

## **H-28**

December 6, 2022

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing, and accept the Hearing Officer's Recommendation and Findings to deny the Southern California Speedboat Club application for the 2022 ARP Long Beach Sprint Nationals event at Marine Stadium, 5355 Paoli Way, Long Beach 90803. (District 3)

### DISCUSSION

On May 24, 2022, pursuant Long Beach Municipal Code (LBMC) Section 5.60.060, the City Council referred the appeal of the City Manager Department's denial of a special events application by Southern California Speedboat Club to hold the 2022 ARP Long Beach Sprint Nationals Presented by Nick Rose Insurance event at Marine Stadium to an Administrative Hearing Officer. Attached is Hearing Officer Melissa J. Kim's written report regarding the appeal. Hearing Officer Kim recommends the denial of the permit application due to the event posing an unreasonable danger to the health or safety of the applicant, spectators, City employees, or members of the public.

LBMC Section 5.60.060 (A) (14) requires the City Council to set a time for a hearing to review and consider the Hearing Officer's Recommendation and Findings. After review of the Hearing Officer's Recommendation and Findings, the City Council may adopt, reject, or modify the recommendation and findings.

This matter was reviewed by Deputy City Attorney Arturo D. Sanchez on November 14, 2022 and by Budget Operations and Development Officer Rhutu Amin Gharib on November 11, 2022.

### TIMING CONSIDERATIONS

City Council approval is requested on December 6, 2022, to adopt, reject, or modify the Hearing Officer's Recommendation and Findings.

### FISCAL IMPACT

There is no fiscal or local job impact associated with this item. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities.

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**SUGGESTED ACTION:**

Approve recommendation.

Respectfully submitted,



**THOMAS B. MODICA  
CITY MANAGER**

ATTACHMENTS    A: ORIGINAL HEARING OFFICER REPORT  
                          B: DENIAL LETTER  
                          C: DENIAL APPEAL LETTER

December 6, 2022

**ATTACHMENT A**  
ORIGINAL HEARING OFFICER REPORT

A SCANNED IMAGE OF THE AGENDA ITEM  
ATTACHMENTS ARE AVAILABLE IN LEGISTAR INSITE 2.0 AT  
<http://longbeach.legistar.com/Calendar.aspx>

OR

PLEASE CONTACT

THE LONG BEACH CITY CLERK DEPARTMENT AT

(562) 570-6101  
(562) 570-6789 (FAX)  
[cityclerk@longbeach.gov](mailto:cityclerk@longbeach.gov)



April 5, 2022

Southern California Speedboat Club  
1803 Morgan Lane  
Redondo Beach, CA 90278  
Attn: Ross Wallach

Re: 2022 ARP Long Beach Sprint Nationals

Proposed Date: August 6-7, 2022

Dear Mr. Wallach:

An investigation in the 2021 Long Beach Sprint Nationals has been completed. A team comprised of multiple city departments, which included representation from the Fire and Police Departments; Marine Safety; Risk Management/City Safety Office; and Special Events was assembled to review the findings of the Sprint Nationals boat racing event in August of 2021. The purpose of the team was to determine if this type of event is safe to be held in the Marine Stadium venue.

The investigation included video and other evidence and provided confirmation that the speed of the vessels and the size of the venue contributed to the cause of the accident. The Vessel Accident Report states that the "combination of the speed, proximity of the vessels, the unstable water environment, and limited steerage ability made the accident difficult to avoid in that particular moment in time." Video shows the wake created by the vessels hitting against the rocks and being pushed back into the vessels path of travel. These wakes and high rate of speed caused one of the boat racers to lose control of the vessel, which collided with another boat and overturned. The driver of the overturned vessel was ejected and died from his injuries. Based on first-hand public safety personnel accounts and video, the unattended vessel continued at a high rate of speed, only overturning after hitting a wake. Had the vessel not overturned, it may have continued toward the spectating public with no physical barrier preventing impact.

There were similar patterns to the cause of the accident in the 2018 Marine Stadium race, including the rate of speed the vessels were traveling, the wakes created by the boats, and the small size of the stadium venue. These conditions also resulted in the death of one of the boat racers. Again, according to first-hand public safety personnel accounts, the unattended vessel continued travelling at a high rate of speed and penetrated the south border safety barrier comprised of manned vessels. At the time of the accident, the driver was immediately killed; however, the accelerator remained depressed. Had rescue teams not successfully boarded and stopped the vessel, it would have continued toward the swimming area of Mother's Beach, posing a danger to the public.



