

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers – 100 Civic Center Drive
Wednesday, October 12, 2022
5 p.m.

1) CALL MEETING TO ORDER

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

2) ROLL CALL

Commissioners: Steve Scully, Chair
Ira Beer, Vice Chair
Don Yahn, Secretary
Scott Cunningham, Commissioner
Marie Marston, Commissioner
Rudy Svrcek, Commissioner
Gary Williams, Commissioner

Excused: None

Staff Members: Paul Blank, Harbormaster
Jeremy Jung, Deputy City Attorney
Michael Gomez, Deputy Finance Director
Shelby Burguan, Budget Manager
Jennifer Biddle, Administrative Support Specialist

Administrative Support Specialist Biddle announced Secretary Yahn would be leaving the meeting at 6:20 p.m.

3) PLEDGE OF ALLEGIANCE – Commissioner Scully

Chair Scully announced the Harbor and Beaches Master Plan Projects review will be continued to a future meeting.

4) PUBLIC COMMENTS

Hein Austin presented a flyer he distributed regarding the dire need for outhouses around the Harbor. He advised on a ride around the Harbor he noticed bright yellow outhouses that were registered to Robert's Waste and Recycling in Santa Ana. He noted they were visible from a long distance, well-ventilated, and portable. He reported the company quoted \$210 per month, per unit, for full service 5 times per week. He advised that 10 of these units on the public dock would be very helpful for all users of the Harbor. He recommended the City negotiate a contract with the company as it would be a fraction of the cost of the previously proposed floating restrooms.

Drew Lawler inquired if the potential to move moorings would be a discussion item on the agenda. Chair Scully confirmed it is an agenda item and Mr. Lawler could offer his comments when it is discussed.

5) APPROVAL OF MINUTES

1. Minutes of the September 14, 2022 Harbor Commission Regular Meeting

Chair Scully reported that written comments were submitted to staff by Commissioner Marston and himself.

Commissioner Marston noted she offered comments but was unsure what Water Quality Board was being referenced in the minutes and requested it is corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully and Commissioner Marston. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: None

Chair Scully opened public comments.

Jim Mosher, a Resident, requested typos on page 3 and page 4 of the minutes be corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully, Commissioner Marston, and Jim Mosher. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: None

6) CURRENT BUSINESS

1. Finance Presentation on Harbor Department Operations

The City of Newport Beach was granted sovereign tidelands and submerged lands in trust in 1919. This grant and its amendments were repealed in 1978 and a new grant was enacted tasking the City with stewardship over all of the sovereign tide and submerged lands located within the City's 1919 city limits. Are presentative of the granting authority, the California State Lands Commission will give a presentation related to the stewardship of those granted tidelands.

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.

Deputy Finance Director Michael Gomez provided a brief overview of the City Department Operational Budget which is approximately \$275 million. He noted Fire, Police, Utilities, and Public Works often have the largest budgets with the largest staff. He reported the Harbor Department has 3 full-time employees (FTEs) and 9.39 part-time employees which would be translated to 9 FTEs annually.

Deputy Finance Director Gomez reported that the Harbor Department has been fiscally responsible since its inception. He noted Harbor Expenditures have never exceeded the Operating Budget. He advised the largest part of the Operating Budget is Salaries and Benefits and explained that Internal Service Charges are for services the City provides such as Information Technology and Human Resources services. He advised the other Maintenance & Operations Accounts are the core operations of the Harbor Department. He explained Capital Expenditures are those above the fixed asset threshold but are not necessarily Capital Projects.

Deputy Finance Director Gomez explained that the Harbor Department budget was similar to the Library budget and Recreation & Senior Services budget in that they are public-facing, provide services, and generate revenue. He noted the Harbor Department is the smallest of those expenditure budgets.

Deputy Finance Director Gomez reported the largest sources of revenue for the Harbor Department are Mooring Permits, Marina Park Slips, and All Other Revenue. He advised the Harbor Department has exceeded its annual budget in terms of revenue but is confined to Mooring Permits and Marina Park Slips. He provided a comparison of Harbor Revenue to Library Services and Recreation & Senior Services and noted the Harbor had a steady increase in its revenue across the pandemic which is directly related to the fact that the Harbor is an outdoor destination. He provided a comparison of Harbor staffing as compared to other departments. He noted Harbor Personnel has steadily increased over the last three years.

Deputy Finance Director Gomez provided a brief overview of Harbor Revenue as compared to its Operational Budget. He noted the Harbor is recouping a large part of its expenditures through revenue. He explained that some departments such as Recreation & Senior Services are subsidized by the General Fund to keep recreation classes and services fees low for residents.

Secretary Yahn inquired about the difference between the General Fund and the Tidelands Funds.

Deputy Finance Director Gomez explained the main difference between the two is that the General Fund's primary revenue is from Property Taxes, Sales Tax, and Transient Occupancy Tax (TOT). He explained the Tidelands Fund or any Non-General Fund is typically derived from providing services which would be Mooring Permits and Marina Boat Slips for the Harbor Department. He confirmed there is a subsidy that comes from the General Fund to the Tidelands Fund so all of its revenues will meet its expenditures.

