



CITY OF NEWPORT BEACH HARBOR COMMISSION SPECIAL MEETING (DATE CHANGE DUE TO HOLIDAY) AGENDA

City Council Chambers - 100 Civic Center Drive. Please See Notice
Regarding COVID-19 for Public Comment Information.

Monday, November 9, 2020 - 5:00 PM

Harbor Commission Members:

- William Kenney, Jr., Chair**
- Scott Cunningham, Vice Chair**
- Ira Beer, Secretary**
- Marie Marston, Commissioner**
- Steve Scully, Commissioner**
- Gary Williams, Commissioner**
- Don Yahn, Commissioner**

Staff Members:

- Carol Jacobs, Assistant City Manager**
- Kurt Borsting, Harbormaster**
- Jennifer Biddle, Administrative Support Specialist**

The Harbor Commission meeting is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Harbor Commission agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Harbor Commission. The Chair may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Carol Jacobs, Assistant City Manager, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3001 or cjacobs@newportbeachca.gov.

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT AND SPECIAL NOTICE REGARDING COVID-19

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the Harbor Department 24 hours prior to the scheduled meeting.

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which allows Harbor Commission Members to attend Harbor Commission meetings telephonically. Please be advised that to minimize the spread of COVID-19, some, or all, of the Newport Beach Harbor Commission members may attend this meeting telephonically.

Also, please be advised that on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allows for the public to participate in any meeting of the Harbor Commission telephonically or by other electronic means. Given the health risks associated with COVID-19, the City of Newport Beach has decided to not have the City Council Chambers open to the public for this meeting. As a member of the public, if you would like to participate in this meeting, you can participate via the following options:

1. You can submit your questions and comments in writing for Harbor Commission consideration by sending them to the Assistant City Manager cjacobs@newportbeachca.gov. To give the Harbor Commission adequate time to review your questions and comments, please submit your written comments by Monday, November 9, 2020, at noon.
2. In addition, members of the public can participate in this meeting in person in the Community Room. Specifically, this meeting will be viewable via video feed in the Community Room. As a member of the public, during this meeting, you will be able to comment on specific agenda items in person from the Community Room. Please know that it is important for the City to allow public participation at this meeting. If you are unable to participate in the meeting via the process set forth above, please contact Carol Jacobs at 949-644-3313 or cjacobs@newportbeachca.gov and she will attempt to accommodate you. While the City does not expect there to be any changes to the above process for participating in this meeting, if there is a change, the City will post the information as soon as possible to the City's website.

1) **CALL MEETING TO ORDER**

2) **ROLL CALL**

3) **PLEDGE OF ALLEGIANCE**

4) **PUBLIC COMMENTS**

Public comments are invited on non-agenda items. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Harbor Commission has the discretion to extend or shorten the speakers' time limit on non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

5) **APPROVAL OF MINUTES**

1. **Minutes of the October 14, 2020 Harbor Commission Regular Meeting**

[10-14-2020 Harbor Commission Draft Minutes](#)

[Additional Material Received Correspondence \(Items 5.1, 6.1, and 7.2\) Jim Mosher](#)

6) **PUBLIC HEARINGS**

1. **Residential Dock Reconfiguration at 944 Via Lido Nord**

The applicant at 944 Via Lido Nord at the eastern tip of Lido Isle is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and U-shaped float with a new system comprised of a gangway and single-finger float. The proposed float extends beyond the pierhead line by 7-feet which matches the existing float's extension beyond the pierhead line of 7-feet. However, the existing float, when constructed in 1989, was permitted to extend to the pierhead line and not beyond. Therefore, the existing float is non-compliant. Because the applicant is proposing to extend the float beyond the previously approved limit, staff is recommending the Harbor Commission deny the project per the direction of Council Policy H-1. The applicant, however, requests the Harbor Commission to approve the proposed dock configuration.

Recommendation:

1) Conduct a public hearing; and

2) Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review; and

3) Deny the Project at 944 Via Lido Nord and make specific findings to support the decision.

[Staff Report](#)

[Attachment A - Council Policy H-1](#)

[Attachment B - Aerial Photos](#)

[Attachment C - Existing Approved Plans and Configuration](#)

[Attachment D - Proposed Configuration](#)

[Attachment E - Public Outreach](#)

[Additional Material Received Correspondence \(Items 5.1, 6.1, and 7.2\) Jim Mosher](#)

7) **CURRENT BUSINESS**

1. **Harbor Commission 2020 Objectives**

Each ad hoc committee studying their respective Functional Area within the Commission's 2020 Objectives, will provide a progress update.

Recommendation:

1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

2) Receive and file.

[Staff Report](#)

[Attachment A – Harbor Commission 2020 Objectives](#)

[Attachment B – Harbor Commission 2020 Objectives Tracking Sheet](#)

2. **Proposed Harbor Commission 2021 Objectives**

The Harbor Commission held a Study Session on September 9, 2020 to review their existing objectives and to provide input to update the Objectives for the 2021 calendar year.

Recommendation:

1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

2) Approve the proposed Harbor Commission Objectives for 2021 and request staff to present the objectives to the City Council at a future date.

[Staff Report](#)

[Attachment A - Harbor Commission Proposed Objectives 2021 Redline](#)

[Attachment B - Harbor Commission Proposed Objectives 2021 Clean Version](#)

[Additional Material Received Correspondence \(Items 5.1, 6.1, and 7.2\) Jim Mosher](#)

[Additional Materials Received Item 7.2 Correspondence](#)

3. Harbormaster Update - October 2020

The Harbormaster is responsible for the management of the City's mooring fields, the Marina Park Guest Marina and Harbor on-water code enforcement activities. This report will update the Commission on the Harbor Department's activities for October 2020.

RECOMMENDATION:

1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

2) Receive and file.

[Staff Report](#)

[Attachment A – Harbor Department Statistics, Fiscal Year through October 2020](#)

8) **COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)**

9) **QUESTIONS AND ANSWERS WITH STAFF ON HARBOR RELATED ISSUES**

10) **MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**

11) **DATE AND TIME FOR NEXT MEETING: Wednesday, December 9, 2020 at 5 p.m.**

12) **ADJOURNMENT**

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
Zoom Virtual Meeting, Newport Beach, CA
Wednesday, October 14, 2020
5:00 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 5:02 p.m.

2) ROLL CALL

Commissioners: William Kenney, Jr., Chair
Scott Cunningham, Vice Chair
Ira Beer, Secretary
Marie Marston, Commissioner
Steve Scully, Commissioner
Gary Williams, Commissioner
Don Yahn, Commissioner

Staff Members: Carol Jacobs, Assistant City Manager
Jennifer Biddle, Administrative Support Specialist
Kurt Borsting, Harbormaster
Matt Cosyion, Code Enforcement Supervisor
Jeremy Jung, Deputy City Attorney
Chris Miller, Public Works Administrative Manager
Theresa Schweitzer, Senior Accountant
Yolanda Summerhill, Assistant City Attorney
Lauren Wooding-Whitlinger, Real Property Administrator

3) PLEDGE OF ALLEGIANCE – Commissioner Marston

4) PUBLIC COMMENTS

Jim Mosher noted that Measure Z was not publicly debated by the Commission. If Measure Z is passed, it will move the permitting and appeal authority of the Commission to the Council. Measure Z does not explain if it is retaining the existing Council created Harbor Commission or is intending to create a new one with slightly different rules. He suggested that Measure Z be scrapped and that the existing Harbor Commission continue to exist with all their powers and responsibilities in place.

5) APPROVAL OF MINUTES

1. Minutes of September 9, 2020, Harbor Commission Study Session Regular Meeting

Chair Kenney requested that the following changes be made to the meeting minutes. Page 2, paragraph 5, Sheriff Department should be changed to Newport Beach Police Department. Page 6, first paragraph, Section 17.40.110 was revised to only limit the number of Live-aboard Permits issued to permittees holding valid offshore permits. Page 6, bottom paragraph, states that Commissioner Yahn said to approve and it should read made a motion to approve. Page 7, line 2, the word yacht man should be replaced with yachtsman, and Page 9, Functional Area 4 should read they are waiting on the updated Marine Activities Permits.

Commissioner Marston moved to approve the draft Minutes of the September 9, 2020 meeting as amended. Commissioner Beer seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn
Nays: None

Abstaining: None
Absent: None

The Commission moved to Item 8.2

6) PRESENTATION

1. Harbor Fees and Rents Presentation

The City of Newport Beach maintains a schedule of Rents, Fees and Fines, citywide. This comprehensive list includes cost-of-services fees, fines and penalties. Newport Beach Municipal Code Chapter 3.36 titled "Cost Recovery for User Services defines how the City administers the program. The Harbor Department has a schedule that includes rents, fees and fines. This presentation will provide the Harbor Commission with the basis for how these are calculated and managed.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Senior Accountant Theresa Schweitzer stated that a fee is a User Fee or Cost of Service Fee that is charged to a private citizen or group for services performed or provided by a government agency on their behalf, and it is no more than the cost of service. Rent is a payment for rental or use of City property and/or resources and can be charged at fair market value. The City contracts with a fee study consultant who conducts a Fee Study Analysis. The Harbor Department and the Public Works Department are currently undertaking a Fee Study Analysis to bring the fees to Council in March of 2021 and the next Fee Study will not be conducted until FY 23-24.

Community Developer Department Lauren Wooding-Whitlinger discussed rent which is charged for the use of City Property in the harbor. The Beacon Bay Bill is a state statute that was first enacted in 1919 and it is a formal grant from the state to the City to manage most of the tide and submerged lands in Newport Harbor. The Beacon Bay Bill requires that the City can only convey private use of the public lands to a third-party through a lease or franchise. Title 17 requires that the City receive rental or lease charges that reflect fair market value which is established through an appraisal that is approved by Council. City Council Policy F-7, Income Property, requires that the City obtain a fair market appraisal and then the City is required to seek revenue equivalent to the open market highest and best use. Current renters include the City-owned Balboa Yacht Basin, the Commercial Marina Program, dingy recreation rentals, Marina Park boat slips, on and offshore moorings, and several others. Resolution 2017-49 and Resolution 2018-09 set the rent for commercial piers and are adjusted annually. Resolution 2018-55 governs various rentals such as dingy rent rentals and Marina Park boat slips and is on a Fee Schedule. For on and offshore moorings rent is set pursuant to Resolution 2016-17 and is adjusted annually. Residential pier rent is set by Resolution 2015-10 and is adjusted annually. Resolution 2010-134 sets the rates for the slips at the Balboa Yacht Basin as well as the garages and apartments.

In response to Commissioner Scully's question, Ms. Wooding-Whitlinger explained that staff could start an appraisal for moorings if directed by Council or management. In terms of moorings, all moorings are treated the same even if they are located in a yacht club.

In answer to Vice Chair Cunningham's queries, Ms. Wooding-Whitlinger believed that staff could conduct an appraisal if rates are not consistent with market rates, otherwise, Council would have to direct staff to do an appraisal. Senior Accountant Schweitzer answered that in terms of starting a new service staff would review comparable services and acquire knowledge from the Harbormaster on what would be a reasonable amount of time that should be spent on the service.

In reply to Secretary Beer's inquiry, Ms. Wooding-Whitlinger suggested that Staff would have to consult with the City's Attorney's Office but an appraisal would consider all Transfer Fee values for Mooring Permits.

In answer to Commissioner Yahn's questions, Senior Accountant Schweitzer responded that Transfer Fees are listed in the City's Municipal Code. Harbormaster Kurt Borsting added that a Transfer Fee is calculated as 9-months of the rent for the size of the mooring.

7) PUBLIC HEARING

1. Residential Dock Reconfiguration at 1508 S. Bay Front

The applicant at 1508 S. Bay Front on Little Balboa Island is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and single-finger float with a similar dock system. The proposed float extends beyond the pierhead line, but no further than the existing, permitted float. Because the applicant is proposing to position the float beyond the pierhead line, staff is unable to consider approving the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project. The applicant requests the Harbor Commission to approve the proposed dock configuration.

Recommendation:

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 1508 S. Bay Front by making specific findings to allow the dock to be reconfigured pursuant to the provisions in Council Policy H-1.

Public Works Manager Chris Miller noted that all conditions that are stated in City Council Policy H-1 have been satisfied. He described where the proposed project is to be located. The proposed reconfiguration is almost a like for like construction in terms of how far the dock will extend beyond the pierhead line as well as configuration.

In reply to Commissioner Yahn's question, Public Works Manager Miller explained that the project does not fall within the guidelines for South Bay Front docks because that rule only applies to vessel overhang, not dock construction.

Pete Swift, a representative for the applicant, summarized that due to issues of not being able to level the existing dock, the applicant decided to rebuild the dock and the project complies with all regulations and requirements.

Chair Kenney pointed out that the new float is slightly wider than the existing float which therefore reduces the space between the float and the property line which therefore translates into a narrower and potentially smaller vessel capable of berthing on either side.

Bill DeWitt acknowledged that he has a mooring east of the dock and is concerned about overcrowding if a wider and longer boat is docked there.

Secretary Beer moved to approve with the Findings from Public Works Manager Miller and the CEQA Exemption. Commissioner Scully seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays: None

Abstaining: None

Absent: None

The Commission moved to Item 6.1

2) Commercial Marina Reconfiguration at American Legion (215 15th Street)

The City, is the owner and lessor of the American Legion property at 215 15th Street, is proposing to reconstruct and raise the bulkhead cap at this property. As a result of raising the cap, an 80-foot ADA gangway and corresponding supporting floats are required for path of travel code compliance. Because the proposed float at the gangway area is required to be wider, the City is proposing to extend this wider float down the remaining side of the visitor serving headwalk to maintain dock-face continuity and to provide greater stability. However, because the City is proposing to extend this wider float beyond the pier head line to match the existing finger floats at the marina, staff is unable to approve the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for this component of the proposed project. The City requests the Harbor Commission to approve the proposed dock configuration.

Recommendation:

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 215 15th Street by making specific findings to allow the dock to be reconfigured pursuant to the provisions in Council Policy H-1.

Public Works Manager Miller stated that the project is a City project and is located within a commercial marina. The project includes the installation of a new bulkhead cap for the entire area fronting the American Legion, along with the gangway being upgraded to an 80-foot American Disabilities Act (ADA) compliant gangway. The project will extend beyond the pier headline by 5-feet 4-inch which mimics current conditions. No comments were received from the public and the project is to go out for bid around January 2021.

In response to Commissioner Scully's question, Public Works Manager Miller stated that the American Legion rents the slips out and that this is not a City operated marina. Harbormaster Borsting mentioned that it is his responsibility to enforce the vessel overhang rules in the harbor.

In reply to Chair Kenney's inquiry, Public Works Manager Miller shared that when the American Legion property was dredged, the tenant pointed out concerns regarding the existing bulkhead, and the City agreed to pay for the project.

Chair Kenney noted that the bulkhead will not protect the beach that is adjacent as sea-level rise continues.

Jim Mosher wondered how the Coastal Development Permit that was granted by the Coastal Commission to do various repairs at the American Legon is related to the project.

Public Works Manager Miller specified that one of the Conditions of Approval from the Coastal Commission is to seek approval from the Harbor Commission. If that condition is satisfied, then the City will not return the Coastal Commission.

Secretary Beer moved to approve the project exempted from CEQA and with the Findings from staff. Commissioner Scully seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays: None

Abstaining: None

Absent: None

8) CURRENT BUSINESS

1) Waterfront Project Guidelines and Standards-Harbor Design Criteria, Commercial and Residential: Review and Approval

The Waterfront Project Guidelines and Standards-Harbor Design Criteria, Commercial and Residential Facilities (Harbor Design Standards) have been updated after receiving

industry input. Staff requests the Harbor Commission consider approving these standards, then forwarding to the City Council for review and approval.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Approve the Harbor Design Standards and recommend that staff forward to the City Council for consideration and approval.

Public Works Manager Miller mentioned this is the third time this item has been before the Commission. Reflected in the new document were Commissioner Marston’s recommendations, figures, and standard drawings. Corrections included clean ups, clarifications, and organizational corrections.

Commissioner Marston expressed that C7 discussing gangway loading versus dock loading was not responded to in the document.

Pete Swift emphasized that the changes were well thought out.

Commissioner Marston moved to approve the Waterfront Project Guidelines and Standards as they’ve been addressed including the Findings recommended by staff and the CEQA Exemption. Commissioner Scully seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays: None

Abstaining: None

Absent: None

The Commission moved to Item 8.3

- 2) **Proposed Changes to Title 17, Harbor Code, Section 17.10-Marine Activity Permits**
The Harbor Commission subcommittee on Harbor Policies, Codes and Regulations has been working on revisions to Title 17 over the last year. The City Council approved major revisions to the Municipal Code on January 28, 2020. Title 17.10-Marine Activities Permits, was not part of the changes presented in January. The Harbor Commission subcommittee requested additional time to review this section of the Code. The subcommittee recommends to the Harbor Commission changes to Title 17.10 and Title 17.05.020 Authority and Administrative Citation Fines.

Recommendations:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Approved the proposed changes as identified on Attachment A and authorize staff to forward to City Council for consideration.

City Attorney Yolanda Summerhill announced that there has been an increase of complaints regarding new businesses and their impacts in the harbor. Staff recommended three big picture changes to Title 17 which included extending the definition of what a commercial activity is, narrowing the exemptions of what activities would not be subject to a Marine Activity Permit (MAP), and penalties. In Section 17.10.020 the definition expansion now covers any business activity regardless if it is non-profit or for-profit. Section 17.10.025 regarding exemptions has been revised so that commercial fishing vessels, or commonly referred to as six-packs and twelve-packs, are now required to obtain a MAP with the caveat that operations that existed before 2006 and 2008 are not required to obtain a MAP. Exempted operators are not subject

to Parking Requirements. All commercial activities are required to carry insurance and that revision was made in Section 17.10.070. In terms of penalties, the Administration Citation Penalties are now higher in terms of fines aligned with Short-Term Lodging Permit Ordinance penalties and have been incorporated into the MAP provisions.

Commissioner Marston advised that the Risk Manager prepare a chart that is presented to folks who are applying for a MAP Application so they know what type of insurance they need.

Secretary Beer suggested to reference the Newport Beach General Plan's noise section in the code and that noise should be measured in decibels instead of in feet. In terms of Section 17.70.05, he suggested making changes to the language that states a permit will be suspended for a minimum of 6-months or permanently revoked.

In reply to Commissioner Yahn's query, Code Enforcement Supervisor Cosylyon reported that 36 operators have MAPs in the harbor with 15 vessels operating without a MAP.

In response to Vice Chair Cunningham's question, Harbormaster Kurt Borsting disclosed that he would have to research Airbnb's who rented out boats. Code Enforcement Supervisor Cosylyon added that advertising for short-term lodging on a vessel is prohibited. City Attorney Summerhill advised incorporating Airbnb boat language to Mooring and Live-aboard Permits.

In answer to Commissioner Scully's inquiry, existing business vessels that are exempted from obtaining a MAP would be tracked and would not be allowed to expand their operations unless they obtain a MAP.

Ryan Lawler, the operator of Newport Coastal Adventure, emphasized frustration that companies that operate illegally will be grandfathered in and that is unfair to businesses who have followed the laws.

Chair Kenney explained that the proposed revisions would only exempt operators who were operating before 2006 or 2008. Operators who come after those years are now required to obtain a MAP and follow Parking Requirements.

John Pringle, Paradiso Charter, wanted to know how to get on the exemption list and if that list frozen. He requested clarification on what drop off and pick up next to a commercial business meant. His concern is that restaurant docks will now become the place for vessels to drop off.

Harbormaster Borsting noted that using a commercial dock at an abutting restaurant is the current expectation of operators.

Vice Chair Cunningham disclosed that the changes should be pushed forward with the caveat that Title 17 is a living document. Commissioner Yahn, Secretary Beer, Commissioner Marston, and Commissioner Williams agreed.

