City Attorney

Date 08-__-05

File No. 05-_____