Commissioner Marston requested a copy of the presentation for review as the color differentiation was difficult to see on the screen. She inquired how the steady increases in revenue factor into the Harbor Departments budget and staffing.

Deputy Finance Director Gomez reported from a budgetary perspective staff will push forward a budget for the City Manager and City Council's consideration that balances revenues and expenditures unless there is a purposeful decision to designate more money to a fund balance.

He further explained that staff will have ongoing discussions with the Harbor Department during the budget process to discuss the trajectory of revenue. He noted if it looks like there will be a consistent increase in revenue, the Harbor Department can then request that the City Manager and the City Council approve additional operating funds.

Commissioner Marston inquired about what is considered a Capital Expenditure for the Harbor Department versus the Public Works Department.

Deputy Finance Director Gomez explained a Capital Expenditure would be anything purchased over \$5,000 that the City may hold for a period which would then be registered in the City's financial statements. He clarified there are no Capital Improvement Projects in the Harbor Department.

Chair Scully inquired if the expenses related to slips at Marina Park for the Balboa Yacht Basin are included in these numbers. Deputy Finance Director Gomez confirmed they are included and noted that the cost of maintenance is as well.

Chair Scully inquired if building new slips or replacing slips would come under Capital Improvement Projects. Deputy Finance Director Gomez confirmed they would be included in the Capital Fund.

Chair Scully inquired if the part-time employees in the Fire Department were lifeguards. Deputy Finance Director Gomez confirmed those are the City's lifeguards.

Chair Scully opened public comments.

Hein Austin inquired if private pier permits are included in the Tideland Funds. Finance Director Gomez confirmed those are included. Mr. Austin advised under state statute the City is required to treat anyone who uses Tidelands equally.

He believes the main flaw in the revenue stream for the Harbor is the inequitable distribution of rates. He advised the focus has been on moorings which account for 1,200 boats but there are approximately 5,000 boats in the Harbor. He noted if the permits for the private piers and the moorings were charged \$1 per square foot for the amount of space they occupy under the tidelands statute, he believes all of the financial issues for the Harbor Department would be resolved. He encouraged the City to review the Tideland Fund statutes and consider charging equal rates.

Drew Lawler requested clarification from Mr. Austin if he was including off-shore mooring permittees with the same square footage as those who have dock space. He noted that off-shore mooring permittees should pay less because it is far more inconvenient.

Chair Scully closed public comments.

The item was received and filed.

2. Harbor and Beaches Master Plan Projects – Review

The item was continued to a date uncertain.

3. Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to “Establish policies for modifications to mooring sizes”. At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal that will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer’s efforts, process, and research. The Commission will be asked to approve recommendations related to optimizing the utilization of the mooring fields and allowing mooring permittees to request a permit exchange for a mooring of a different size. The recommendations are included in the proposed draft ordinance amending sections of the City of Newport Municipal Code, Title 17.

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) Review, modify, and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

Harbormaster Paul Blank introduced the item.

Vice Chair Beer reported he has read and carefully considered every letter that was written to the Harbor Commission on this item. He advised a letter of concern was sent from the Newport Mooring Association (NMA) to its members, mooring permittees, the Harbor Commission, the Mayor of Newport Beach, and the City Council. He shared the facts related to the allegations set forth in the NMA letter which may be the basis of public comments.

Vice Chair Beer addressed a few of the concerns from NMA. He reported the NMA letter states that the Harbor Commission is proposing to move boats across the Harbor and is proposing a radical change to Title 17 of the City Code. He advised the statement is false and misleading as there is nothing agendized that proposes to move any boats across the Harbor. He explained the City has always maintained the right to move any permittee’s vessel temporarily or permanently as per Title 17, Section 17.60.040.

Vice Chair Beer reported the NMA letter also states Commission Objective 2.3 is a proposal to terminate transferability. He advised this statement is also false and misleading as there is nothing agendized suggesting to terminate the transferability of any existing mooring permits.

Vice Chair Beer reported the NMA letter states the proposed changes to Title 17 have been pushed forward under the guise of a potentially dangerous new mooring system that is a danger to life and limb and does not seem to be understood by the Harbor Commission. He advised the statements are false, misleading, without fact, and have no merit. He noted this statement is disrespectful to the Harbor Commissioners who have been carefully selected and approved by a vote of the Mayor and the City Council. He explained the proposed mooring reconfiguration has successfully been used in other harbors including San Diego Harbor for more than 40 years. He advised Newport Harbor is one of the most protected harbors along the coast and noted this efficient mooring design has been engineered and designed to withstand the natural elements that may exist in the Harbor and is not an obvious danger to life and limb.

Vice Chair Beer reported the NMA letter alleges that the Harbor Commission has not met with NMA regarding their concerns. He encouraged NMA board members to attend Harbor Commission meetings and read the agendas to have a better understanding of what is happening. He reported the Harbor Commission has met with the NMA and has actively engaged in dialogue over the past four years. He advised this item has been agendized for public comment at eight Harbor Commission meetings since 2018. He noted Commission Objective 2.3 has been discussed at each of the last 30 Harbor Commission meetings, has been defined in writing, adopted by the City Council, and posted on the City's website. He reported this item was properly noticed and agendized for the June 8, 2022 Harbor commission meeting where a full presentation was provided with members of the NMA Board and NMA permittees in attendance. Lastly, he advised the formal PowerPoint presentation shown at that meeting was provided to the NMA via email the following day.