Commissioner Marston advised that when changes are made to Title 17, they be made in a way that does not burden staff and Council time. Commissioner William agreed.

In response to Commissioner Scully requesting more information around restaurant docks and usage, Code Enforcement Supervisor Cosylyon explained that any MAP applicant is required to receive Zoning Clearance from the Community Development Department for the commercial dock they are proposing to pick up clients from as well as a signature from the business who owns the dock.

Commissioner Yahn moved to approve the revisions to Section 17.10 as currently written with no modifications. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays: None

Abstaining: None

Absent: None

Harbormaster Borsting explained that the main goal for MAPs is to expand the level of engagement with operators on the harbor as well as set standards and expectations. Four templates have been developed that are specific to the type of businesses on the water. Those businesses included charter operations, companies providing services on the water, companies providing human-powered vessels, and companies renting wind, electric, and fuel power vessels.

Vice Chair Cunningham suggested that permittees who rent human-powered or other rentals should list who they have contracted with for rental rescue.

In reply to Vice Chair Cunningham's question, Harbormaster Borsting noted that some operators do operate from a facility that is not water adjacent and the requirement is that those operators do not store rental equipment on the beach.

Secretary Beer advised to remove the food and beverage MAP reference to Section 17.10 and have it reference Section 17.70.020. Also, incorporate language that states that safety pamphlets must be given out to folk who rent rental equipment. Lastly, that noise should be measured in decibels and should be consistent with the Newport Beach General Plan.

In reply to Commissioner Marston's question, Chair Kenney noted that per Federal Inland Rules all human-powered vessels are required to have a personal floatation device as well as a sounding device.

Commissioner Scully echoed the comments insurance limits should be listed. He advised that MAPs that relate to food and beverage and boats that have a captain should be required to have a working radio.

Commissioner Scully moved to approve the four Marine Activity Permits with the revision that Secretary Beer mentioned regarding the reference. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Kenney, Vice Chair Cunningham, Secretary Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays: None

Abstaining: None

Absent: None

The Commission moved back up to Item 7.1

3) Harbor Commission 2020 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2020 Objectives, will provide a progress update.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code Of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Functional Area 1: Chair Kenney reported that the proposed changes to liveaboards will be presented to Council on October 27, 2020. With the Commission's approval of Section 17.10, that will be moved forward to Council possibly in November of 2020. The newly approved four Marine Activity Permit templates will be implemented by the Harbor Department. Derelict vessels will be removed from the 2020 Functional Areas and regarding Functional Area 1.4, the Ad Hoc Committee is pursuing issues regarding moorings.

Functional Area 2: Secretary Beer commented that public outreach will be sent out to stakeholders regarding the west anchorage as well as a formal request for approval to the US Coast Guard. He encouraged anyone who is in favor of a second anchorage to respond to the survey. In terms of mooring extensions and Harbor Policy H-3, that will be brought forward to the Commission in November or December of 2020.

Functional Area 3: Vice Chair Cunningham shared that in terms of the deep-water dredge project, it is going out for bids and could begin as early as the middle of November of 2020. The Draft EIR for the Confined Aquatic Disposal is ready to be published and will be coming to the Commission soon. RGP54 continues to move forward and the Army Corps is doing improvements to the eastern navigational light on the jetty.

Functional Area 4: Commissioner Scully disclosed that Functional Area 4.1 will be moving forward now that the Marine Activity Permits have been approved. Functional Area 4.2.3 continues to be difficult to work on due to COVID-19. Functional Area 4.4 has made good progress with the Harbor Tenant Study and that will be brought forward to the Commission in the next couple of months.

Functional Area 5: Commissioner Yahn disclosed that a walkthrough at Lower Castaways took place and the Ad Hoc Committee has come up with short term goals around cleaning up the launch area.

Jim Mosher announced that in 2006 the Orange County Grand Jury issued a report that was very critical of the City's administration of the moorings. In 2010, Ordinance 2010-26 changed the transfer rules back to the original intention that the City would issue Mooring Permits to folk who were on the waitlist. After push back, the City moved back to the old system. He suggested the Commission review the 2006 report as well as the Council action in 2010 and provide recommendations on the issue.

4) Proposed Harbor Commission 2021 Objectives

The Harbor Commission held a Study Session on September 9, 2020 to review their existing objectives and to provide input to update the Objectives for the 2021 calendar year.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Approve the proposed Harbor Commission Objectives for 2021 and request staff to present to City Council at a future date.

Commissioner Scully proposed new language for Functional Area 2.1, Functional Area 4.2, and Functional Area 4.3.

Vice Chair Cunningham confirmed that he has notes and will provide those to staff and Harbormaster Borsting before the next meeting.

Secretary Beer proclaimed that Functional Area 2.7 may not be needed with the expansion of Functional Area 2.1. Chair Kenney noted that a fuel dock is not a City amenity and did not agree with that change.

Chair Kenney disclosed that there is a closed fuel dock in the harbor in front of Newport Landing and asked the Commission if fuel docks should stay market forced in order to determine how many fuel docks are located in the harbor. Commissioner Yahn shared that after discussions with the owner, the fuel dock is in a state of disrepair and it is not economically feasible to rebuild the underground storage tanks. Secretary Beer believed it should be left to market because if it becomes feasible people will build another fuel dock. Chair Kenney advised bringing back Functional Area 2.7 to the November meeting to discuss whether it should be removed or not.

5) Harbormaster Update-September 2020

The Harbormaster is responsible for on-water management of the City's moorings, the Marina Park Marina and code enforcement on the water. This report will update the Commission on the Harbor Department's activities for September 2020.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Borsting shared that there has been great success with removing derelict vessels from the harbor with five boats being removed within the next couple of weeks. On September 24, 2020 an on-water mini-concert was hosted and it was well-received. More inquiries regarding similar programs continue to come in and he requested guidance from the Commission on how to address those. In terms of the Quarter 1 Marina Park Dock Survey, many surveys indicated that guests are giving high marks in the categories of experience, cleanliness, value, and staff. Regarding Quarter 1 numbers, there has been an increase in overnight guest reservations as well as day reservations. The Mooring Sub-Permits have seen an increase in visitors but a decrease in the duration of their stay. Three new Code Enforcement staff will be coming online and will provide an additional 60-hours a week of code enforcement.

In response to Secretary Beer's question, Harbormaster Borsting explained that the organizers had self-promoted the concert one-week before the activity and many people attended.

In reply to Commissioner Marston's inquiry, Harbormaster Borsting reported that there was a 10 percent response to the survey but staff is working on a mobile app that will bring the response percentage up.

In answer to Commissioner Scully's queries, Harbormaster Borsting acknowledged that speeding has become an issue in the harbor and staff has done several deployments to respond to those complaints. Warnings have been given out and staff is still exploring ways to combat the problem.

In response to Chair Kenney's question, Harbormaster Borsting reported that not enough code enforcement has been happening in the morning and evening hours. That is going to be addressed when the new Code Enforcement staff come online.

Jim Mosher asked what is a local boater in terms of the Marina Park Guest Slip Survey.

Harbormaster Borsting mentioned that there are local boaters who like to rent a boat to get away from their mooring or private dock.

9) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

None.

10) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR-RELATED ISSUES

None.

11) MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)

Vice Chair Cunningham requested a presentation on where the revenue is coming from within the harbor and where does it all go.

Commissioner Scully plugged a placeholder for the Harbor Tenant Study.

- 12) **DATE AND TIME FOR NEXT MEETING: Monday, November 9, 2020 at 5:00 p.m.**
(Special Meeting due to Holiday Wednesday, November 11, 2020)

Chair Kenney emphasized that the meeting will be on November 9, 2020.

- 13) **ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:05 p.m.

DRAFT

November 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission [agenda](#) are submitted by:
Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 4. Public Comments

The present meeting was rescheduled from the Commission's normal (and [announced](#)) regular meeting date on the second Wednesday of the month, which would, this month, have fallen on the Veterans Day holiday of November 11.

For future reference, if another meeting should fall on a holiday, **I would suggest it would be much better to reschedule it to a date *after* the regular date rather than to one *before* it.**

Among other things, that would be more consistent with the Brown Act, which in [Section 54955](#) contemplates the need to cancel a previously-announced meeting. In that case, a notice of the new date is required to be posted on the meeting door. That new date will obviously be in the future, so that a person who (not knowing of the cancellation) shows up on the scheduled date will be able to come back and will not have missed the opportunity to attend. Contrast that with the same person showing up on the expected date to find a note on the door saying "Sorry we missed you! Our regular monthly meeting is over, as we decided to hold it two days before the normal date."

Better yet would be to adopt (and follow) a clearly stated rule for handling holidays, such as "We normally meet on the second Wednesday of each month. Should that be a City holiday, we meet on the City's next business day."

Item 5.1. Minutes of the October 14, 2020 Harbor Commission Regular Meeting

Suggested corrections: The passages shown in *italics* below are from the [draft minutes](#) with suggested corrections indicated in **strikeout underline** format. The page numbers refer to those in the minutes.

Page 1 (page 5 of agenda packet), Item 4, sentence 2: "*If Measure Z is passed, it will ~~move~~ **leave** the permitting and appeal authority of the Commission to the ~~discretion of the~~ Council.*"

Page 1 (page 5 of agenda packet), Item 4, sentence 4: "*He suggested that Measure Z be scrapped and ~~in the Charter state instead~~ that the existing Harbor Commission continue to exist with all their powers and responsibilities in place.*"

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, sentence 1: "~~Community Developer Department Real Property Administrator~~ Lauren Wooding-Whitlinger discussed rent which is charged for the use of City Property in the harbor." ["Real Property Administrator" is a position within the Community **Development** Department]

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, next to last sentence: "*For on and offshore moorings rent is set ~~pursuit pursuant~~ to Resolution 2016-17 and is adjusted annually.*"

Page 2 (page 6 of agenda packet), last sentence: "*In reply to Secretary Beer's inquiry, Ms. Wooding-Whitlinger suggested that ~~Staff staff~~ would have to consult with the ~~City's City~~ Attorney's Office but an appraisal would consider all Transfer Fee values for Mooring Permits.*"

Page 3 (page 7 of agenda packet), paragraph 1: "*In answer to Commissioner Yahn's questions, Senior Accountant Schweitzer responded that Transfer Fees are listed in the City's Municipal*

Code. Harbormaster Kurt Borsting added that a Transfer Fee is calculated as 9-months of the rent for the size of the mooring.”

Comment 1: [NBMC Sec. 17.60.040.1](#) contains only the rule that the transfer fee is 75% of the annual rent. The rent used to calculate the actual fee in dollars is not specified in the Municipal Code, but rather, as the code indicates, is set by resolution.

Comment 2: It is confusing to present the minutes in a sequence differing from the actual order in which items were heard. It looks like a note about the sequence is needed after the above paragraph, for the minutes make it appear that at the conclusion of the fees presentation (Item 6.1) the Commission moved on into Item 7.1. But a note on page 7 (page 11 of the packet) says Item 7.1 was heard after Item 8.2 in which case it could not also have been heard after Item 6.1.

My guess is that after Item 7.1, the Commission heard 6.1 then 7.2, 8.1, 8.3 and the rest of the agenda. If that's correct, the following note should be inserted after the above paragraph:

“The Commission moved to Item 7.2”

Or better, the notes be eliminated and the minutes simply presented in the order in which the items were heard.

Page 4 (page 8 of agenda packet), Item 7.2 minutes, paragraph 1: *“Public Works Manager Miller stated that the project is a City project and is located within a commercial marina. The project includes the installation of a new bulkhead cap for the entire area fronting the American Legion, along with the gangway being upgraded to an 80-foot **American Americans with Disabilities Act (ADA) compliant gangway**. The project will extend beyond the **pier-headline pierhead line** by 5-feet 4-inch which mimics current conditions. No comments were received from the public and the project is to go out for bid around January 2021.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 1: *“**Assistant** City Attorney Yolanda Summerhill announced that there has been an increase of complaints regarding new businesses and their impacts in the harbor.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 3: *“Section 17.10.025 regarding exemptions has been revised so that commercial fishing vessels, **or and the charters** commonly referred to as six-packs and twelve-packs, are now required to obtain a MAP with the caveat that operations that existed before 2006 and 2008 are not required to obtain a MAP.”*

Page 6 (page 10 of agenda packet), first partial paragraph, last sentence: *“In terms of penalties, the **Administration Administrative** Citation Penalties are now **higher in terms of fines** aligned with Short-Term Lodging Permit Ordinance penalties and have been incorporated into the MAP provisions.”*

Page 6 (page 10 of agenda packet), paragraph 9, sentence 1: *“John Pringle, Paradiso Charter, wanted to know how to get on the exemption list and if that list **is** frozen.”*

Page 6 (page 10 of agenda packet), paragraph 11, sentence 1: *“Vice Chair Cunningham **disclosed that recommended** the changes **should** be pushed forward with the caveat that Title 17 is a living document.”*

Page 6 (page 10 of agenda packet), paragraph 12, sentence 2: *“Commissioner **William Williams** agreed.”*

Page 6 (page 10 of agenda packet), paragraph 14, sentence 1: “*Commissioner Yahn moved to approve the revisions to Section 17.10 as currently written with no modifications.*”

Comment: Although it was not clear from the agenda or staff report, I see the recommendation approved by the Commission was actually in the form of a Harbor Commission *resolution* – possibly the first it has ever adopted.

Page 7 (page 11 of agenda packet), paragraph 6, sentence 1: “*Commissioner Scully echoed the comments **that** insurance limits should be listed.*”

Page 9 (page 13 of agenda packet), Item 5, last paragraph: “*Harbormaster Borsting mentioned that there are local boaters who like to rent a **boat slip** to get away from their mooring or private dock.*”

Item 6.1. Residential Dock Reconfiguration at 944 Via Lido Nord

I agree with staff’s analysis. The proposal clearly fails at least one of the criteria required for Harbor Commission approval under Council Policy H-1. The applicant has the option of appealing the Commission’s denial to the City Council. They have the power to waive the policy should they so choose. The Commission does not.

I would also recommend that the Commission’s action, and its reasons for it, be memorialized by adopting a resolution, as the Planning Commission does, and as was done by the Harbor Commission at its last meeting as a means of making a recommendation regarding changes to Title 17. A resolution provides a clearer record than do minutes with motions whose meaning has to be deciphered.

Item 7.2. Proposed Harbor Commission 2021 Objectives

The proposed “Harbor Commission Purpose & Charter” appearing on agenda packet pages 44 and 48 does not match the list of Commission functions found in about-to-be-certified-as-having-been-adopted-by-voters City Charter Section 713 of [Measure Z](#) on the November 3, 2020, ballot.

The measure did not make clear how the new voter-enacted purposes (of a possibly new voter-created Commission) interact with the Council-enacted powers of the existing Council-created Commission, but I would assume the new ones supersede the old. So I would suggest this section of the Objectives be revised to reflect the voter-adopted language in Measure Z.

As to the 2021 Objectives, some of these seem envision creating standing committees, which is OK provided those assigned to the objective meet and make their recommendations only at noticed public meetings. For example, Objective 1.1 (“*Conduct an annual review of Title 17 and recommend updates to the City Council where necessary*”) appears to be a permanent function, not a temporary one with a clear and final endpoint. If it is, instead, envisioned as a sporadic activity, then the assignments to that objective should be made only at the start of the review and should expire when the recommendation is delivered to the whole Commission for its consideration. That way the public knows when the assignees are active and when not.

The “annual review” part of Objective 1.2 similarly sounds like an ongoing rather than a one-time function.



NEWPORT BEACH

Harbor Commission Staff Report

November 9, 2020
Agenda Item No. 6.1

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster – 949-270-8158,
kborsting@newportbeachca.gov

PREPARED BY: Chris Miller, Public Works Administrative Manager – 949-644-3043,
cmiller@newportbeachca.gov

TITLE: Residential Dock Reconfiguration at 944 Via Lido Nord

ABSTRACT:

The applicant at 944 Via Lido Nord at the eastern tip of Lido Isle is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and U-shaped float with a new system comprised of a gangway and single-finger float. The proposed float extends beyond the pierhead line by 7-feet which matches the existing float's extension beyond the pierhead line of 7-feet. However, the existing float, when constructed in 1989, was permitted to extend to the pierhead line and not beyond. Therefore, the existing float is non-compliant. Because the applicant is proposing to extend the float beyond the previously approved limit, staff is recommending the Harbor Commission deny the project per the direction of Council Policy H-1. The applicant, however, requests the Harbor Commission to approve the proposed dock configuration (Project).

RECOMMENDATION:

- 1) Conduct a public hearing; and
- 2) Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review; and
- 3) Deny the Project at 944 Via Lido Nord and make specific findings to support the decision.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Council Policy H-1 (Attachment A) states that it is the City Council's general policy not to approve piers and floats beyond the pierhead line, but that the Harbor Commission may make exceptions to this **general policy** if specific findings are made at a public hearing.

The applicant's dock is located at 944 Via Lido Nord on the eastern tip of Lido Isle. As depicted on the aerials (Attachment B), there is a mix of dock structures along this section of Lido Isle that either extend to or beyond the pierhead line.

Council Policy H-1 provides that the Harbor Commission shall consider for approval, conditional approval or denial of an application based on certain requirements. A public hearing is required, and staff shall include a recommendation with supporting materials for the Harbor Commission. When considering the application for approval, the Harbor Commission must make specific factual findings in each category of exceptions listed below. When denying a project, it is recommended that the Harbor Commission make factual findings to support that decision.

Council Policy H-1 Required Findings

- 1) The existing pier or float is currently encroaching bayward beyond the pierhead line;
- 2) The existing pier or float was previously permitted to encroach bayward beyond the pierhead line;
- 3) The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment beyond the pierhead line;
- 4) Any vessel utilizing the pier or float will not extend bayward beyond the project line or line at which the vessel would currently be allowed, whichever is greater; and
- 5) The pier or float will:
 - a) Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Harbor;
 - b) Maintain or enhance public access to the harbor waterways and waterfront areas;
 - c) Preserve or enhance the visual character of the harbor; and
 - d) Not negatively impact adjacent property owners, navigation and future harbor dredging.

EXISTING DOCK CONFIGURATION

Attachment C shows the most current plans on file with the City for this particular dock. This 1987 plan depicts the U-shaped float extending to the pierhead line, and not beyond. Conversely, the as-built, existing configuration shows the float extending 7-feet beyond the pierhead line.

PROPOSED PROJECT

The proposed Project maintains the same 7-foot extension beyond the pierhead line as the existing configuration maintains. The Project proposes to remove the pier, pier platform, gangway and float, and install a gangway and single-finger float. A pier or pier platform is not proposed

because the gangway will be directly attached to the bulkhead. The proposal conforms to the City's Harbor Design Criteria.

STAFF RECOMMENDATION AND FINDINGS

Council Policy H-1 allows the Harbor Commission to approve a permit for a pier or float if specific factual findings are made. Specifically, the Harbor Commission is directed to use the general policy that piers or floats may not extend beyond the pierhead line. Exceptions can be made by making specific factual findings as to each category of exceptions noted in Council Policy H-1.

As previously noted, the existing float was permitted to extend to the pierhead line, and not beyond. However, the as-built configuration of the existing float shows the float extending 7-feet beyond the pierhead line. Therefore, the proposed project does not comply with finding No. 2 within Council Policy H-1 which states that in order for piers or floats to be considered for approval, the existing pier or float had to have been previously permitted.

Therefore, staff is recommending that the Harbor Commission deny the project. Staff also recommends that the Harbor Commission make findings to support the denial as recommended below.

Finding No. 1: Section 17.50.030. The Project conforms to the provisions of the Harbor Design Criteria and applicable standards in conjunction with plan reviews by the Public Works Department.

Facts in Support of Findings: The Project conforms to the provisions of the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities.

Finding No. 2: Council Policy H-1. The existing pier or float is currently encroaching bayward beyond the pierhead line.

Facts in Support of Findings: The existing float currently encroaches bayward beyond the pierhead line.