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April 5, 2022

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Based on the information above and your current application submitted to the Office of Special Events and Filming on August 25, 2021, the investigation team concluded that the Sprint Nationals Boat Racing Event is unsafe and poses a danger to both racing participants and spectators in its current configuration and specified safety requirements.

If you wish to appeal this denial, please refer to Long Beach Municipal Code 5.60.120 outlining the appeals process for a special event.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Modica', written in a cursive style.

THOMAS B. MODICA  
CITY MANAGER



## Southern California Speedboat Club

### NOTICE OF APPEAL PURSUANT TO LONG BEACH MUNICIPAL CODE SECTION 5.60.120

Notice is hereby given pursuant to *Long Beach Municipal Code* §5.60.120 that applicant Southern California Speedboat Club ("SCSC") hereby appeals the decision of the City Manager dated April 5, 2022 but received by appellant on April 11, 2022

The basis for the appeal is:

**1: The denial of the permit for the Sprint Nationals event scheduled for August 6 & 7 is contradicted by the evidence.**

City Manager Modica quotes from the accident report in his letter of April 5 that the "combination of the speed, proximity of the vessels, the unstable water environment, and limited steering ability made the accident difficult to avoid in that particular moment in time." However, this is not the case. The two K-boat drivers were the best and most experienced racers and had full control of their respective vessels. John "Jay" Hart had over 25 years' experience and Duff Daily over 50 years. Both drivers showed mastery and control which is why there were licensed to drive in the "K Racing Runabout" class which licenses only the most experienced drivers. The cause of the incident was simply driver error by Daily when he attempted to pass Hart in the open cockpit boat. Duff mistakenly believed he had room but the boats momentarily touched which caused Hart's to overturn and eject him into water. Contrary to the City Manager's unfounded conclusions, this incident was simply the result of a common risk inherent in the sport.

The City Manager's assertion that "based on first-hand public safety personnel accounts and video, the unattended vessel continued at a high rate of speed, only overturning after hitting a wake [and] had the vessel not overturned, it may have continued toward the spectating public with no physical barrier preventing impact" is also untrue. The video recordings taken at turn 3 and the airborne drone footage directly refute this as the boat came to a dead stop within a short distance nowhere near the shore.

All vessels entered in SCSC events—including Hart's K-boat-- are required to have an operable kill switch attached by a lanyard to your personal flotation device. Here, Hart's kill switch immediately activated as designed upon his ejection and brought the boat to a stop right side up in the center of the race course mere yards from the actual collision point where upon it sunk due to the hole in side of the boat below the waterline sustained in the collision. SCSC conducts before each race rigorous safety inspections by licensed tech officials that mandate operable kill switches that are personally verified on every single vessel prior to each event. The report of the Long

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Beach Police Report (No #21-37137) also supports the findings that there was no mechanical or technical fault of any equipment of safety devices on the Hart vessel.

This was simply a tragic and unfortunate racing accident that was not caused by any dangerous conditions of the facility while being used in this intended manner (which it was designed for and has been used for hundreds of events dating back decades), nor was the result of any wake caused by any such activity or condition. Furthermore, at no time was the public placed in any danger by this incident in which all spectator safety protocols, devices and inspections worked as intended.

City Manager Modica also references "similar patterns to cause the accident" from an incident four years ago in 2018. This is an unfair and manifestly untrue representation because that incident was caused by one driver oversteering in a turn and spinning out when causing a collision with the oncoming vessel driven by Greg Duff. It is NOT true that the Duff "accelerator was depressed after the collision" as Mr. Modica states. The engine merely remained idling after the collision with the boat, by all accounts, proceeding at less than 10 mph. Mr. Duff was furthermore rendered unconscious and did not have his foot on the accelerator. There is zero similarity between the incidents of 2018 and 2021 and the City Manager regrettably resorts to wholly unfounded comparisons to cast a pox on SCSC's permit application.

It is furthermore untrue, as Mr. Modica asserts, that the boat left the safety zone. Mr. Duff's boat never left the safety zone as the rescue team boarded it and immediately pulled the kill switch and starting assessing and treating Mr. Duff. Again, Mr. Modica dramatically proclaims that "the driver was immediately killed" which is a false exaggeration designed to generate visions of a 'crime scene' and cause alarm because the truth is that Mr. Duff was hospitalized and remained alive for over 10 days after the accident.

Regardless, in light of this incident and in our ongoing efforts to address and rectify all issues with the City's respective agencies, a barrier system was put into place at the perimeter and beach for the event which included a line of floating barrels that are strung together to act a layer of defense to prevent a boat from ever possibly breaching the safety zone or beach area. This was deemed acceptable by all parties involved, including City Manager Modica and was added to the Site Plan for the Long Beach Sprint Nationals event. To this day there have been no spectator fatalities or even any claims or lawsuits for personal injury brought against the City or the SCSC in connection with this event at this venue. This is because the SCSC runs a conscientious and safety-mandated operation in which rules are promulgated and enforced, and suggestions from venue owners are considered and adopted based upon the actual facts and circumstances that exist.