Finding No. 3: Council Policy H-1. The existing pier or float was not previously permitted to encroach bayward beyond the pierhead line.

Facts in Support of Findings: The existing dock configuration was approved by the City in 1989 to extend to the pierhead line, and not beyond, as evidenced by Attachment C. Therefore, the proposed project does not conform to Council Policy H-1.

ENVIRONMENTAL REVIEW:

Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

If the applicant's request is approved, the Harbor Commission finds this Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. CEQA Guidelines Section 15301 (Class 1) applies to the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public

or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” Section 15302 (Class 2) applies to the “replacement or reconstruction of existing structures and facilities where the new structures will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced[.]” The replacement residential dock system is in the same location and is substantially the same size, purpose and capacity as the dock system it replaces. The overwater coverage of the new dock system (696 square feet) is less than the existing overwater coverage (943 square feet).

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item). This public hearing was noticed to all residents within a 300’ radius per NBMC 21.62.020(B)(2)(c). The notice was also published in the newspaper on Saturday, October 24, 2020 (Attachment E).

ATTACHMENTS:

- Attachment A - Council Policy H-1
- Attachment B - Aerial Photos
- Attachment C - Existing Approved Plans and Configuration
- Attachment D - Proposed Configuration
- Attachment E - Public Outreach

HARBOR PERMIT POLICY

Background

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council policy.

Policy

Consistent with Title 17's purposes described in Newport Beach Municipal Code Section 17.05.020, the City Council's general policy is not to approve piers and floats beyond the pierhead line. Limited exceptions exist as described in this Policy, but the Harbor Commission is directed to use this general policy and the underlying purposes of Title 17 as a default rule that can only be excepted by making specific findings concerning such exceptions.

The proper procedure for determining whether such exceptions exist is to hold a public hearing in front of the Harbor Commission with a staff report that includes a staff recommendation and accompanying materials that shall include, but are not limited to, the application and materials supporting the staff recommendation. The Harbor Commission shall consider the City's general policy as articulated herein and shall make specific factual findings as to each of the categories of exceptions.

The applicant, or any interested person, shall have the right to appeal the Harbor Commission's decision to the City Council in accordance with Chapter 17.65 of the Municipal Code. Any individual City Council Member shall also have the right to call for review the Harbor Commission's decision to the City Council in accordance with Chapter 17.65.

The Harbor Commission, or the City Council considering an appeal or call for review, may approve or conditionally approve a permit for a pier or float to extend bayward beyond the pierhead line if it is determined that all of the following conditions are met:

1. The existing pier or float is currently encroaching bayward beyond the pierhead line;
2. The existing pier or float was previously permitted to encroach bayward beyond the pierhead line;
3. The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment beyond the pierhead line;

4. Any vessel utilizing the pier or float will not extend bayward beyond the project line or line at which the vessel would currently be allowed, whichever is greater; and
5. The pier or float will:
 - a. Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Harbor;
 - b. Maintain or enhance public access to the harbor waterways and waterfront areas;
 - c. Preserve or enhance the visual character of the harbor; and
 - d. Not negatively impact adjacent property owners, navigation and future harbor dredging.

Any permit issued by the City of Newport Beach before June 26, 2019, which allows an existing pier or float to extend bayward beyond the pierhead line, is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

For those piers and floats in areas where pierhead lines do not exist or in areas not otherwise clearly defined by the criteria within this Policy, staff may consider approving those pier and float projects if the reconstruction is like-for-like, including any upgrades required to meet current code and building standards, and if the existing pier or float configuration was previously permitted.

History

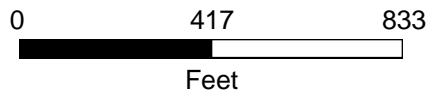
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Amended H-1 – 10-19-1964
Amended H-1 – 10-26-1964
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Reaffirmed H-1 – 8-30-1966
Amended H-1 – 1-9-1967
Amended H-1 – 7-24-1967
Amended H-1 – 6-24-1968
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Reaffirmed H-1 - 2-14-1972
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Amended H-1 - 6-10-1974
Reaffirmed H-1 - 11-11-1974
Amended H-1 - 3-10-1975
Amended H-1 - 4-28-1975
Amended H-1 - 5-27-1975
Amended H-1 - 10-28-1975
Amended H-1 - 12-8-1975
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Amended H-1 - 10-26-1976
Amended H-1 - 11-22-1976
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Amended H-1 - 5-23-1977
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Amended H-1 - 4-8-1991

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Reaffirmed H-1 - 1-24-1994
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Amended H-1 - 06-8, 1998
Amended H-1 - 12-14-1998
Amended H-1 - 5-8-2001
Amended H-1 - 9-10-2002
Amended H-1 - 10-28-2003
Amended H-1 - 4-13-2004
Amended H-1 - 1-8-2008
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NEWPORT BEACH

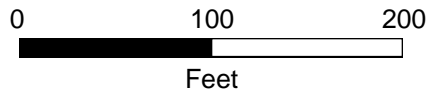


Disclaimer:
Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

10/19/2020

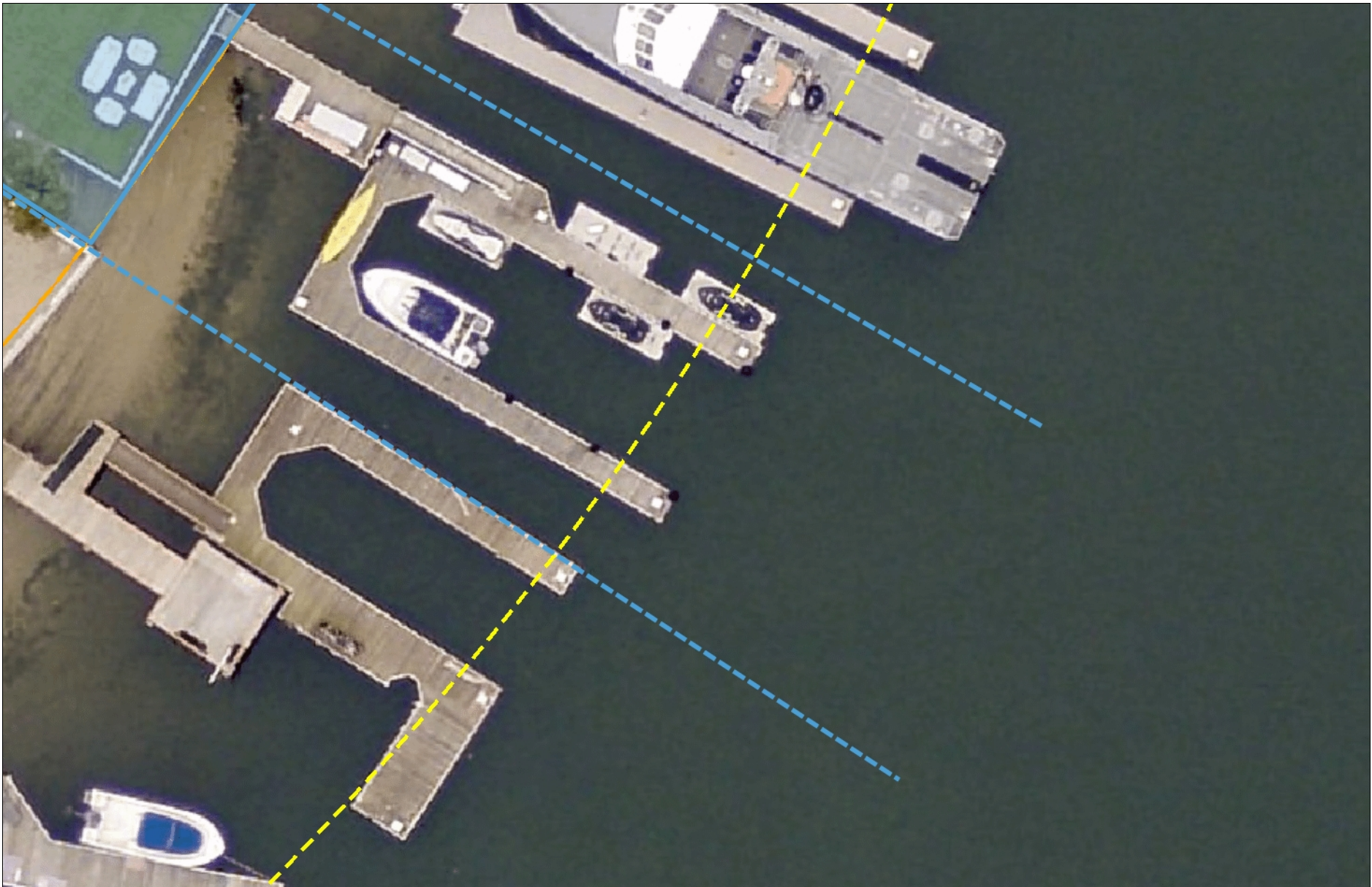


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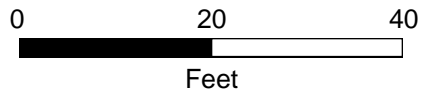


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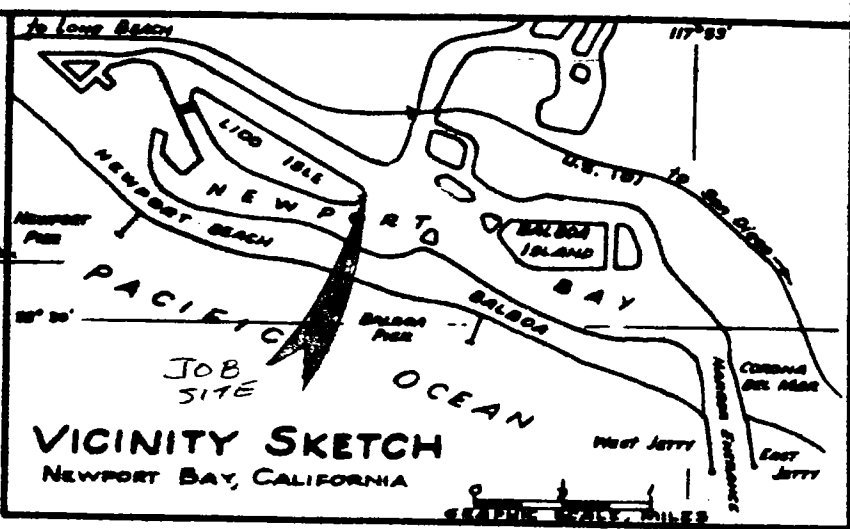
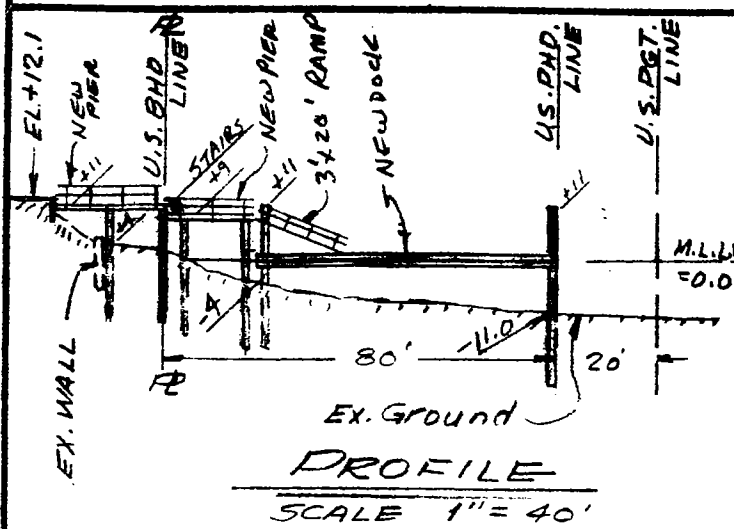


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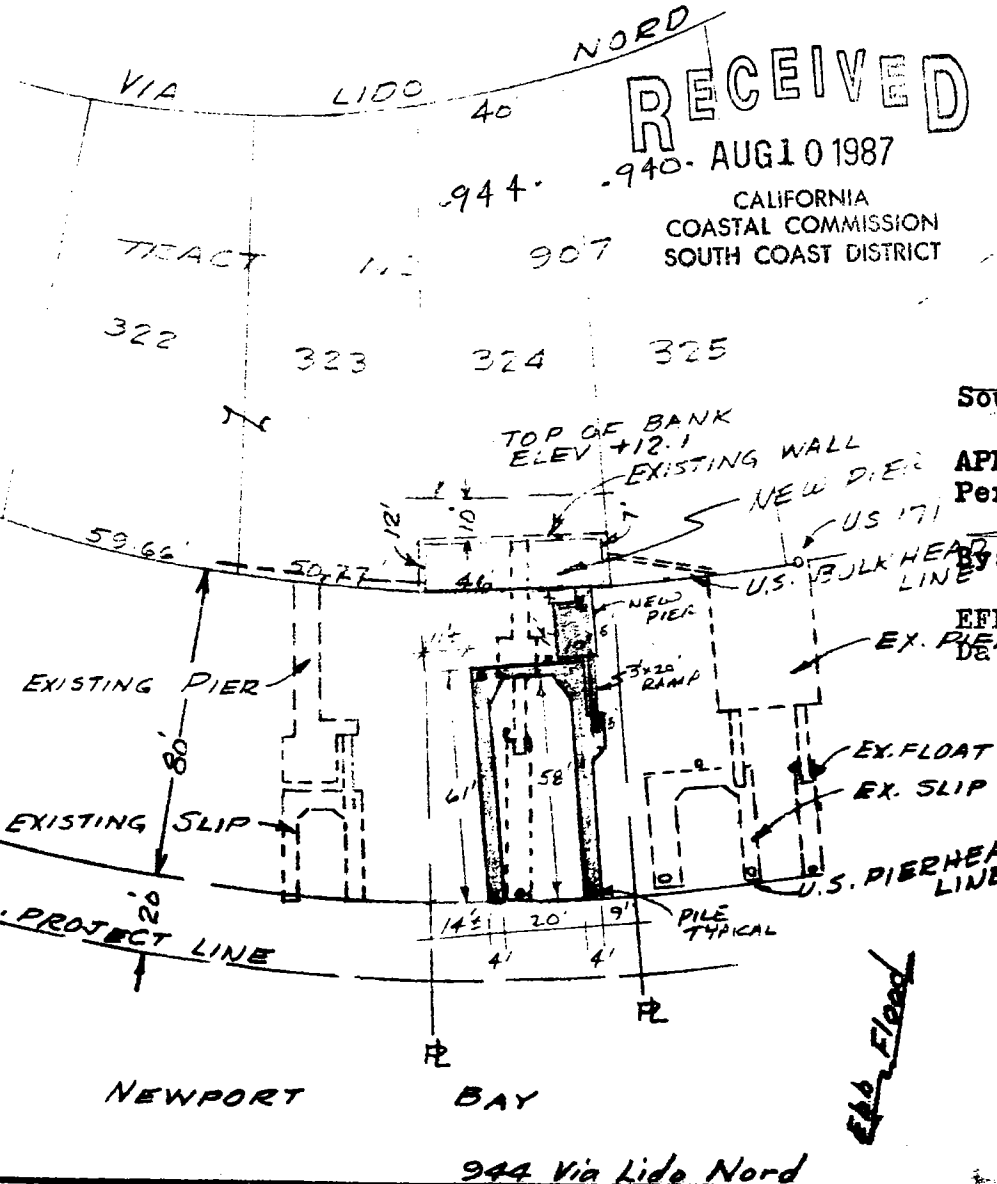


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10/19/2020



Soundings are expressed in feet and denote depths below Mean Lower Low Water. Maximum range at tide approximately 10 feet. Harbor lines are established in this section of Newport Bay.



MARINE DEPARTMENT
 C/O CITY HALL
 3300 NEWPORT BLVD.
 NEWPORT BEACH, CA 92663

Tony Helu
 8-6-87
 PLAN
 South Coast District Office
 SCALE 1" = 50"

APPROVED 5-87-686
 Permit No.

By: *[Signature]*

EFFECTIVE Date: 10/16/87
 NOTE

NO DREDGING PLANNED

JOB# 87148

PROPOSED PIER & SLIP

NEWPORT BAY

APPLIC: RICHARD STEELE
 944 Via Lido Nord
 Newport Beach
 6/25/87



SWIFT SLIP DOCK & PIER BUILDERS, INC

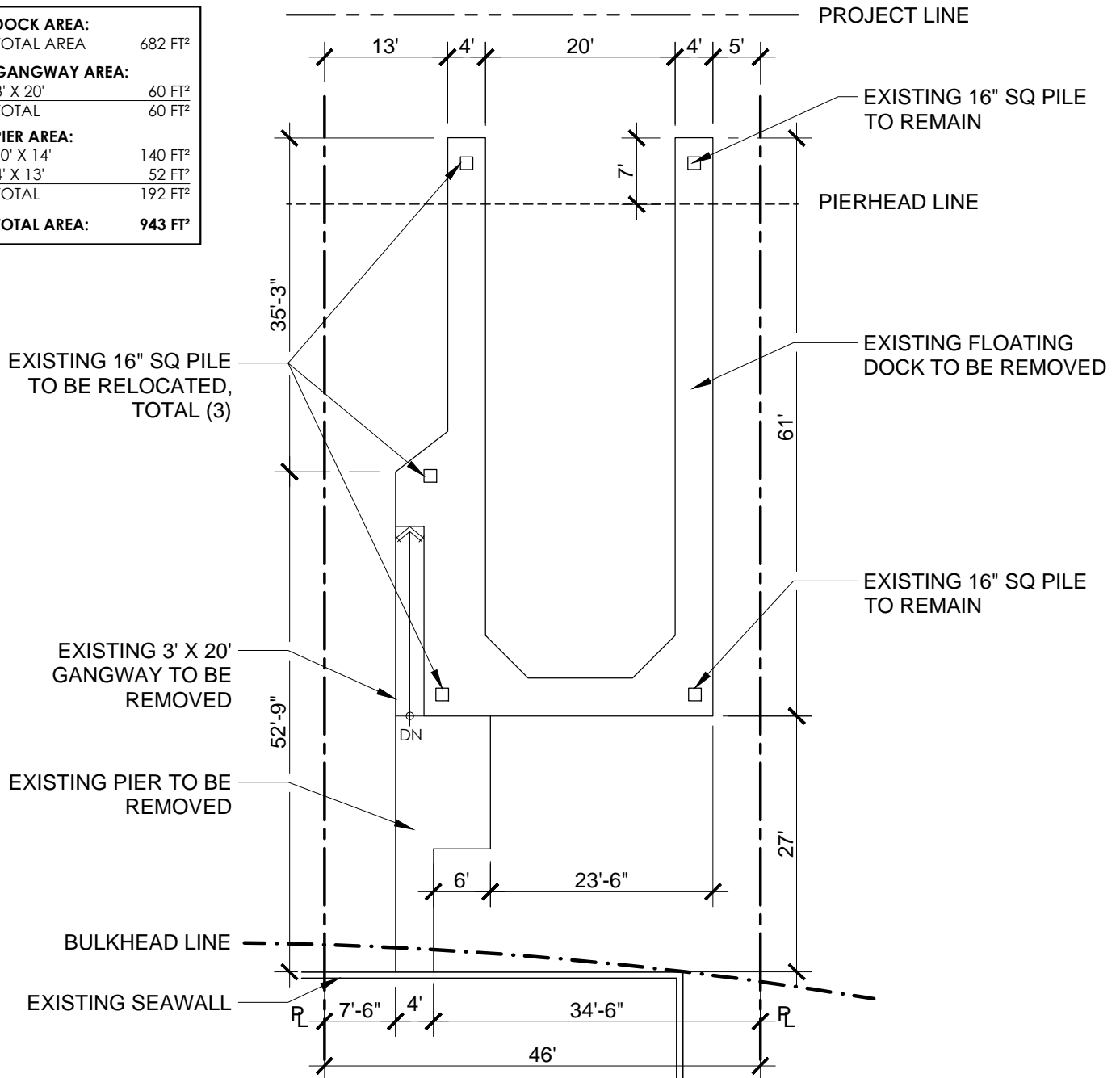
6351 Industry Way, Westminster 92683

Phone: (949) 631-3121

Fax: (714) 509-0618

CLIENT: LUCKEY, PALMER		RO DRAWN:	-- Checked	1.0 REVISION	10/01/20 DATE:	AMENDMENTS:			
SITE: 944 VIA LIDO NORD, NEWPORT BEACH, CA 92663						REV:	DESCRIPTION:	BY:	DATE:
						-	----	-	-
						-	----	-	-
-	----	-	-						

DOCK AREA:	
TOTAL AREA	682 FT ²
GANGWAY AREA:	
3' X 20'	60 FT ²
TOTAL	60 FT ²
PIER AREA:	
10' X 14'	140 FT ²
4' X 13'	52 FT ²
TOTAL	192 FT ²
TOTAL AREA:	943 FT²



EXISTING

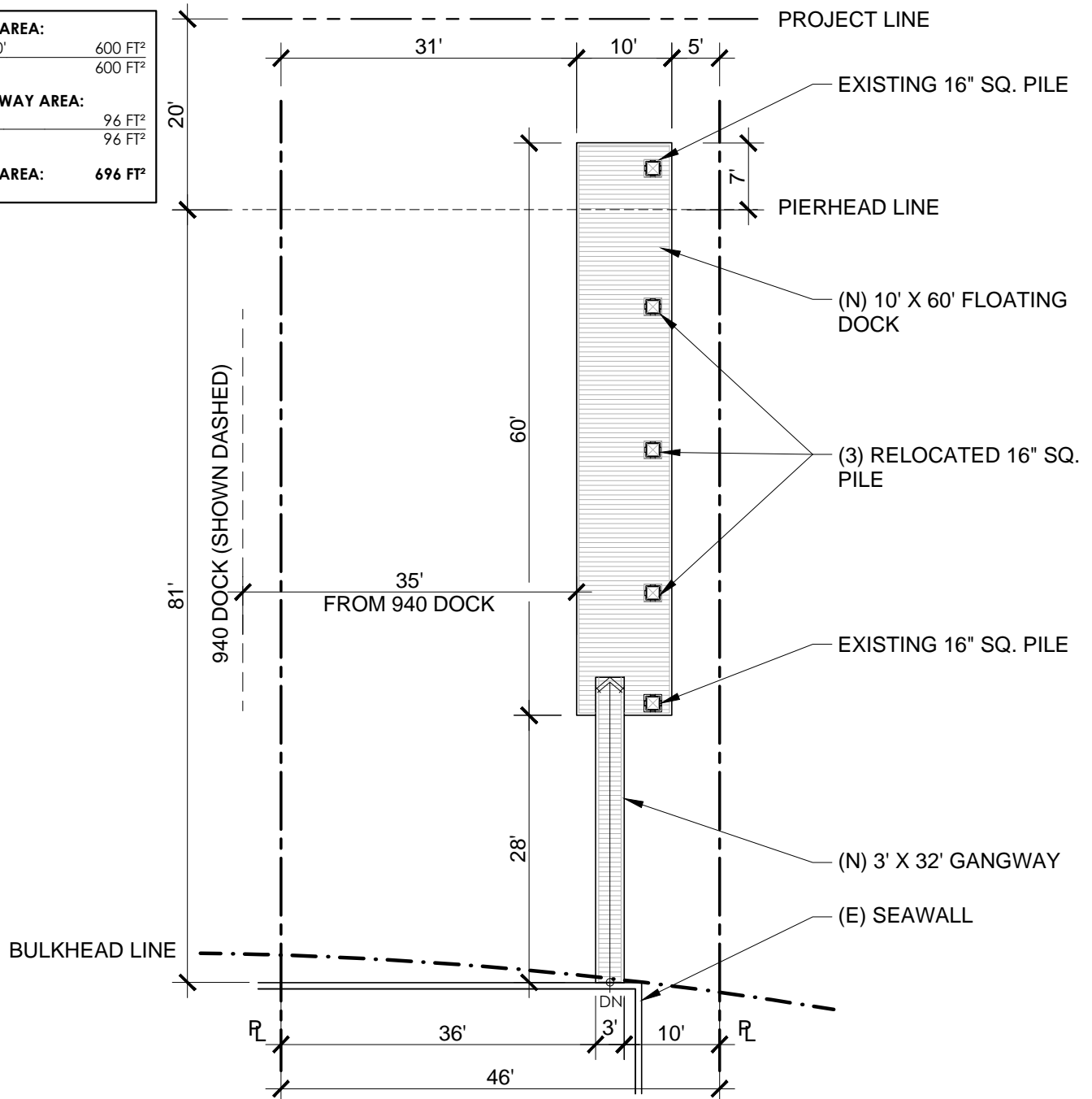


SWIFT SLIP DOCK & PIER BUILDERS, INC

6351 Industry Way, Westminster 92683
 Phone: (949) 631-3121
 Fax: (714) 509-0618

CLIENT: LUCKEY, PALMER		RO DRAWN:	-- Checked	1.0 REVISION	10/01/20 DATE:	AMENDMENTS:			
SITE: 944 VIA LIDO NORD, NEWPORT BEACH, CA 92663						REV:	DESCRIPTION:	BY:	DATE:
						-	----	-	-
						-	----	-	-
						-	----	-	-

DOCK AREA:	
10' X 60'	600 FT ²
TOTAL	600 FT ²
GANGWAY AREA:	
3' X 32'	96 FT ²
TOTAL	96 FT ²
TOTAL AREA:	696 FT²



PROPOSED





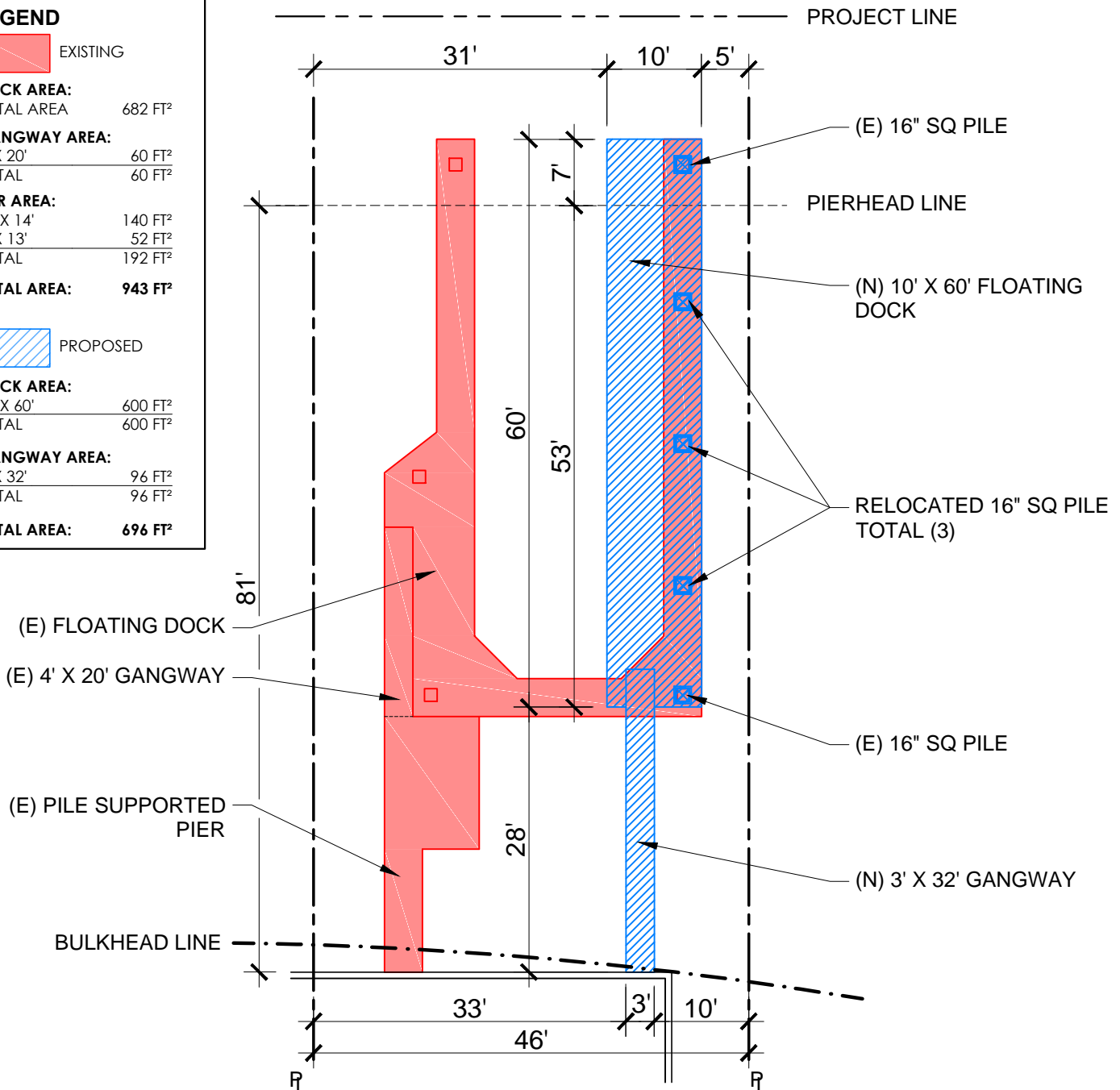
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CLIENT:	RO	--	1.0	10/01/20	AMENDMENTS:			
LUCKEY, PALMER	DRAWN:	Checked	REVISION	DATE:	REV:	DESCRIPTION:	BY:	DATE:
SITE:	944 VIA LIDO NORD, NEWPORT BEACH, CA 92663				-	----	-	-
					-	----	-	-
					-	----	-	-

LEGEND

	EXISTING
DOCK AREA:	
TOTAL AREA	682 FT ²
GANGWAY AREA:	
3' X 20'	60 FT ²
TOTAL	60 FT ²
PIER AREA:	
10' X 14'	140 FT ²
4' X 13'	52 FT ²
TOTAL	192 FT ²
TOTAL AREA:	943 FT²
	PROPOSED
DOCK AREA:	
10' X 60'	600 FT ²
TOTAL	600 FT ²
GANGWAY AREA:	
3' X 32'	96 FT ²
TOTAL	96 FT ²
TOTAL AREA:	696 FT²



EXISTING/PROPOSED



CITY OF NEWPORT BEACH **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that on **Monday, November 09, 2020**, at **5:00 p.m.** or soon thereafter as the matter shall be heard, a public hearing will be conducted in the Council Chambers at 100 Civic Center Drive, Newport Beach. The Harbor Commission of the City of Newport Beach will consider approval of the following application:

Residential dock reconfiguration located at 944 Via Lido Nord

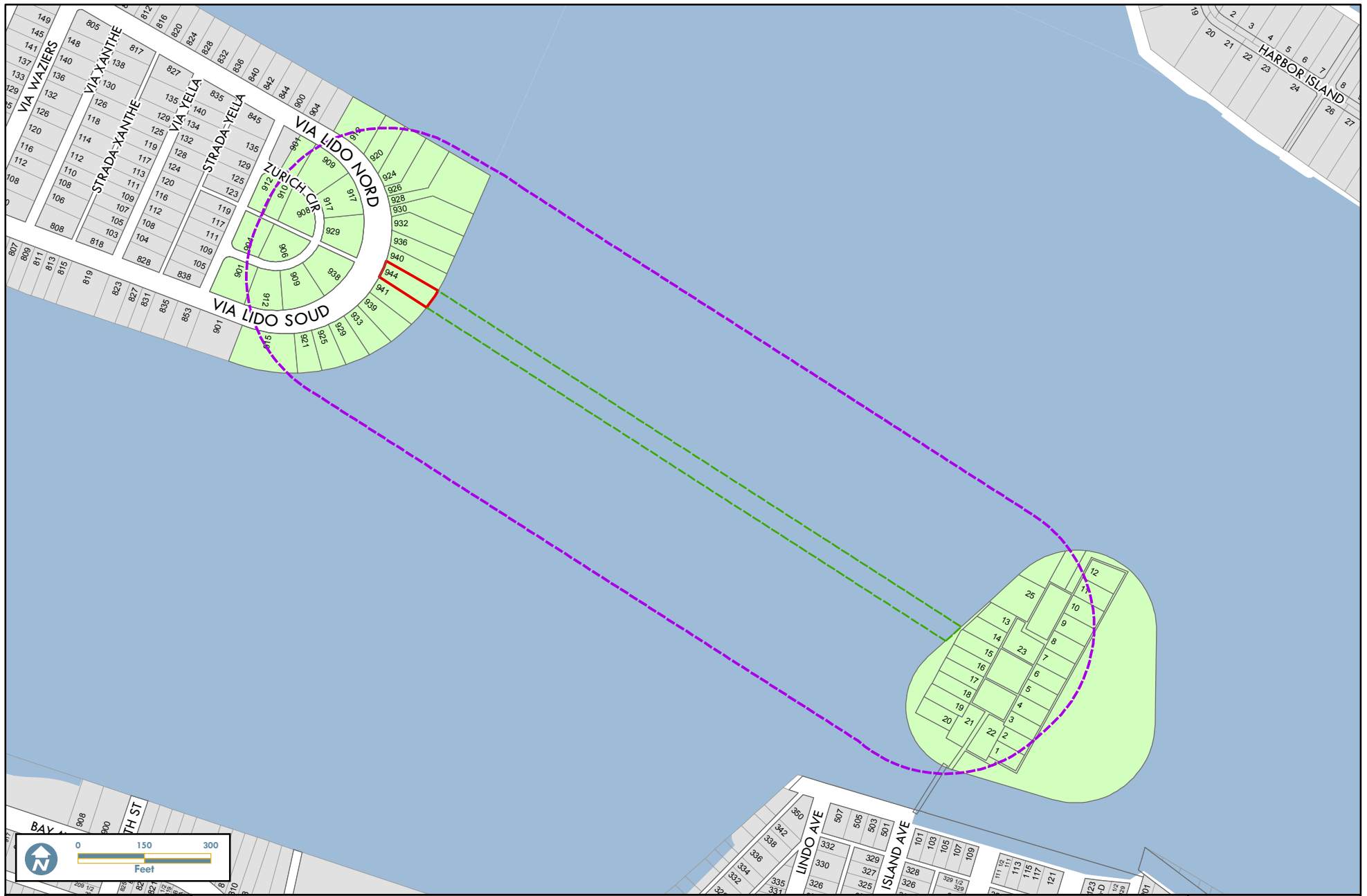
The project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The project will be located on the same site and location as the structure it replaced and will have substantially the same purpose, capacity and size as the structure replaced.

All interested parties may appear and present testimony in regard to this proposal. If you challenge this project in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapter 17.65. The application may be continued to a specific future meeting date, and if such an action occurs, additional public notice of the continuance will not be provided.

The agenda, staff report, and corresponding documents will be available by end of business day on the Friday preceding the public hearing, and may be reviewed at the City Manager's Office (Bay E-2nd Floor), at 100 Civic Center Drive, Newport Beach, California, CA 92660 or at the City of Newport Beach website at www.newportbeachca.gov. Individuals not able to attend the meeting may contact the Public Works Department or access the City's website after the meeting to review the action on this application. All mail or written communications (including email) from the public, residents, or applicants regarding an agenda item must be submitted by 5 p.m. on the business day immediately prior to the meeting. This allows time for the Harbor Commission to adequately consider the submitted correspondence.


For questions regarding this public hearing item please contact Chris Miller, Administrative Manager, at cmiller@newportbeachca.gov.

Project File No.: 1901-2020



944 Via Lido Nord

- Prolongation of Lot Lines
- Buffer 300'
- 944 Via Lido Nord
- Notified Properties



NBGiS
NEWPORT BEACH

City of Newport Beach
GIS Division
September 01, 2020

November 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission [agenda](#) are submitted by:
Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 4. Public Comments

The present meeting was rescheduled from the Commission's normal (and [announced](#)) regular meeting date on the second Wednesday of the month, which would, this month, have fallen on the Veterans Day holiday of November 11.

For future reference, if another meeting should fall on a holiday, **I would suggest it would be much better to reschedule it to a date *after* the regular date rather than to one *before* it.**

Among other things, that would be more consistent with the Brown Act, which in [Section 54955](#) contemplates the need to cancel a previously-announced meeting. In that case, a notice of the new date is required to be posted on the meeting door. That new date will obviously be in the future, so that a person who (not knowing of the cancellation) shows up on the scheduled date will be able to come back and will not have missed the opportunity to attend. Contrast that with the same person showing up on the expected date to find a note on the door saying "Sorry we missed you! Our regular monthly meeting is over, as we decided to hold it two days before the normal date."

Better yet would be to adopt (and follow) a clearly stated rule for handling holidays, such as "We normally meet on the second Wednesday of each month. Should that be a City holiday, we meet on the City's next business day."

Item 5.1. Minutes of the October 14, 2020 Harbor Commission Regular Meeting

Suggested corrections: The passages shown in *italics* below are from the [draft minutes](#) with suggested corrections indicated in **strikeout underline** format. The page numbers refer to those in the minutes.

Page 1 (page 5 of agenda packet), Item 4, sentence 2: "*If Measure Z is passed, it will ~~move~~ **leave** the permitting and appeal authority of the Commission to the ~~discretion of the~~ Council.*"

Page 1 (page 5 of agenda packet), Item 4, sentence 4: "*He suggested that Measure Z be scrapped and ~~in the Charter state instead~~ that the existing Harbor Commission continue to exist with all their powers and responsibilities in place.*"

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, sentence 1: "~~Community Developer Department Real Property Administrator~~ Lauren Wooding-Whitlinger discussed rent which is charged for the use of City Property in the harbor." ["Real Property Administrator" is a position within the Community **Development** Department]

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, next to last sentence: "*For on and offshore moorings rent is set ~~pursuit pursuant~~ to Resolution 2016-17 and is adjusted annually.*"

Page 2 (page 6 of agenda packet), last sentence: "*In reply to Secretary Beer's inquiry, Ms. Wooding-Whitlinger suggested that ~~Staff staff~~ would have to consult with the ~~City's City~~ Attorney's Office but an appraisal would consider all Transfer Fee values for Mooring Permits.*"

Page 3 (page 7 of agenda packet), paragraph 1: "*In answer to Commissioner Yahn's questions, Senior Accountant Schweitzer responded that Transfer Fees are listed in the City's Municipal*

Code. Harbormaster Kurt Borsting added that a Transfer Fee is calculated as 9-months of the rent for the size of the mooring.”

Comment 1: [NBMC Sec. 17.60.040.I](#) contains only the rule that the transfer fee is 75% of the annual rent. The rent used to calculate the actual fee in dollars is not specified in the Municipal Code, but rather, as the code indicates, is set by resolution.

Comment 2: It is confusing to present the minutes in a sequence differing from the actual order in which items were heard. It looks like a note about the sequence is needed after the above paragraph, for the minutes make it appear that at the conclusion of the fees presentation (Item 6.1) the Commission moved on into Item 7.1. But a note on page 7 (page 11 of the packet) says Item 7.1 was heard after Item 8.2 in which case it could not also have been heard after Item 6.1.

My guess is that after Item 7.1, the Commission heard 6.1 then 7.2, 8.1, 8.3 and the rest of the agenda. If that's correct, the following note should be inserted after the above paragraph:

“The Commission moved to Item 7.2”

Or better, the notes be eliminated and the minutes simply presented in the order in which the items were heard.