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**2: SCSC was not allowed to present reasonable modifications to mitigate the City's concerns.**

From Monday, August 9<sup>th</sup>, 2021 to the writing of this appeal (April 13, 2022) on no less than 7 separate times I, on behalf of the SCSC, personally requested via email/calls a "debrief" meeting with the City and all departments to discuss all aspects of the incident. This event is a historic and beneficial staple in the community since 1946 and with myself as Race Director starting in 1998. In all those years SCSC has been afforded an opportunity to have a debrief with all departments with the exception of the City's actions after the incident in 2018 and 2021. It was only after public outcry did the City Manager agree to a meeting in 2019 to discuss the accident of 2018 and agree to the proposed mitigation strategy for the 2019 event. I had hoped the City Manager would have afforded SCSC the opportunity to present the actions the Board of Directors had taken in the wake of the 2021 accident and to allow a deliberative process to govern this application based and not errors, unsupported half-truths and exaggeration.

Unfortunately, myself and the SCSC board were misled as all correspondence from the office of Special Events and Filming said that I would be able to get a meeting once the city had concluded its accident investigation to allow meaningful participation by an event and sanctioning body that has steadfastly contributed to this community for over 7 decades. Instead, the SCSC was told that the accident investigation was concluded some time ago and yet I have only received a denial letter from City Manager Modica on April 11 that was dated April 5<sup>th</sup>, 2022.<sup>1</sup>

**3: The safety of the public was never jeopardized but the SCSC has nonetheless implemented mitigation measures which warrant the issuance of the permit**

The safety staff of the SCSC are experts in powerboat racing safety and our hired Safety Compliance Office have all concluded the following after reviewing all the evidence including the vessels, witness statements and video recordings (which we are happy to provide): The incidents of 2018 and 2021 were dissimilar in all material respects but were the result of a risk inherent in the sport, driver error. Both the 2018 and 2021 incidents involved open cockpit boats racing in the same class with encapsulated boats and colliding with one another. In both cases the drivers of the open cockpit boats died as a result. We looked at the speed, size of race course and did NOT find this was in any way a causal part of the accident equation. In light of this evidence the SCSC, as the promoting and sanctioning body, made the decision to mitigate accidents of this kind utilizing a four-part approach:

- 1) From September 1, 2021 on, NO encapsulated boats would be permitted to race on a course with an open cockpit boat.

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<sup>1</sup> As an aside it is noted that the City has directed two letters to the SCSC which are verbatim of one another with the exception of one being dated April 5 and the other April 11, 2022. The SCSC trusts that this was not done in an effort to deprive the SCSC the time necessary to fully briefing the instant appeal.

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2) From September 1, 2021 for the K Racing Runabout Class and from January 1, 2022 for the Unblown Flat Class all boats participating in these two classes must be fully encapsulated.

3) Heat races containing the Unblown Flat Class and K Racing Runabout classes will be limited to no more than 4 boats at a time at Long Beach Marine Stadium.

4) All other safety protocols that were put in place after the 2018 accident shall remain in place for the 2022 event and beyond.

The implementation of these rules/guidelines will virtually eliminate the chance of future K-Boat incidents resulting in a fatality from a driver being ejected or struck by a competitor's vessel because open cockpit boats are being removed from competition and overall class size in heat races is reduced. This is the type of constructive and fact-based approach that will remedy the concerns of all stakeholders and which the city neglected to consider when wrongfully denying SCSC's permit for the Sprint Nationals.

Lastly, it cannot be overstated enough that in the 25 years we (SCSC) have promoted this historically and culturally significant event at Long Beach Marine Stadium there has NEVER been a lawsuit brought against us or the City of Long Beach relating to this event. No spectators have ever been hurt while attending this event, no claims have been filed by any participant or attendee. If given the opportunity we feel 100% confident our decisions will continue this tradition while continuing to provide for the safety and wellbeing of everyone involved.

If you have any questions, please don't hesitate to email or call me directly at either (310) 318-4012 or [rpmracingent@yahoo.com](mailto:rpmracingent@yahoo.com)

Sincerely,



Ross Wallach, President  
SCSC  
1803 Morgan Lane  
Redondo Beach, CA 90278  
(310) 318-4012  
[www.scscracing.com](http://www.scscracing.com)

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