Page 4 (page 8 of agenda packet), Item 7.2 minutes, paragraph 1: *“Public Works Manager Miller stated that the project is a City project and is located within a commercial marina. The project includes the installation of a new bulkhead cap for the entire area fronting the American Legion, along with the gangway being upgraded to an 80-foot **American Americans with Disabilities Act (ADA) compliant gangway**. The project will extend beyond the **pier-headline pierhead line** by 5-feet 4-inch which mimics current conditions. No comments were received from the public and the project is to go out for bid around January 2021.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 1: *“**Assistant** City Attorney Yolanda Summerhill announced that there has been an increase of complaints regarding new businesses and their impacts in the harbor.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 3: *“Section 17.10.025 regarding exemptions has been revised so that commercial fishing vessels, **or and the charters** commonly referred to as six-packs and twelve-packs, are now required to obtain a MAP with the caveat that operations that existed before 2006 and 2008 are not required to obtain a MAP.”*

Page 6 (page 10 of agenda packet), first partial paragraph, last sentence: *“In terms of penalties, the **Administration Administrative** Citation Penalties are now **higher in terms of fines** aligned with Short-Term Lodging Permit Ordinance penalties and have been incorporated into the MAP provisions.”*

Page 6 (page 10 of agenda packet), paragraph 9, sentence 1: *“John Pringle, Paradiso Charter, wanted to know how to get on the exemption list and if that list **is** frozen.”*

Page 6 (page 10 of agenda packet), paragraph 11, sentence 1: *“Vice Chair Cunningham **disclosed that recommended** the changes **should** be pushed forward with the caveat that Title 17 is a living document.”*

Page 6 (page 10 of agenda packet), paragraph 12, sentence 2: *“Commissioner **William Williams** agreed.”*

Page 6 (page 10 of agenda packet), paragraph 14, sentence 1: “*Commissioner Yahn moved to approve the revisions to Section 17.10 as currently written with no modifications.*”

Comment: Although it was not clear from the agenda or staff report, I see the recommendation approved by the Commission was actually in the form of a Harbor Commission *resolution* – possibly the first it has ever adopted.

Page 7 (page 11 of agenda packet), paragraph 6, sentence 1: “*Commissioner Scully echoed the comments **that** insurance limits should be listed.*”

Page 9 (page 13 of agenda packet), Item 5, last paragraph: “*Harbormaster Borsting mentioned that there are local boaters who like to rent a **boat slip** to get away from their mooring or private dock.*”

Item 6.1. Residential Dock Reconfiguration at 944 Via Lido Nord

I agree with staff’s analysis. The proposal clearly fails at least one of the criteria required for Harbor Commission approval under Council Policy H-1. The applicant has the option of appealing the Commission’s denial to the City Council. They have the power to waive the policy should they so choose. The Commission does not.

I would also recommend that the Commission’s action, and its reasons for it, be memorialized by adopting a resolution, as the Planning Commission does, and as was done by the Harbor Commission at its last meeting as a means of making a recommendation regarding changes to Title 17. A resolution provides a clearer record than do minutes with motions whose meaning has to be deciphered.

Item 7.2. Proposed Harbor Commission 2021 Objectives

The proposed “Harbor Commission Purpose & Charter” appearing on agenda packet pages 44 and 48 does not match the list of Commission functions found in about-to-be-certified-as-having-been-adopted-by-voters City Charter Section 713 of [Measure Z](#) on the November 3, 2020, ballot.

The measure did not make clear how the new voter-enacted purposes (of a possibly new voter-created Commission) interact with the Council-enacted powers of the existing Council-created Commission, but I would assume the new ones supersede the old. So I would suggest this section of the Objectives be revised to reflect the voter-adopted language in Measure Z.

As to the 2021 Objectives, some of these seem envision creating standing committees, which is OK provided those assigned to the objective meet and make their recommendations only at noticed public meetings. For example, Objective 1.1 (“*Conduct an annual review of Title 17 and recommend updates to the City Council where necessary*”) appears to be a permanent function, not a temporary one with a clear and final endpoint. If it is, instead, envisioned as a sporadic activity, then the assignments to that objective should be made only at the start of the review and should expire when the recommendation is delivered to the whole Commission for its consideration. That way the public knows when the assignees are active and when not.

The “annual review” part of Objective 1.2 similarly sounds like an ongoing rather than a one-time function.



NEWPORT BEACH

Harbor Commission Staff Report

November 9, 2020
Agenda Item No. 7.1

TO: HARBOR COMMISSION

FROM: Carol Jacobs, Assistant City Manager, 949-644-3313
cjacobs@newportbeachca.gov

TITLE: Harbor Commission 2020 Objectives

ABSTRACT:

Each ad hoc committee studying their respective Functional Area within the Commission's 2020 Objectives, will provide a progress update.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

ATTACHMENTS:

Attachment A – Harbor Commission 2020 Objectives

Attachment B – Harbor Commission 2020 Objectives Tracking Sheet

City of Newport Beach

Harbor Commission Purpose & Charter

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

1. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within Newport Harbor.
2. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
3. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
4. Advise the City Council on proposed harbor-related improvements.
5. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
6. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
7. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
 - Dredging priorities
 - In-bay beach sand replenishment priorities
 - Harbor amenities such as mooring support service areas and public docks

Harbor Commission - Objectives

The following objectives are intended to support the mission of the Harbor Area Management Plan and the two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.

These updated objectives are subject to the review and approval of the Commission, and final approval by the Newport Beach City Council. Harbor Commission ad hoc committees, as established by the Commission, bear principal responsibility for coordinating the Commission's efforts, along with staff support, in achieving these Objectives.

City of Newport Beach - Harbor Commission Objectives

Updated July 8, 2020

2020 Objectives	Functional Area
<ol style="list-style-type: none"> 1. Complete current version of Title 17 while maintaining suggestions for future revisions. (Yahn) 2. Study and make recommendations for changes on Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permit. (Williams, Yahn) 3. Help identify derelict vessels in the harbor including recommendations for limiting the inflow of derelict vessels into the harbor. (Beer) 4. Study and provide recommendations for shore moorings including transfer permit policy. (Beer, Cunningham) 	<p>1. Harbor Operations (Kenney)</p> <p><i>Matters pertaining to the Management, Policies, Codes, Regulations, and Enforcement.</i></p>
<ol style="list-style-type: none"> 1. Evaluate potential enhancements to City amenities provided to mooring permittees, residents, and visitors. (Scully) 2. Support Staff with permanent anchorage at the west end of Lido Island. (Williams) 3. Evaluate options to consolidate and reduce the footprint of the mooring fields. (Yahn) 4. Continue pursuit of a second public launch ramp. (Kenney) 5. Complete evaluation for establishing day moorings off Big Corona beach. (Williams) 	<p>2. Harbor Viability (Beer)</p> <p><i>Matters pertaining to Assets, Amenities, and Access.</i></p>
<ol style="list-style-type: none"> 1. Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process. 2. Establish a sustainable program that consistently re-nourishes our harbor beaches. (Marston) 3. Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth. 4. Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea level rise and coastal erosion. (Marston) 	<p>3. Harbor Infrastructure (Cunningham)</p> <p><i>Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.</i></p>

2020 Objectives	Functional Area
<p>1. Develop a plan to communicate and assist Stakeholders required to complete and meet the newly defined Marine Activities Permit program. (Marston)</p> <p>2. Assist Staff in developing a communication outreach to the Stakeholders similar to the program in place with the Mooring Association. (Marston)</p> <p>3. Continue a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for charter and commercial boat operations in Newport Harbor with particular attention to vessel specifications, noise and pollution control/compliance and long-range plans for berthing. (Williams)</p> <p>4. Support Staff in the Harbor Attendance Study. (Yahn)</p>	<p>4. Harbor Stakeholders (Scully)</p> <p><i>Matters pertaining to Residential, Recreational, and Commercial Users.</i></p>
<p>1. Draft a Harbor Plan that can be used independently or in conjunction with an update to the General Plan. Special attention should be made to preservation of marine related activities and businesses in Newport Harbor. (Williams)</p> <p>2. Evaluate and make recommendations for Lower Castaways. (Marston)</p>	<p>5. Harbor Vision (Yahn)</p> <p><i>Matters pertaining to Community Outreach and the General Plan update</i></p>

1. Harbor Operations (Kenney) - Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement

	1.1 Complete current version of Title 17 while maintaining suggestions for future revisions. (Yahn)	1.2 Study and make recommendations for changes on Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permit. (Williams, Yahn)	1.3 Help identify derelict vessels in the harbor including recommendations for limiting the inflow of derelict vessels into the harbor. (Beer)	1.4 Study and provide recommendations for shore moorings including transfer permit policy. (Beer, Cunningham)	
March 11, 2020	City Council approved the recommended changes to Title 17 and directed the ad hoc committee to review a provision allowing administrative approval of commercial dock encroachments in front of upland residential properties and the limit on the number of liveaboards allowed in commercial marinas. The ad hoc hopes to provide recommendations for commercial dock encroachments at the next meeting. The ad hoc obtained good feedback about liveaboards in commercial marinas at their first public outreach meeting. A second meeting has been scheduled for March 31. The ad hoc committee will recommend the creation of five categories for a MAP and will schedule a public meeting.	Nothing to report at this time.	The ad hoc reported that the <i>Wild Wave</i> and <i>168</i> are no longer in the Harbor.	The ad hoc for this objective is scheduled to meet in February and March and will likely schedule a public meeting shortly after.	
April 8, 2020	This meeting was canceled.				
May 13, 2020	This meeting was canceled.				
June 10, 2020	The subcommittee is working on section 17.10, the final section of Title 17 to be reviewed. Commercial Marina live-aboards require an additional public meeting, which will be held as soon as possible. A review of 17.60.60 (E) will be reviewed at a later date at the request of staff.	The subcommittee is working on 5 types of permits and will be meeting again in June to further refine process.	No change.	The subcommittee has been working on the number and transfer of shore moorings and have found issues that are much more complex than would appear on the surface. Additional work will need to be done on this issue.	
July 8, 2020	The subcommittee summarized the Harbor Commission's recommendations and Council action for Sections 17.40.030, 17.40.110, and 17.60.060(e) and noted staff is exploring a virtual public meeting for Sections 17.40.030 and 17.40.110.	The City Attorney's Office is reviewing Section 17.60.060(e). The ad hoc committee recommended four distinct types of Marine Activities Permits (MAP): charter operations of any size; vessels that rent human-powered craft; vessels that rent craft powered by fuel, wind, electricity; and service providers who utilize the Bay. The City Attorney's Office is reviewing the ad hoc committee's recommendations. The ad hoc committee hopes to present recommendations for the MAP to the Harbor Commission in August and is studying shore moorings.	Nothing to report at this time.	The subcommittee has been gathering data and will soon be formulating their recommendations.	
August 12, 2020	Work continues on Section 17.10. The City Attorney's Office has reviewed the proposed revisions and has proposed additional modifications. The subcommittee will meet with staff and the City Attorney's Office to address the proposed modifications.	The subcommittee has submitted 4 types of MAP permits to the City Attorney's office for review and comment.	Nothing to report at this time.	The subcommittee continues to compile information regarding Objective 1.4 and will focus first on onshore moorings.	
September 9, 2020	Commercial marina language was approved and will be forwarded to City Council.	Targeting the October 14th meeting to review.	Nothing to report at this time.	Committee is compiling information.	
October 14, 2020	Live-Aboards to go to City Council October 27. 17.10 approved by the Harbor Commission and ready to go to Council. Date to be determined - November?	Approved by the Harbor Commission. Implemented by the Harbor Department.	To be removed.	The Ad Hoc committee is diligently pursuing issues with the moorings there will be more information forthcoming.	
November 9, 2020					
December 9, 2020					

2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	2.1 Evaluate potential enhancements to City amenities provided to mooring permittees, residents, and visitors. (Scully)	2.2 Support Staff with permanent anchorage at the west end of Lido Island. (Williams)	2.3 Evaluate options to consolidate and reduce the footprint of the mooring fields. (Yahn)	2.4 Continue pursuit of a second public launch ramp. (Kenney)	2.5 Complete evaluation for establishing day moorings off Big Corona beach. (Williams)
March 11, 2020	The item regarding mooring extensions was removed from the Council agenda the prior day so that a meeting with the Newport Mooring Association can be held. Staff noted that no mooring extensions will be issued until the policy is approved.	It was noted that discussion is needed prior to submission of a revised footprint for the West Anchorage, as well as public outreach.			
April 8, 2020	This meeting was canceled.				
May 13, 2020	This meeting was canceled.				
June 10, 2020	No change.	Staff and subcommittee have been working on the latest version of a proposal to create a permeant west anchorage. The US Coast Guard requires additional public outreach, which the Harbormaster is working on completing.	The subcommittee has reached out to the Newport Beach Mooring Association and asked for their input on the new City Council proposed policy on mooring extensions. They have been given 60 days to review and comment. Further discussions will occur once comments are received.	No change	No change
July 8, 2020	No change.	Ms. Weiner is the new Coast Guard person reviewing the City's application for the West Anchorage. Ms. Weiner has requested review of all documents to date and a briefing with her superior. Subcommittee and staff will meet with Ms. Weiner following her briefing with her superior. The website for public outreach is ready.	The City Attorney's Office has approved a suggestion from the Newport Mooring Association, and the ad hoc committee will prepare a response. The ad hoc committee continues to evaluate and discuss City amenities for mooring permittees, residents, and visitors.	No change	
August 12, 2020	Discussions and outreach continue regarding Policy H-3. Harbormaster Borsting has audited permitted moorings and GIS information and identified a few discrepancies, which GIS staff has corrected. Commissioner Beer will review the Policy H-3 chart of moorings and resolve any issues with key stakeholders.	The U.S. Coast Guard has commented regarding the footprint of the proposed West Anchorage, and Public Works Administrative Manager Miller has redrawn the footprint.	Nothing to report at this time.	No change	The subcommittee is arranging discussions for a plan.
September 9, 2020	The committee is evaluating specific amenities that is should focus its attention on and will report back at a future date.	Staff continues to work with the USCG and should have an update in the next several weeks.	The sub committee is working on a revised policy for mooring extensions.	No change	The subcommittee will begin this work soon.
October 14, 2020	Working with GIS to ensure discrepancies have been corrected. Should be ready for Commission review in November or December.	Public outreach to begin with stakeholders. Formal application to be submitted to US Coast Guard.	Nothing to report at this time.	Nothing to report at this time.	Nothing to report at this time.
November 9, 2020					
December 9, 2020					

3. Harbor Infrastructure (Cunningham) - Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.

	3.1 Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process.	3.2 Establish a sustainable program that consistently re-nourishes our harbor beaches. (Marston)	3.3 Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth.	3.4 Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea level rise and coastal erosion. (Marston)	
March 11, 2020	This Functional Area had nothing to report at this meeting				
April 8, 2020	This meeting was canceled.				
May 13, 2020	This meeting was canceled.				
June 10, 2020	Currently on target to have the renewal in place by the end of the calendar year.	As a carve out of the RGP54 permit, we have an approved methodology to execute consistent sand replenishment. Receiving permission from the agencies for routine sand maintenance is the hard part. Going into 2021 we will need an execution plan and funds in the budget. This project also impacts the shore mooring objective.	A work in progress. Received \$2 million from Army Corps of Engineers to dredge harbor mouth to Coast Guard cutter station. Continuing to work to get additional funds in 2021 and working on plan with legislators to get an additional \$10 million. The City continues to look at various alternatives to deal with 100K cubic yards of unsuitable material.	Looking at various ideas to re-use harbor material to replenish our local beaches. It will take years of studies and pilot programs	
July 8, 2020	Nothing to report at this time.	The beach on the south side of Balboa Island needs material to backfill the dredged area in order to create a natural slope into the water.	Nothing to report at this time.	Nothing to report at this time.	
August 12, 2020	RGP-54 public notice comment period extends from August 7, 2020 to September 6, 2020. Public comments, if any, will be reviewed, and hopefully permits will be written soon after that.	If a carve-out for beaches can be attained, Objective 3.2 may change for 2021.	The City's modified request for \$10 million was well received. Public Works Administrative Manager Miller will propose new designs for floats at public docks at an upcoming meeting.	Nothing to report at this time.	
September 9, 2020	Staff is moving forward with multiple governmental agencies and are working to complete in December 2020.	Nothing to report at this time.	Nothing to report at this time.	Nothing to report at this time.	
October 14, 2020	Progress continues. Negotiations with Army Corps on permits.	Nothing to report at this time.	Out for Bid next week. Mid November work to begin. Draft EIR for CAD.	Nothing to report at this time.	
November 9, 2020					
December 9, 2020					

4. Harbor Stakeholders (Scully) - Matters pertaining to Residential, Recreational, and Commercial Users.

	4.1 Develop a plan to communicate and assist Stakeholders required to complete and meet the newly defined Marine Activities Permit program. (Marston)	4.2 Assist Staff in developing a communication outreach to the Stakeholders similar to the program in place with the Mooring Association. (Marston)	4.3 Continue a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for charter and commercial boat operations in Newport Harbor with particular attention to vessel specifications, noise and pollution control/compliance and long-range plans for berthing. (Williams)	4.4 Support Staff in the Harbor Attendance Study. (Yahn)
March 11, 2020	Communication with businesses about obtaining MAPs is still taking place.			The ad hoc committee for this Functional Area has identified 158 Harbor stakeholders and related information and will continue to work on the study.
April 8, 2020	This meeting was canceled.			
May 13, 2020	This meeting was canceled.			
June 10, 2020	Holding on this until the MAP is revised. Working on signing up those without a MAP.	This has been placed on hold until COVID 19 allows for public meetings again.	This has been placed on hold until COVID 19 allows for public meetings again.	All commercial marinas have been contacted with the exception of one business and this information will go into the Harbor Attendance Study.
July 8, 2020	On hold until the new Marine Activity permits have been completed and approved.	Requires scheduling of meetings with multiple stakeholders. Considering the COVID 19 pandemic, we will wait until a safer time to meet.	Requires scheduling of meetings with multiple stakeholders. Considering the COVID 19 pandemic, we will wait until a safer time to meet.	The ad hoc committee spoke regarding Objective 4.4 spoke to ensure the attendance study obtains the correct data. Nonprofits that utilize the Harbor have been contacted and good feedback has been received. Annual headcounts include 1,470,661 for the Balboa Ferry, 1,319,287 for Lido Marina Village, 200,000 for Davy's Locker, and 50,000 for electric cruises. The ad hoc committee will provide feedback in the next few months.
August 12, 2020	Delay due to revision of MAPs.	This has been placed on hold until COVID 19 allows for public meetings again.	This has been placed on hold until COVID 19 allows for public meetings again.	Work on Objective 4.4 is slow because of businesses not responding to written requests for information. Based on current information, more than 5 million people use the Harbor.
September 9, 2020	Delay due to revision of MAPs.	This has been placed on hold until COVID 19 allows for public meetings again.	This has been placed on hold until COVID 19 allows for public meetings again.	Moving forward with restaurants, and yacht clubs and finishing up for profit and non-profit businesses.
October 14, 2020	Now that MAPs are approved progress on this objective will begin.	Holding off due to COVID. We will move forward with a significant focus next year.	Holding off due to COVID. We will move forward with a significant focus next year.	Progress has been made on reaching out and contacting all of the businesses that operated on and around the water. The subcommittee has reviewed our current progress to provide an additional set of eyes to make sure we are identifying all parties and getting their annual headcounts. The subcommittee is optimistic that the study will conclude and be ready for the November or December meeting.
November 11, 2020				
December 9, 2020				

5. Harbor Vision (Yahn) - Matters pertaining to Community Outreach and the General Plan update

	5.1 Draft a Harbor Plan that can be used independently or in conjunction with an update to the General Plan. Special attention should be made to preservation of marine related activities and businesses in Newport Harbor. (Williams)	5.2 Evaluate and make recommendations for Lower Castaways. (Marston)			
March 11, 2020		Separate meetings are scheduled with PB&R and Harbor Commission to discuss Lower Castaways with staff prior to meeting together.			
April 8, 2020	This meeting was canceled.				
May 13, 2020	This meeting was canceled.				
June 10, 2020	This has been placed on hold until COVID 19 allows for public meetings again.	This issue was placed on hold by the City Council. Staff will follow up to determine if preliminary work can proceed.			
July 8, 2020	This has been placed on hold until COVID 19 allows for public meetings again.	This issue was placed on hold by the City Council. Vice Chair Cunningham stated he had an email exchange with Outrigger Club, the group actively cleaning up the lot and making improvements at Lower Castaways, who indicated the short-term need is sand.			
August 12, 2020	The subcommittee is exploring areas where marine-related activities and businesses can be preserved and exploring a relationship with the Planning Department to learn of projects that affect the Harbor.	The subcommittee is interested in continuing a dialog and initiating meetings with the Parks, Beaches and Recreation Commission regarding Lower Castaways.			
September 9, 2020		Meeting scheduled for September 11, 2020			
October 14, 2020	Nothing to report at this time.	Met with City Staff to evaluate and discuss Clean-up, Short and Long Term use.			
November 11, 2020					
December 9, 2020					



== CITY OF ==
NEWPORT BEACH
Harbor Commission Staff Report

November 9, 2020
Agenda Item No. 7.2

TO: HARBOR COMMISSION
FROM: Carol Jacobs, Assistant City Manager, 949-644-3313
cjacobs@newportbeachca.gov
TITLE: Proposed Harbor Commission 2021 Objectives

ABSTRACT:

The Harbor Commission held a Study Session on September 9, 2020 to review their existing objectives and to provide input to update the Objectives for the 2021 calendar year.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Approve the proposed Harbor Commission Objectives for 2021 and request staff to present the objectives to the City Council at a future date.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

The Harbor Commission annually prepares goals and objectives as their workplan for each calendar year. After the Objectives are approved by the Harbor Commission, they are presented to the City Council for their consideration and review.

During the Study Session, the Commission reviewed the current Objectives and discussed whether each Objective should be modified, enhanced or deleted. Attachment A are the Harbor Commission's Objectives for 2020, updated on July 8, 2020. Attachment B are the proposed Objectives based on Harbor Commission input on September 9, 2020 and October 14, 2020 meetings.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

ATTACHMENTS:

Attachment A – Harbor Commission 2021 Proposed Objectives – Redline Version
Attachment B - Harbor Commission Proposed Objectives 2021 - Clean Version

City of Newport Beach

Harbor Commission Purpose & Charter

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

1. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within Newport Harbor.
2. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
3. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
4. Advise the City Council on proposed harbor-related improvements.
5. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
6. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
7. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
 - Dredging priorities
 - In-bay beach sand replenishment priorities
 - Harbor amenities such as mooring support service areas and public docks

Harbor Commission - Objectives

The following objectives are intended to support the mission of the Harbor Area Management Plan and the two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.

These updated objectives are subject to the review and approval of the Commission, and final approval by the Newport Beach City Council. Harbor Commission ad hoc committees, as established by the Commission, bear principal responsibility for coordinating the Commission's efforts, along with staff support, in achieving these Objectives.

City of Newport Beach - Harbor Commission Objectives

Proposed ~~October 14~~November 9, 2020

2021 Objectives	Functional Area
<p>1. <u>Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn)</u>Complete current version of Title 17 while maintaining suggestions for future revisions. (Yahn)</p> <p>2. <u>Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary. Work with Harbor Department staff to identify all Stakeholders within the Harbor who will require a Marine Activities permit and assist Stakeholders in obtaining the same. (Williams, Yahn)</u>Study and make recommendations for changes on Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permit. (Williams, Yahn)</p> <p>3. <u>Review the onshore and offshore mooring permit forms and recommend updates as necessary. (Beer, Cunningham)</u>Study and provide recommendations for shore moorings including transfer permit policy. (Beer, Cunningham)</p> <p>4. <u>Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham)</u></p> <p>5. <u>Work with City staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)</u></p>	<p>1. Harbor Operations (Kenney)</p> <p><i>Matters pertaining to the Management, Policies, Codes, Regulations, and Enforcement.</i></p>
<p>1. Evaluate potential enhancements <u>and/or services</u> to City amenities <u>which will improve the operation and enjoyment of the Harbor for</u> provided to mooring permittees, residents, recreational boaters, charter fleet, commercial slip holders, and visitors. (Scully)</p> <p>2. Support staff with permanent anchorage at the west end of Lido Island. (Williams) <u>With the assistance of Staff, continue the process for establishing a permanent anchorage at the west end of Lido Island. (Beer)</u></p> <p>3. 3. Evaluate options to consolidate and reduce the footprint of the mooring fields including the use of multi-vessel mooring systems. (Yahn) <u>Finalize a new Harbor Policy H3 to set guidelines for approving mooring extension requests by mooring permittees, and better defining the rows and fairways within the mooring fields</u></p>	<p>2. Harbor Viability (Beer)</p> <p><i>Matters pertaining to Assets, Amenities, and Access.</i></p>

2021 Objectives	Functional Area
<p><u>for improved navigation, safety and optimization of space. (Beer)</u></p> <p><u>4. Study options to reduce the number of onshore moorings. (Cunningham & maybe one other)</u></p> <p><u>5. Evaluate options for additional City Moorings and/or Multi Vessel Mooring Systems (MVMS) for temporary use by visiting mariners or long-term mooring permittees (Williams)</u></p> <p><u>6. Review the On-shore mooring vessel specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Scully)</u></p> <p>4. Continue pursuit of a second public launch ramp. (Kenney)</p> <p>56. Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)</p> <p>67. Evaluate and make recommendations for Lower Castaways. (Marston)</p> <p>7. Evaluate opportunities for an additional fuel dock.</p>	
<p>1. Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process.</p> <p>2. Establish a sustainable program that consistently re-nourishes our harbor beaches. (Marston) <u>Recommend a long-term plan for harbor beach enhancements, which includes the option of eliminating shore mooring tackle on our most popular beaches. (Marston, Scully)</u></p> <p>3. Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth.</p> <p>4. Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea-level rise and coastal erosion. (Marston) <u>Kick off fine grain sediment disposal study in near shore waters. Evaluate sustainable dredging options for beneficial reuse along the Newport Beach shoreline. (Marston)</u></p>	<p>3. Harbor Infrastructure (Cunningham)</p> <p><i>Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.</i></p>

2021 Objectives	Functional Area
<p>1. Develop a plan to communicate and assist Stakeholders required to complete and meet the newly defined Marine Activities Permit program. (Marston)</p> <p>2. Assist Staff in developing<u>Develop</u> a communication outreach plan to program for all Harbor Stakeholders including residents, and users of the Harbor within Newport Harbor to ensure that <u>all Residential, Recreational and Commercial users have a voice in the management and development of Newport Harbor.</u> Similar to the program in place with the Mooring Association, (Marston)</p> <p>3. Continue a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for <u>all</u> charter and commercial boat operations in Newport Harbor with particular attention to vessel specifications<u>sizes, number of vessels</u>, noise and pollution control/compliance and long-range plans for berthing. (Williams)</p> <p>4. Support Staff in the Harbor Attendance Study. (Yahn)</p>	<p>4. Harbor Stakeholders (Scully)</p> <p>Matters pertaining to Residential, Recreational, and Commercial Users.</p>

City of Newport Beach

Harbor Commission Purpose & Charter

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

1. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within Newport Harbor.
2. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
3. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
4. Advise the City Council on proposed harbor-related improvements.
5. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
6. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
7. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
 - Dredging priorities
 - In-bay beach sand replenishment priorities
 - Harbor amenities such as mooring support service areas and public docks

Harbor Commission - Objectives

The following objectives are intended to support the mission of the Harbor Area Management Plan and the two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.

These updated objectives are subject to the review and approval of the Commission, and final approval by the Newport Beach City Council. Harbor Commission ad hoc committees, as established by the Commission, bear principal responsibility for coordinating the Commission's efforts, along with staff support, in achieving these Objectives.

City of Newport Beach - Harbor Commission Objectives
Proposed November 9, 2020

2021 Objectives	Functional Area
<ol style="list-style-type: none"> 1. Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn) 2. Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary. Work with Harbor Department staff to identify all Stakeholders within the Harbor who will require a Marine Activities permit and assist Stakeholders in obtaining the same. (Williams, Yahn) 3. Review the onshore and offshore mooring permit forms and recommend updates as necessary. (Beer, Cunningham) 4. Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham) 5. Work with City staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham) 	<p>1. Harbor Operations (Kenney)</p> <p><i>Matters pertaining to the Management, Policies, Codes, Regulations, and Enforcement.</i></p>
<ol style="list-style-type: none"> 1. Evaluate potential enhancements and/or services to City amenities which will improve the operation and enjoyment of the Harbor for mooring permittees, residents, commercial slip holders, and visitors. (Scully) 2. With the assistance of Staff, continue the process for establishing a permanent anchorage at the west end of Lido Island. (Beer) 3. Finalize a new Harbor Policy H3 to set guidelines for approving mooring extension requests by mooring permittees, and better defining the rows and fairways within the mooring fields for improved navigation, safety and optimization of space. (Beer) 4. Study options to reduce the number of onshore moorings. (Cunningham & maybe one other) 5. Evaluate options for additional City Moorings and/or Multi Vessel Mooring Systems (MVMS) for temporary use by visiting mariners or long-term mooring permittees. (Williams) 6. Review the On-shore mooring vessel specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Scully) 	<p>2. Harbor Viability (Beer)</p> <p><i>Matters pertaining to Assets, Amenities, and Access.</i></p>

2021 Objectives	Functional Area
<p>7. Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)</p> <p>8. Evaluate and make recommendations for Lower Castaways. (Marston)</p>	
<p>1. Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process.</p> <p>2. Recommend a long-term plan for harbor beach enhancements, which includes the option of eliminating shore mooring tackle on our most popular beaches. (Marston, Scully)</p> <p>3. Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth.</p> <p>4. Kick off fine grain sediment disposal study in near shore waters. Evaluate sustainable dredging options for beneficial reuse along the Newport Beach shoreline. (Marston)</p>	<p>3. Harbor Infrastructure (Cunningham)</p> <p><i>Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.</i></p>
<p>1. Develop a plan to communicate and assist Stakeholders required to complete and meet the newly defined Marine Activities Permit program. (Marston)</p> <p>2. Develop a communication outreach program for all Stakeholders within Newport Harbor to ensure that all Residential, Recreational and Commercial users have a voice in the management and development of Newport Harbor. (Marston)</p> <p>3. Continue a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for all charter and commercial boat operations in Newport Harbor with particular attention to vessel sizes, number of vessels, noise and pollution control/compliance and long-range plans for berthing. (Williams)</p> <p>4. Support Staff in the Harbor Attendance Study. (Yahn)</p>	<p>4. Harbor Stakeholders (Scully)</p> <p>Matters pertaining to Residential, Recreational, and Commercial Users.</p>

November 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission [agenda](#) are submitted by:
Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 4. Public Comments

The present meeting was rescheduled from the Commission's normal (and [announced](#)) regular meeting date on the second Wednesday of the month, which would, this month, have fallen on the Veterans Day holiday of November 11.

For future reference, if another meeting should fall on a holiday, **I would suggest it would be much better to reschedule it to a date *after* the regular date rather than to one *before* it.**

Among other things, that would be more consistent with the Brown Act, which in [Section 54955](#) contemplates the need to cancel a previously-announced meeting. In that case, a notice of the new date is required to be posted on the meeting door. That new date will obviously be in the future, so that a person who (not knowing of the cancellation) shows up on the scheduled date will be able to come back and will not have missed the opportunity to attend. Contrast that with the same person showing up on the expected date to find a note on the door saying "Sorry we missed you! Our regular monthly meeting is over, as we decided to hold it two days before the normal date."

Better yet would be to adopt (and follow) a clearly stated rule for handling holidays, such as "We normally meet on the second Wednesday of each month. Should that be a City holiday, we meet on the City's next business day."

Item 5.1. Minutes of the October 14, 2020 Harbor Commission Regular Meeting

Suggested corrections: The passages shown in *italics* below are from the [draft minutes](#) with suggested corrections indicated in **strikeout underline** format. The page numbers refer to those in the minutes.

Page 1 (page 5 of agenda packet), Item 4, sentence 2: "*If Measure Z is passed, it will ~~move~~ **leave** the permitting and appeal authority of the Commission to the ~~discretion of the~~ Council.*"

Page 1 (page 5 of agenda packet), Item 4, sentence 4: "*He suggested that Measure Z be scrapped and ~~in the Charter state instead~~ that the existing Harbor Commission continue to exist with all their powers and responsibilities in place.*"

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, sentence 1: "~~Community Developer Department Real Property Administrator~~ Lauren Wooding-Whitlinger discussed rent which is charged for the use of City Property in the harbor." ["Real Property Administrator" is a position within the Community **Development** Department]

Page 2 (page 6 of agenda packet), Item 6, paragraph 2, next to last sentence: "*For on and offshore moorings rent is set ~~pursuit pursuant~~ to Resolution 2016-17 and is adjusted annually.*"

Page 2 (page 6 of agenda packet), last sentence: "*In reply to Secretary Beer's inquiry, Ms. Wooding-Whitlinger suggested that ~~Staff staff~~ would have to consult with the ~~City's City~~ Attorney's Office but an appraisal would consider all Transfer Fee values for Mooring Permits.*"

Page 3 (page 7 of agenda packet), paragraph 1: "*In answer to Commissioner Yahn's questions, Senior Accountant Schweitzer responded that Transfer Fees are listed in the City's Municipal*

Code. Harbormaster Kurt Borsting added that a Transfer Fee is calculated as 9-months of the rent for the size of the mooring.”

Comment 1: [NBMC Sec. 17.60.040.1](#) contains only the rule that the transfer fee is 75% of the annual rent. The rent used to calculate the actual fee in dollars is not specified in the Municipal Code, but rather, as the code indicates, is set by resolution.

Comment 2: It is confusing to present the minutes in a sequence differing from the actual order in which items were heard. It looks like a note about the sequence is needed after the above paragraph, for the minutes make it appear that at the conclusion of the fees presentation (Item 6.1) the Commission moved on into Item 7.1. But a note on page 7 (page 11 of the packet) says Item 7.1 was heard after Item 8.2 in which case it could not also have been heard after Item 6.1.

My guess is that after Item 7.1, the Commission heard 6.1 then 7.2, 8.1, 8.3 and the rest of the agenda. If that's correct, the following note should be inserted after the above paragraph:

“The Commission moved to Item 7.2”

Or better, the notes be eliminated and the minutes simply presented in the order in which the items were heard.

Page 4 (page 8 of agenda packet), Item 7.2 minutes, paragraph 1: *“Public Works Manager Miller stated that the project is a City project and is located within a commercial marina. The project includes the installation of a new bulkhead cap for the entire area fronting the American Legion, along with the gangway being upgraded to an 80-foot **American Americans with Disabilities Act (ADA) compliant gangway**. The project will extend beyond the **pier-headline pierhead line** by 5-feet 4-inch which mimics current conditions. No comments were received from the public and the project is to go out for bid around January 2021.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 1: *“**Assistant** City Attorney Yolanda Summerhill announced that there has been an increase of complaints regarding new businesses and their impacts in the harbor.”*

Page 5 (page 9 of agenda packet), last paragraph, sentence 3: *“Section 17.10.025 regarding exemptions has been revised so that commercial fishing vessels, **or and the charters** commonly referred to as six-packs and twelve-packs, are now required to obtain a MAP with the caveat that operations that existed before 2006 and 2008 are not required to obtain a MAP.”*

Page 6 (page 10 of agenda packet), first partial paragraph, last sentence: *“In terms of penalties, the **Administration Administrative** Citation Penalties are now **higher in terms of fines** aligned with Short-Term Lodging Permit Ordinance penalties and have been incorporated into the MAP provisions.”*

Page 6 (page 10 of agenda packet), paragraph 9, sentence 1: *“John Pringle, Paradiso Charter, wanted to know how to get on the exemption list and if that list **is** frozen.”*

Page 6 (page 10 of agenda packet), paragraph 11, sentence 1: *“Vice Chair Cunningham **disclosed that recommended** the changes **should** be pushed forward with the caveat that Title 17 is a living document.”*

Page 6 (page 10 of agenda packet), paragraph 12, sentence 2: *“Commissioner **William Williams** agreed.”*

Page 6 (page 10 of agenda packet), paragraph 14, sentence 1: “*Commissioner Yahn moved to approve the revisions to Section 17.10 as currently written with no modifications.*”

Comment: Although it was not clear from the agenda or staff report, I see the recommendation approved by the Commission was actually in the form of a Harbor Commission *resolution* – possibly the first it has ever adopted.

Page 7 (page 11 of agenda packet), paragraph 6, sentence 1: “*Commissioner Scully echoed the comments that insurance limits should be listed.*”

Page 9 (page 13 of agenda packet), Item 5, last paragraph: “*Harbormaster Borsting mentioned that there are local boaters who like to rent a boat slip to get away from their mooring or private dock.*”

Item 6.1. Residential Dock Reconfiguration at 944 Via Lido Nord

I agree with staff’s analysis. The proposal clearly fails at least one of the criteria required for Harbor Commission approval under Council Policy H-1. The applicant has the option of appealing the Commission’s denial to the City Council. They have the power to waive the policy should they so choose. The Commission does not.

I would also recommend that the Commission’s action, and its reasons for it, be memorialized by adopting a resolution, as the Planning Commission does, and as was done by the Harbor Commission at its last meeting as a means of making a recommendation regarding changes to Title 17. A resolution provides a clearer record than do minutes with motions whose meaning has to be deciphered.

Item 7.2. Proposed Harbor Commission 2021 Objectives

The proposed “Harbor Commission Purpose & Charter” appearing on agenda packet pages 44 and 48 does not match the list of Commission functions found in about-to-be-certified-as-having-been-adopted-by-voters City Charter Section 713 of [Measure Z](#) on the November 3, 2020, ballot.

The measure did not make clear how the new voter-enacted purposes (of a possibly new voter-created Commission) interact with the Council-enacted powers of the existing Council-created Commission, but I would assume the new ones supersede the old. So I would suggest this section of the Objectives be revised to reflect the voter-adopted language in Measure Z.

As to the 2021 Objectives, some of these seem envision creating standing committees, which is OK provided those assigned to the objective meet and make their recommendations only at noticed public meetings. For example, Objective 1.1 (“*Conduct an annual review of Title 17 and recommend updates to the City Council where necessary*”) appears to be a permanent function, not a temporary one with a clear and final endpoint. If it is, instead, envisioned as a sporadic activity, then the assignments to that objective should be made only at the start of the review and should expire when the recommendation is delivered to the whole Commission for its consideration. That way the public knows when the assignees are active and when not.

The “annual review” part of Objective 1.2 similarly sounds like an ongoing rather than a one-time function.

Biddle, Jennifer

Subject: FW: Mooring meeting Nobv. 9

From: toknkok@aol.com <toknkok@aol.com>
Sent: Sunday, November 8, 2020 2:25 PM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Subject: Mooring meeting Nobv. 9

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mr. Jacobs,

I may not be able to attend the Moorings meeting on Monday evening. I wish to express my opinion as a former Harbors, Beaches and Parks Commissioner that a system that has served the City and its residents well for the more than 60 years my family has had moorings near our Balboa Island homes. That which isn't broken should not be "fixed". The many mooring holders have acquired their moorings in reliance upon the system that has been in operation for generations and many would be injured by the proposed changes .

I do support the establishment of the West Lido anchorage to encourage better utilization of the harbor by more boaters.

Thomas J. O'Keefe
North Bay Front, B.I.

Biddle, Jennifer

Subject: FW: Moorings (Comment from Ken Lewis N43)

From: Admin <mail@newportmooringassociation.org>
Sent: Sunday, November 8, 2020 4:03 PM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Cc: NMA Email Board <nmaboard@indigoharbor.com>
Subject: FW: Moorings (Comment from Ken Lewis N43)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Carol –

I am forwarding some comments from a shore mooring holder, Ken Lewis (N43), prior to the Harbor Commission Meeting tomorrow evening.

I hope all is well with you and your family.

Megan Delaney

From: ken <gramajag@aol.com>
Sent: Sunday, November 8, 2020 3:46 PM
To: Admin <mail@newportmooringassociation.org>
Subject: Moorings

My family first leased a shore mooring on North Bay front, Balboa Island in the latter part of the 1940's in preparation for the building of a home on the bay front. They were moving after owning a house on Collins since 1939. Over the years the mooring has been not only a home to a number of boats but a good source of revenue for the City . In the 50's it was the home of a Snowbird sailboat. And since, some others named Sabot, Mastercraft, Whaler and inboard and outboards that don't immediately come to mind. I understand there is some consideration to reduce the number of shore moorings. I still use the same one and since the loss of my wife of 45 years in August will probably more back to the Island full time. Therefore, I will continue to live on the Island and have use for the mooring. I am sure everyone with a mooring also has a story and history and therefore I ask you not to reduce the number of shore moorings. There are more arguments to retain the current number but I am sure you will hear enough of them by the end of your session to retain the mooring configuration of Newport Harbor. Please go with the recommendations of the Mooring Association.

Thank you for the use of the mooring over these years. I still need it. Respectfully, Ken Lewis N43

Ken Lewis
900 Island Drive #314
Rancho Mirage, CA 92270
714-328-0452

Biddle, Jennifer

Subject: FW: A proposal to establish mooring rows for larger vessels - 60ft and larger

From: Mark Womble <NewportWomble@hotmail.com>

Sent: Monday, November 9, 2020 6:43 AM

To: Jacobs, Carol <cjacobs@newportbeachca.gov>

Cc: Borsting, Kurt <KBorsting@newportbeachca.gov>; mail@newportmooringassociation.org

Subject: RE: A proposal to establish mooring rows for larger vessels - 60ft and larger

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms Jacobs,

Per my email to the Harbor Commission below: this email is to re-submit the following subject for inclusion on the agenda item referencing mooring lengths, during the meeting of the Harbor Commission, this evening, Nov 9. Specifically, this request is that the Commission include a discussion on re-purposing a mooring row or two in the harbor, to specifically accommodate vessels of 60ft and longer in length.

I am in a very high risk category group for the Corona Virus, am strictly quarantining, so will not be able to attend the meeting in person, to argue the point. So I am including the Newport Mooring Association on this email, in the event they are in the position to speak to this subject, on my behalf.

Thank the Commission members for me, for their attention to this matter.

Respectfully,

Mark Womble
Mooring J1102
949-500-3440

From: Mark Womble

Sent: Tuesday, October 13, 2020 2:24 PM

To: 'wkenney@newportbeachca.gov' <wkenney@newportbeachca.gov>; 'scunningham@newportbeachca.gov' <scunningham@newportbeachca.gov>; 'ibeer@newportbeachca.gov' <ibeer@newportbeachca.gov>; 'gwilliams@newportbeachca.gov' <gwilliams@newportbeachca.gov>; 'dyahn@newportbeachca.gov' <dyahn@newportbeachca.gov>; 'mmarston@newportbeachca.gov' <mmarston@newportbeachca.gov>; 'sscully@newportbeachca.gov' <sscully@newportbeachca.gov>

Cc: 'cjacobs@newportbeachca.gov' <cjacobs@newportbeachca.gov>; kborsting@newportbeachca.gov; 'mail@newportmooringassociation.org' <mail@newportmooringassociation.org>

Subject: A proposal to establish mooring rows for larger vessels - 60ft and larger

10/13/2020

To: The Newport Harbor Commission

Subject: Establishing specific rows to accommodate larger vessels

This email is to present an idea to the Harbor Commission, while the Commission is in deliberations on establishing updated rules for lengths of moorings in Newport Harbor.

I am a mooring permit holder, with a liveaboard permit. A permit I have had for 5 years. The vessel I live on is a 45ft Bayliner Pilothouse Motor Yacht, moored at the extreme west end of the "J" mooring field - mooring #J1102.

The harbor has become my home and my community – and it is my hope that I can continue living in the mooring area, well into the foreseeable future. With this in mind, I hope to upgrade to a larger vessel, to allow for a nicer and more comfortable home. I am researching some significantly larger motor yachts, in the 60ft to 70ft range - the largest and preferred choice being a 70ft Hatteras Motor Yacht.

However, before I can enter into negotiations on purchasing a vessel of this quality, cost and size, I have to make sure that I can get permission to moor it in the harbor, as I do with my current boat. This brings up the question of mooring lengths in the harbor – especially as regards larger vessels. A subject that the Commission is currently reviewing.

The mooring field is currently laid out to accommodate the most prevalent boat sizes (roughly 30ft to 55ft in length) which covers the majority of boaters. But there is a small (but growing) group of vessels of larger sizes (roughly 60ft and up) that are moving into the mooring fields, as well. And it is challenging to accommodate them, in rows that are primarily set up for smaller boats. I have been studying this problem, and would like to ask the Commission to take a look at recommending to the City that they set aside a small proportion of the mooring field (perhaps a couple of selected rows) dedicated to accommodating vessels of this size range - in a location where their size does not block access to others.

I have not done an exhaustive, harbor wide search - but focusing on the mooring fields in the western part of the harbor, where I currently live (Fields F, H, J and K), I believe there are areas where a row or two might be set aside, to accommodate this larger size. Specifically, it appears that the J11 row (the westernmost row in the J field, and the row where I am currently living) and the H01 row (the easternmost row in the H field, bordering on a large sailing basin) are potentially good locations for this purpose. They are both outside rows that can easily accommodate vessels of these greater lengths, and that have very straightforward, practical, and safe ingress/egress paths. And, being on the extreme outsides of the mooring fields, they do not interfere with the ingress/egress of their neighbors.

Dedicating a row or two to vessels of this size range (60ft – 75ft+?), will help accommodate this group of boaters, while enhancing the current efforts to build and maintain a more orderly and disciplined mooring environment.

This email is being sent in an attempt to begin a conversation on this subject. I am including the Assistant City Manager Carol Jacobs, the Newport Beach Harbormaster Kurt Borsting and the Newport Mooring Association in this distribution, as I have found them to provide thoughtful counsel in the past. I am available to anyone, at any time, for further discussion on this subject. An example of the vessel I am focusing on as a liveaboard, follows below.

Thank you in advance for your consideration. I look forward to further conversation on the subject.

Respectfully,



Mark Womble

Mooring #J1102, Newport Harbor | newportwomble@hotmail.com | 949-500-3440 mobile

P.S. A Hatteras 70ft MY. An example of the type of vessel I am hoping can be accommodated, with the addition of a dedicated, large vessel row, or two.



Biddle, Jennifer

Subject: FW: We Need Your Help - City Targets Moorings Again

From: Admin <mail@newportmooringassociation.org>
Sent: Monday, November 9, 2020 6:54 AM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Subject: FW: We Need Your Help - City Targets Moorings Again

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

This is from a Newport Beach citizen and business owner, Dan Gribble.

Megan

From: Daniel O'Madigan Gribble <dogribble@cox.net>
Sent: Sunday, November 8, 2020 11:38 AM
To: Admin <mail@newportmooringassociation.org>
Cc: 'Daniel O'Madigan Gribble' <dgribble@boatswainslocker.com>
Subject: RE: We Need Your Help - City Targets Moorings Again

Dear NMA Board,

I hope this email finds all of you and your families healthy and safe in these crazy times. What a year! At least now with the election over hopefully some decency and sanity will return to the White House and perhaps even spread throughout our government. God knows we need it, the country needs it. The time for conflict and division and deadlock must end. Only through cooperation, collaboration, and compromise can we solve the huge problems our country faces. Shared gain can only come through shared pain. A win-win cannot happen when one side wins and the other loses. Enough of the partisan extremes. We need to find some middle ground and get stuff done for a change! That's my two cents...and now on to the mooring issues. And the same strategies of cooperation, collaboration, and compromise must prevail for it to be a win-win for the mooring owners and the residents of the city.

I will not be attending the meeting but you are welcome to share my thoughts on the various points. As you may know, I sold my mooring last December. I did it mainly because I was afraid the sea lions would jump up on *Brigadoon* and destroy the boat. I had sea lions once on my Med 38 *Alliance*, and it took two days and tons of bleach and elbow grease to eliminate the stains and stench. But that was a fiberglass gelcoat boat, whereas *Brigadoon* has an Awlgrip paint job. If the sea lions did the same on *Brigadoon*, it would require repainting the entire boat. So, I moved to a slip over at Lido Yacht Anchorage. I must say, it is much more convenient and safe, even though it is also much more expensive. When I was younger I could not have afforded a slip. As a result, my boating would have either been limited to a smaller trailer boat, or a sailing dinghy, or the next best thing, going out on a friend's boat!

Therein lies one of the greatest values of having moorings. It makes boating more affordable. It allows younger people, and people without large amounts of discretionary income, to participate in boating. As a kid, I grew up on boats and loved every aspect of it. Sailing. Swimming. Exploring. Waterskiing. Diving. Fishing. Just

playing around. Boating is a great source of recreation, stress relief, beauty, adventure, and fun. My experience even led to a career in the marine industry, something about which I feel very fortunate. So, even though I no longer have a mooring, I believe having moorings is critical to this recreational activity as it makes it affordable to a broader base of our citizens. That is very important, not only for their enjoyment, but also for the many businesses like mine (Boatswain's Locker) that rely on people boating for their livelihoods. I employ 26 people and their incomes support 26 households. Our company provides our employees not only with a salary, but also with a full array of health care benefits, as well as a 401K and Profit Sharing. Our employees pay taxes that support services and infrastructure locally, regionally, and nationally. They spend their incomes at local markets, auto repair shops, restaurants, and the like. They support other businesses and the government. And on, and on. And I am only one business. Multiply these incomes times all the local marine businesses, and you have thousands of local residents who benefit and contribute to the broader local economy. Particularly now, when the economy is in a major slump, we need all the contributions to that economy we can get.

As a previous member of the Newport Mooring Association Board, I know well the challenges the moorings have faced over the years. We have struggled to not only keep the moorings, but keep them affordable and improve access and usability. It has been a constant effort to keep others, those who do not have moorings, from raising the costs, eliminating equity, restricting use, etc. I believe it unfair and unwise for one group of individuals without a personal stake in a particular asset to be able to regulate, tax, and control that asset unreasonably. I believe the Harbor Commission and the Newport City Council have come a long way in listening to the needs and wishes of the mooring holders and as a result the situation is far better than it was even just a few short years ago. Similarly, the mooring owners, and the NMA, have been good and willing partners in reaching compromise and solutions to mooring issues that effect the broader population, such as residents on the surrounding land. A case in point is the reduction in derelict boats and improper use of moorings. Solving those issues was a win-win for both sides, without threatening the existence or value of the moorings at large, and was accomplished through cooperation, collaboration, and compromise.

Now there is talk of reducing the size of the mooring fields, reducing the sizes of moorings, eliminating some moorings, and raising the costs of moorings. While I appreciate there must be reasons some want to do this, every one of those actions puts the very existence of moorings and their affordability at risk. Here are my thoughts on each point in turn:

- **Shrink the size of the mooring field footprints** — The only reason I can imagine this is suggested is to increase the navigable waterway area. However, the mooring fields have been here for decades and have not grown in size. The on-the-water activity in Newport Harbor is robust, but it has been robust since I was a child. Does anyone remember the Flight of the Snowbirds? If we could accommodate such a huge event in the past, we can accommodate it now. Even the Christmas Boat Parade is smaller than it was when I was a child. I can see no valid reason to reduce the size of the mooring fields. In fact, from a safety perspective, that is a bad idea. Particularly on a breezy day or when the tide is running strong, making the space between boats tighter (inevitable if you shrink the field) could make maneuvering more difficult and could result in damage or injury. While I believe we need to check that the existing mooring weights have not dragged outside the current mooring field boundaries, I do not favor making the fields themselves smaller.
- **Change the mooring extension policy** — My mooring was designated as a 55 foot single buoy mooring. However, my dream boat, one I found on the East Coast and sailed from Newport, RI back to Newport Beach, was 56 feet long. Technically I had to have permission to put my boat on the mooring I had owned for years. Now, the anchor weight and the ground tackle for my mooring was sized for a 60 foot boat. To reclassify my mooring as a 60 foot mooring was not at all unreasonable, provided there was adequate swing space considering the surrounding boats. As it turns out, that could have been

accommodated without threatening the surrounding boats and without extending beyond the boundaries of the mooring field. Had there been an issue in either regard, it would not have been a good idea. And from the point of view of the City, a larger mooring would command a higher annual fee. So, my position is that provided extending a mooring does not threaten surrounding boats in any way and does not violate the mooring field boundaries, why not allow it within reason?

- **Mandatory reductions in mooring lengths upon transfer** — My first question on this one is: Why? If the current mooring owner has enjoyed his or her 40 foot mooring (which may have been extended from, say, a 35 foot mooring) and the prospective mooring owner wants the mooring for his or her 40 foot boat, and it being 40 feet has not been an issue, why make a reduction mandatory upon transfer of the mooring? Such a reduction not only lessens the available 40 foot moorings (or whatever size) but it also means a reduction in tax revenue to the City, both with the transfer fee as well as the annual fee. The only reason I can imagine this has been proposed is because the proposer, who probably has never had and never will have a mooring, similarly favors the reduction in the size of the mooring fields, or the elimination of moorings altogether. This regulation serves no purpose other than to threaten the rights of mooring owners. I vote NO.
- **Elimination of some on-shore moorings** — As to this proposal, unless there are currently some on-shore moorings which are perpetually vacant, or which pose some sort of navigational or land-based hazard, I would not favor this proposal. I imagine this idea could have arisen when a resident having a home just up from a particular on-shore mooring decided they wanted unencumbered water access on the beach in front of their home. More than likely the mooring was there before they bought their home, so why should their desires outweigh the rights of the pre-existing mooring owner? Now, a compromise might be to possibly relocate the on-shore mooring, provided doing so was possible and did not create a similar issue elsewhere with another homeowner. This assumes the mooring in question is not permanently vacant and the mooring owner has complied with the existing mooring regulations. Short of that, if the existing mooring poses no safety threat or regulatory violation, then it should be left as is.
- **Increase the rates for mooring fees** — Again my question is: Why? See my earlier argument for why having affordable moorings is important. The goal should be to make moorings as affordable as possible so that more citizens have access to boating both for their own enjoyment but also, more broadly, for the economic benefit to the community. Remember that the City did not have to buy the mooring, the mooring holder did, usually to the tune of something around \$1000 per foot. Then every two years the mooring owner must pay to have the mooring serviced and repaired as needed. The City does not share in that expense. For my 55 foot mooring that ran anywhere from \$450 to \$900 depending on whether or not I had to replace the buoy or ground tackle. In addition the mooring owner pays an annual tax on the use of the water, which for my mooring was over \$2000 annually. What does the mooring owner get in return for that tax? Perhaps with the new Harbor Department there is some benefit, though it is unclear to me what that is. Regardless, what is the justification for increasing the fees? Just because the City can? I am always suspect of the government's endless hunger for more tax revenue, particularly when there is no recognizable benefit to the one being taxed. I say, particularly at a time when the economy and many residents are suffering financially, do not raise the mooring fees.

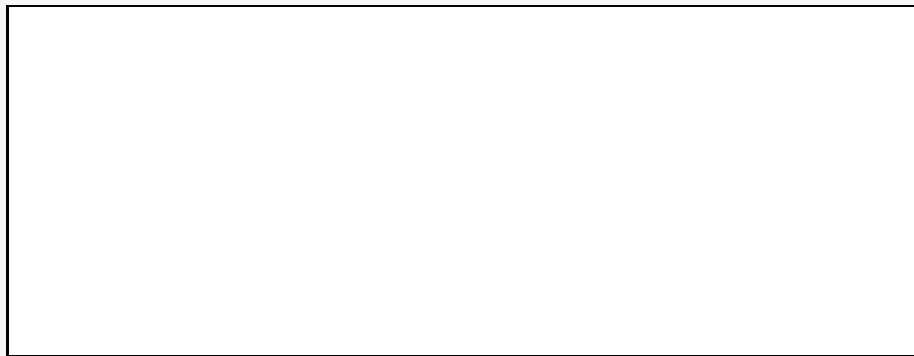
Well, sorry for the long email, but I feel strongly about these matters and wanted to address each point in turn thoroughly. Feel free to use any or all of my points if you think they can be helpful. My personal experience with the Harbor Commission is that they are reasonable folks, some even boaters (!) who understand the issues, and they are willing to work with those who are the stakeholders rather than just arbitrarily "rule from the bench." Good luck with your meeting and please send out a recap of the outcome.

By the way, while I am no longer a mooring owner, I still support the cause and would be happy to contribute to the NMA. Please send me some sort of donation request and I will have my company send a check.

Thanks for all you do to protect and support the rights of mooring owners!

Dan Gribble
SY Brigadoon
CEO
Boatswain's Locker
931 W. 18th Street
Costa Mesa, CA 92627
www.boatswainslocker.com
Office: +1 (949) 642-6800 ext. 312
Cell: +1 (949) 350-6120

From: Newport Mooring Association <mail@newportmooringassociation.org>
Sent: Sunday, November 8, 2020 7:21 AM
To: dogribble@cox.net
Subject: We Need Your Help - City Targets Moorings Again



**ATTENTION MOORING HOLDERS: Please attend
the Harbor Commission Meeting on
MONDAY NOVEMBER 9th, 2020 at 5PM**

The Harbor Commission Meeting will include a discussion of the Harbor Commission Objectives, which have been significantly revised since their last meeting. It includes objectives to:

- Shrink the size of the mooring field footprints
- Change the mooring extension policy
- Mandatory reductions in mooring lengths upon transfer
- Elimination of some on-shore moorings
- Increased rates for mooring fees

The revised Harbor Commission Objectives can be found on the NMA website here:

<https://newportmooringassociation.org/news>

We need your attendance at the meeting to voice

your concerns! Send an email to everyone one at the City Council and at the Harbor Commission. Let them know that we fought these battles over several years and a resolution was reached just four years ago.

The meeting will be held at 5PM, with attendees allowed access in the Community Room adjacent to the City Council Chambers. Your comments will need to be submitted in advance to the Assistant City Manager cjacobs@newportbeachca.gov by Monday, November 9, 2020, at noon. If you email the NMA your comments, we will submit them on your behalf. Please put your name and mooring number on the comment.

We hope to see you at the November 9th meeting!

All the best,

Your NMA Directors

[Looking out for the interest of all mooring owners](#)

Newport Mooring Association

P.O. Box 1118, Newport Beach, CA 92659-1118

mail@NewportMooringAssociation.org

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Newport Mooring Association · P.O. Box 1118 · Newport Beach, California 92659-0118 · USA

▪

Biddle, Jennifer

Subject: FW: Newport mooring association

From: PASCALE HAYEM <pascale@jonvilleteam.com>

Sent: Monday, November 9, 2020 11:37 AM

To: Jacobs, Carol <cjacobs@newportbeachca.gov>

Cc: PASCALE HAYEM <pascale@jonvilleteam.com>

Subject: Newport mooring association

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning NMA team,

My Husband and I are brand new owner of mooring A 181 and the perspective of seeing our mooring size (OR ANY) reduced is certainly NOT a good one. We just purchased that 50" mooring permit and a reduction in size would be catastrophic both physically and financially! We are NOT in favor and I am almost certain that we will not be the only ones. The mooring fields seem to be doing quite good and bring revenue to the city; expanding a mooring when doable seems the right way to go, not shrinking them! this is what makes Newport beach so attractive and different, let's keep it that way.

If I understand well, It looks to me that this measure was sneaked in the proposal to expand moorings; this is not the proper way to conduct business, especially during these difficult COVID times where not everyone can show up in person. I would suggest a survey to all mooring owners to have a better understanding on where mooring owners stand on those measures.

I hope these remarks make sense.

Thank you,
Pascale Hayem
tel: 858-382-2457

Biddle, Jennifer

Subject: FW: Harbor Commission Meeting 11-9-20: Mooring Fees

From: Brian H Ouzounian <brian.oci@sbcglobal.net>

Sent: Monday, November 9, 2020 11:16 AM

To: Jacobs, Carol <cjacobs@newportbeachca.gov>

Subject: Harbor Commission Meeting 11-9-20: Mooring Fees

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Carol:

The NMA has asked for comments to be sent to you prior to tonight's Harbor Commission Meeting. I ask that my previous comment letter(s) to you regarding the mooring fees be forwarded to the commission to be addressed in the coming months. All City Council Members, save Noah Blom, have been sent the same information as you have and I have met with each one of them personally on my porch. The City simply cannot overcharge rental fees because it is NEWPORT BEACH. Rates need to be fair and in line with other ports.

As you know, I contend that mooring rental fees are TEN (10) times what they should be as I have illustrated to you previously with documentation from the State Lands Commission, which included their own survey. This wrong must be addressed. I need your assistance. What else do you need from me? Please let me know.

Brian H. Ouzounian

Biddle, Jennifer

From: Jacobs, Carol
Sent: Monday, November 09, 2020 11:40 AM
To: Biddle, Jennifer
Subject: FW: NMA Comments for The 11-9-20 Harbor Commission Meeting
NMA Comments for HC meeting 11-9-2020 final.pdf



For Harbor Commission

Carol Jacobs | Assistant City Manager | City of Newport Beach
100 Civic Center Drive | Newport Beach, CA | 92660
cjacobs@newportbeachca.gov | Phone: (949) 644-3313 | Fax: (949) 644-3020

From: Admin <mail@newportmooringassociation.org>
Sent: Monday, November 9, 2020 11:38 AM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Cc: NMA Email Board <nmaboard@indigoharbor.com>
Subject: NMA Comments for The 11-9-20 Harbor Commission Meeting

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning Carol –

We have attached comments from the NMA Board of Directors to this email for tonight’s meeting. We are most concerned about the addition of several new Objectives to the Harbor Commission’s Goals for FY20/21.

In addition, we have had two members inquire about the fiscal impact of reducing the length of offshore moorings, as well as reducing the number of onshore moorings. We understand that staff has probably not ascertained fiscal impacts at this time, but we thought you should be aware that the question is being asked.

Please let us know if you have any questions. Thank you!

The NMA Board of Directors



Newport Mooring Association

Newport Mooring Association Comments to Harbor Commission Agenda – Agenda Item 7 For November 9, 2020 Meeting

CITY OF NEWPORT BEACH
HARBOR COMMISSION SPECIAL MEETING (DATE
CHANGE DUE TO HOLIDAY) AGENDA
City Council Chambers - 100 Civic Center Drive. Please See Notice
Regarding COVID-19 for Public Comment Information.
Monday, November 9, 2020 - 5:00 PM

To: Harbor Commission Members:

William Kenney, Jr., Chair
Scott Cunningham, Vice Chair
Ira Beer, Secretary
Marie Marston, Commissioner
Steve Scully, Commissioner
Gary Williams, Commissioner
Don Yahn, Commissioner

Copy to: Staff Members:
Carol Jacobs, Assistant City Manager
Kurt Borsting, Harbormaster
Jennifer Biddle, Administrative Support Specialist

NMA's Comments on the Proposed new set of goals for the Harbor Commission.

NMA believes that the goals set forth below should not be addressed at this meeting, having less than one working day notice of these new goal.

The NMA is requesting the discussion of these proposed goals should be delayed for 90 days for input from the public and stakeholders.

The numbering below may not conform to the numbers on the redline or clean version of the exhibit related to the Staff Report.

All comments are on Agenda item: 7) 2.

Functional Area 1 – Number 4. Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham).

Comment: Why is this needed? – This was addressed just 4- 5 years ago after a 3 year long extensive study, of which many of the current members of the City Council were involved.

This should not be a stated goal without first allowing time for public input, stakeholder input, as well as advanced notice regarding any particular problems that need to be addressed along with some credible evidence of the problems.

If there is no creditable problem that needs to be addressed, it would be a waste of public resources to use staff time to address a non-existent problem, in addition to resulting in public and permittee concern over the uncertainty it would create.

Functional Area 1, Number 5. Work with City staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)

Comment: This was addressed just 4- 5 years ago after a 3 year long extensive study, of which many of the current members of the City Council were involved. The fair value was then set by resolution, with build in cost of living increases. Each year since then the annual fees have increased in accordance with the cost of living increases. Readdressing this issue now will take up a considerable amount of time and City resources, and the stated goal targets mooring fees running counter to the runs counter to legal requirements set forth in the City’s Grant of the tidelands management and the State Lands Commission oversight as discussed below.

The Tidelands (Harbor) is not a City Asset. The City manages the tidelands in trust under certain requirements and under the oversight of the State Lands Commission (SLC).

First, SLC does not requires market value as the criteria for establishing fees for use of State Lands and Waterways. Rather, there are numerous considerations, including the promotion of the use by the public, and promotion of navigation (including private boating use of the navigation waterways). For example, the City would not charge the market value for the public to sit on the public beach for the day. There are various considerations, not just market value of the area under management, which in the case of mooring include the promotion of the enjoyment of boating, the development of skills of responsibility, teamwork, and leadership for those involved in sailing and boating activities, which all require a place to keep a boat. Market value is only one consideration and needs to be addressed only with all other considerations. Without a reference to all other considerations, the stated goal runs counter to the manner in which the City holds the

Tidelands in trust for the general public and without a reference to the other considerations the stated goal is inaccurate and misleading.

Second, the grant to the City of management of the Tidelands specifically requires that the City make no discrimination among uses. The area around each mooring is, in effect, a place of storage for vessels. So too are the individual boat docks in front of homes in the Harbor. Targeting only the moorings for a reevaluation of annual fees without a similar stated goal of seeking an assessment and valuation for the fees related to private homeowner docks is clearly discriminating among uses and is unfair and prohibited. At a minimum, a legal opinion should be obtained, with input from the SLC regarding such a practice.

Functional Area 2, Number 3. Finalize a new Harbor Policy H3 to set guidelines for approving mooring extension requests by mooring permittees, and better defining the rows and fairways within the mooring fields for improved navigation, safety and optimization of space. (Beer).

Comment: This has been addressed separately over the last month in discussion between the Newport Mooring Association and the City. These discussions are ongoing, and there should be no action regarding this as a stated goal, without first completing the discussion with stakeholders. We had asked for information regarding any actual problems that need to be addressed (we have received none to date), and to identify the particular moorings where any problems are most likely to occur, so alternative solutions can be addressed if such problems or potential problems exist. The moorings fields have been in their current locations for almost 100 years, so we should have a history of problems if any have occurred. If there is no creditable problem that needs to be addressed, it would be a waste of public resources to use staff time and City resources in addition to resulting in public and permittee concern over the uncertainty it would create.

Functional Area 2, Number 4. Study options to reduce the number of onshore moorings. (Cunningham & maybe one other)

Comment: Stakeholders may not have been Notified, including Lido Isle Yacht Club and shore mooring permittees. We are aware of no evidence of a problem that requires looking for solutions. Problems and complaints and evidence should be presented for public comment before considering this as a possible goal for the Harbor Commission. If there is no creditable problem that needs to be addressed, it would be a waste of public resources to use staff time and City resources, in addition to resulting in public and permittee concern over the uncertainty it would create.

Functional Area 2, Number 6. Review the On-shore mooring vessel specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Scully)

Comment: Stakeholders may not have been notified, including Lido Island YC and Shore mooring permittees. We are aware of no evidence of a problem that requires looking for solutions. Problems and complaints and evidence should be presented for public comment before considering this as a possible goal for the Harbor Commission. If there is no creditable problem that needs to be addressed, it would be a waste of public resources to use staff time and City resources, in addition to resulting in public and permittee concern over the uncertainty it would create.

For reference:

The State Statutes related to the Grant in Trust to the City of Newport Beach of the Tidelands, states clearly:

In the management, conduct, operation, and control of the lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith

The same statutes provide:

The lands shall be used by the city and its successors for purposes in which there is a general statewide interest, as follows:

(1) “ For the establishment, improvement, and conduct of a public harbor; and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce and navigation.”

(2) “ For the establishment, improvement, and conduct of public bathing beaches, public marinas, public aquatic playgrounds, and similar recreational facilities open to the general public.”

Note: The only reference to market value in these statutes is related only to the leasing of homeowner on the islands created by dredging activities, with leases of the homeowner lots of 50 years, not in relation to recreational uses of the waterways.

Biddle, Jennifer

Subject: FW: Statement for the Harbor Commission

From: Richard <elcorazonsv@gmail.com>
Sent: Monday, November 9, 2020 11:40 AM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Cc: mail@newportmooringassociation.org; George Hylkema <seeseadragon@yahoo.com>
Subject: Statement for the Harbor Commission

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

November 9, 2020

Dear Ms. Jacobs,

This letter is to state my opposition to the Harbor Commission efforts to revise its objectives. The issues to be discussed at this evening's meeting are matters that were resolved just four years ago after several years of studies and negotiations. What is the need to reopen these matters once again?

Past negotiations were conducted in good faith and a fair resolution was established. Without a strong justification to renege on past agreements, Harbor Commission stands in violation of its public trust. As a mooring holder, I strongly request that the Harbor Commission stop all discussion of a change in its objectives until a verifiable justification for doing so is provided to mooring holders.

Sincerely yours,
Richard Navarro, Ph.D.
909-263-3881
elcorazonsv@gmail.com
C-72

Biddle, Jennifer

Subject: FW: Moorings

From: Chris Bliss <chrisbliss@cox.net>
Sent: Monday, November 9, 2020 12:16 PM
To: Jacobs, Carol <cjacobs@newportbeachca.gov>
Subject: Moorings

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone
Dear Newport Beach City Council,

I currently have a 38 foot sailboat on a 45-foot mooring in the C-section mooring field. I May plan to get a bigger boat sometime soon. I sincerely hope that you do not consider shrinking the current Mooring sizes. Additionally, I have been a mooring owner for over 30 years. A few years back as you recall the city council trying to change all the rules regarding Mooring ownership, transfers, sales of Mooring leases, and mooring fees. There was huge opposition to these changes and eventually all the rules regarding Mooring ownership more or less reverted back to the original arrangements and agreements. All mooring owners that I know are currently happy with the current situation. I do not understand why the City of Newport Beach insists on constantly meddling with the Moorings. Why can't you just leave things as is and everyone will be happy. Thank you,

Christopher Bliss
Mooring lessee



NEWPORT BEACH

Harbor Commission Staff Report

November 9, 2020
Agenda Item No. 7.3

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster, (949) 270-8158
kborsting@newportbeachca.gov

TITLE: Harbormaster Update – October 2020

ABSTRACT:

The Harbormaster is responsible for the management of the City’s mooring fields, the Marina Park Guest Marina and Harbor on-water code enforcement activities. This report will update the Commission on the Harbor Department’s activities for October 2020.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Office Customer Service Counter Modifications

In response to COVID 19, plexiglass systems were installed at the Harbor Department’s customer service counter during the month of October. With the addition of these protective barriers, in-person counter service has resumed. Prior to this installation, customer services were available and provided on an uninterrupted basis, during all Harbor Department operating hours, at the outdoor entry area immediately below the department’s office. This outdoor option will remain available to those customers who would prefer conducting their transactions outside.

Presidential Visit to Newport Beach – October 18

On Sunday, October 18, President Trump attended a private fundraising event at a residence on Lido Island. As part of the preparations for his visit, a security zone was established for an area of the harbor, nearby the waterfront home, where vessels were temporarily prohibited. The US Coast Guard and OC Sherriff's Harbor Patrol led this effort – and kept the Harbor Department informed of their activities. Harbor Department staff supported the effort by assisting boaters displaced from sections of the public anchorage, as well as communicating with sponsors of an annual fishing tournament taking place that same day, advising them to keep their participants clear of the affected area.

Response to High Wind Event – October 26

On Monday, October 26, high winds were experienced in the harbor beginning in the early morning and sustaining through the mid-afternoon. These Santa Ana winds directed from the Northeast, were consistently blowing above 20 mph, with repeated gusts in the 30 to 40 mph range throughout the day. The City's Lifeguard team provided inter-departmental support to the Harbor that day, making one of their larger vessels and crews available to accompany the Harbor Department team on patrols. Contracted towing services were also utilized that day, to assist with off-shore mooring field patrols, private dock checks and other response requests. In addition, the OC Sherriff's Department provided inter-agency assistance, responding to a number of early morning harbor needs, including a vessel moored off-shore where its lines had broken free, and a second incident of a vessel discovered listing, requiring de-watering. In addition to monitoring the off-shore mooring fields and anchorage, Harbor Department staff also patrolled by land, checking on the condition of craft using on-shore moorings and public docks.

Following the event, a mass email was sent to all off-shore mooring permittees encouraging them to check on the condition of their vessels, covers, line, etc. which may have been affected as a result of the heavy winds.

Removal and Destruction of Abandoned/Derelict Vessels

The Harbor Department participates in the California Division of Boating and Waterways (DBW) - SAVE Grant Program. This program combines the State's Abandoned Watercraft Abatement Fund (AWAF) and the Vessel Turn-In Program (VTIP) grants into a single program. This allows participating local agencies flexibility in managing the removal of abandoned recreational vessels and marine debris from local waterways, as well as assisting individual California boaters who wish to voluntarily turn-in aging vessels for responsible disposal at the end of their useful lifecycle.

During the month of October, five (5) qualifying recreational vessels were successfully removed from the harbor as part of the VTIP program.

In addition to these boats which were voluntarily surrendered to the City for disposal by their owners, one vessel, impounded by the Harbor Department after having been abandoned, which was severely distressed and posing an immediate risk sinking and harbor environment issues was also removed from the harbor during the month of October.

Code Enforcement Activity

During October 2020, Code Enforcement staff opened 98 new cases and successfully resolved/closed 70 existing files.

Code Enforcement staff have been devoting additional resources to issuing speeding warnings to recreational boaters. Marine Activity Permit holders have been issued citations following repeated observations of speeding in the harbor. A more detailed report on these activities will be provided to the Harbor Commission at a subsequent meeting.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

ATTACHMENTS:

Attachment A – Harbor Department Statistics, Fiscal Year through October 2020

Harbor Department Statistics Fiscal Year 2020 - 2021

	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	YTD
Anchorage	32	58	64	14									168
Assisting Vessels Over 20'	11	6	8	6									31
Assisting Vessels under 20'	4	14	6	3									27
Bridge Jumpers	128	27	23	7									185
Daily Anchorage Check	165	219	147	140									671
Discharge/Pollution	-	3	4	2									9
Dock/Pier/Bridge Issue	5	3	4	-									12
Emergency	-	-	-	-									-
General Assist	26	47	12	29									114
Hazards/Debris	12	6	3	10									31
Impound	5	11	20	20									56
Incident	7	11	7	4									29
Mooring Assist	25	17	11	10									63
Mooring Check	200	224	142	227									793
Noise	1	6	2	4									13
Paddleboard/Kayak	16	22	1	3									42
Public Contact	59	44	30	57									190
Public Dock Enforcement	498	184	342	585									1,609
Pump Out	31	11	31	3									76
Registration & Insurance	14	53	22	28									117
Sea Lions	11	33	22	21									87
Speeding	48	57	93	73									271
Swim Line	1	1	-	1									3
Trash	76	7	14	36									133
Rentals - Marina Park Slips	167	166	170	129									632
# of nights	593	422	547	366									1,928
Rentals - MP Sand Lines	19	24	30	30									103
# of nights	41	43	52	69									205
Mooring Sub-permittee	59	49	87	42									237
# of nights	271	176	320	236									1,003
Code Enforcement													
New Cases	54	84	90	98									326
Closed Cases	46	38	50	70									204
Verbal Warning	21	27	28	11									87
Warning Notices	50	75	87	89									301
Admin Cites	10	10	12	12									44
MAPS Issued	1	1	1	1									4

Harbor Department Statistics
Comparison Year over Year

	Jul-19	Jul-20	Aug -19	Aug -20	Sept -19	Sept -20	Oct -19	Oct -20	YTD-19	YTD-20
Anchorage	45	32	26	58	7	64	9	14	87	168
Assisting Vessels Over 20'	4	11	5	6	4	8	1	6	14	31
Assisting Vessels under 20'	24	4	19	14	5	6	3	3	51	27
Bridge Jumpers	6	128	68	27	6	23	2	7	82	185
Daily Anchorage Check	141	165	257	219	140	147	112	140	650	671
Discharge/Pollution	3	-	9	3	6	4	3	2	21	9
Dock/Pier/Bridge Issue	14	5	16	3	12	4	10	-	52	12
Emergency	-	-	1	-	-	-	-	-	1	-
General Assist	35	26	41	47	15	12	11	29	102	114
Hazards/Debris	22	12	58	6	8	3	10	10	98	31
Impound	15	5	16	11	4	20	4	20	39	56
Incident	10	7	4	11	13	7	7	4	34	29
Mooring Assist	30	25	13	17	10	11	6	10	59	63
Mooring Check	229	200	581	224	220	142	171	227	1201	793
Noise	3	1	-	6	6	2	-	4	9	13
Paddleboard/Kayak	247	16	179	22	8	1	1	3	435	42
Public Contact	147	59	156	44	89	30	36	57	428	190
Public Dock Enforcement	345	498	371	184	294	342	522	585	1532	1,609
Pump Out	13	31	21	11	11	31	7	3	52	76
Registration & Insurance	-	14	242	53	199	22	46	28	487	117
Sea Lions	36	11	88	33	122	22	49	21	295	87
Speeding	87	48	58	57	41	93	5	73	191	271
Swim Line	1	1	3	1	4	-	1	1	9	3
Trash	247	76	283	7	278	14	176	36	984	133
Rentals - Marina Park Slips	143	167	147	166	107	170	99	129	496	632
# of nights	370	593	399	422	295	547	297	366	1,361	1,928
Rentals - MP Sand Lines	9	19	9	24	7	30	10	30	35	103
# of nights	43	41	32	43	28	52	59	69	162	205
Mooring Sub-permittee	61	59	54	49	48	87	28	42	191	237
# of nights	404	271	392	176	350	320	219	236	1,365	1,003

Harbor Department Definitions

Anchorage	Anchorage Check of vessels in anchorage each day
Assisting Vessels Over 20'	Assisting or educating Vessels over 20' (Anchorage Boundary Issue, Pump Out sinking vessel)
Assisting Vessels under 20'	Assisting or educating Vessels under 20' (Anchorage Boundary Issue, Pump Out sinking vessel)
Bridge Jumpers	Warning/Educating people not to jump
Daily Anchorage Check	Count of boats in anchorage each day
Discharge/Pollution	Any pollutant being discharged into the water
Dock/Pier/Bridge Issue	Gangway detached, Maintenance Issues, etc
Emergency	Any emergency sent to 911
General Assist	General Harbor Information, Misc Catch All
Hazard/Debris	Large Debris in water such as log, chair, shopping cart, etc.
Impound	Vessel Impounded in place or at dock
Incident	Progressed Incident but not level of Emergency
Mooring Assist	Helping Permittee or Sub-permittee on or off of the mooring
Mooring Check	Checks on moorings that are necessary outside the daily mooring vacancy checks, Checking lines, etc
Noise	Noise complaint
Paddleboard/Kayak	Assisting or educating paddleboarders or kayakers
Public Contact	Education of rules and regulations in the harbor
Public Dock Enforcement	Boat tagged at public dock
Pump-Out Dock	Pump-Out Dock Issue (Enforcement of time limits or inoperable pump)
Registration and Insurance	Follow up with Permittees on Expired Documents
Sea Lion	Sea Lion Complaint, Abatement Effort
Speeding	Wake Advisement/ educating boaters to slow down
Swim Line	Replace/readjust/broken swim line issues
Trash	Daily trash pick up