Vice Chair Beer reported in June, the NMA requested information about the meeting that related to project economics and proposed mooring rate increases. He advised he responded via email, copying the Harbor Commission and City Council to explain the purpose of Objective 2.3, specifically noting economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective. He also advised in that email he noted he would be happy to meet with the NMA Board in person or virtually to discuss what was presented. He reported there was no response from the NMA to meet and discuss.

Vice Chair Beer reported on September 26, 2022, he sent an engineering study for the mooring field to the NMA Board via email in which he also offered to meet with the NMA board. He advised no response was received from the NMA. He reported on September 30, 2022, he sent via email the most recent updated version of the Mooring Anchor Calculations Report where he also offered to meet and discuss. He advised there was no response from NMA to meet and discuss.

Vice Chair Beer reported that despite an ongoing invitation to meet and discuss there have been no responses or requests from NMA to do so. He advised the recent letter received from the NMA indicates the Harbor Commission has not met with NMA regarding any of their concerns. He noted the statement is false and encouraged the recipients of the letter to take strong exception to its contents and allegations. He noted taking up valuable time at a public meeting to respond to false statements is not productive and does not benefit the boating community or the Harbor Commission's open water initiative for improvements to the mooring fields and navigation within the Harbor which all NMA members and mooring permittees benefit from.

Vice Chair Beer advised the NMA board members should be held accountable and responsible for any misinformation that has been disseminated on their behalf to the mooring permittees of Newport Harbor, the Harbor Commission, and the Mayor and City Council. He noted he was compelled to provide a detailed account of the truth so the public can base their individual opinions on the facts. He encouraged all intending to offer public comments to consider the facts presented and the information in the following presentation.

Vice Chair Beer provided a brief update on the Mooring Field Open Water Initiative Improved Utilization Report. He provided a brief history relating to mooring extensions and improved navigation. He reported the Newport Harbor Mooring Fields have been historically managed by the Orange County Sheriff's Department (OCSD) which approved mooring extensions on an ad-hoc basis without any official policy, guidelines, or best practices. He advised in 2017, the City ended its contract with OCSD for mooring administration and code enforcement. He noted in 2018, the City Council approved the Harbor Commission Objective to evaluate the current mooring fields and provide a recommendation for new guidelines. Lastly, he reported in 2019, the Harbor Commission adopted a temporary policy to conditionally approve certain mooring extension requests of up to 5 feet but was halted since it could adversely affect any design being developed for better utilization of the space in the mooring fields.

Vice Chair Beer reported that Newport Harbor is currently experiencing a mooring shortage and noted the City has no available moorings available for new long-term permittees. He advised the current cost of entry to acquire a mooring permit in Newport Harbor is typically \$1,000 per foot or more. He advised new City moorings will not require an acquisition fee and will allow for more affordable boating. He explained the history of granting mooring extensions to existing permit holders without proper policy has resulted in less-than-desirable outcomes to aesthetics, safety, and navigable water space. Lastly, he noted the current space within the mooring field footprint is not safely navigable nor suitable for public access.

Vice Chair Beer provided a brief overview of the benefits of new double rows versus a single-row mooring configuration. He reported benefits include improved utilization of water space, 50% wider fairways, increased spacing between moorings in the same row, more overall maneuvering room, safer navigation, the addition of much-needed additional long-term moorings, and reduced maintenance costs for mooring permittees if a helical type anchor is used.

Vice Chair Beer provided a brief overview of the benefits of the new sand line mooring configuration. He reported benefits include preventing mooring buoys from drifting into fairways, ~~making it easier~~offering an option to tie up to a single bow morning line connected to the stern line, and the ability to attach a pick-up pole to the floating spreader line that can be retrieved~~to make the pick-up simpler~~ and not require hooking the line as is required with a 2-point mooring configuration. He advised the sand line provides a safe, proven, and simple way to approach and secure a vessel for all mariners. He noted double rows with sand lines will reduce the number of mooring balls in the Harbor by 50%. Lastly, he advised that currently, up to 50% of all fairways in all mooring fields are less wide than the adjacent boats are long which creates a navigation risk. He noted fairway widths will be increased by an average 50% to 100% of current conditions.

Vice Chair Beer reported helical anchors and conservation buoys have less impact on eelgrass and the marine ecosystem. He advised helical anchors may provide greater holding strength and provide a smaller footprint resulting in less scarring on the seafloor. He explained conversation buoys aid in keeping the chain off the sea floor to minimize the scarring of eelgrass.

Vice Chair Beer presented an initial Boring Log Location Map and noted the Harbor materials appear to be suitable for a helical-type anchor system. He reported the initial mooring field has been identified as the C Field. He provided examples of a mooring scar and advised mooring scarring destroys eel grass and disrupts the marine ecosystem. He noted the California Coastal Commission has imposed strict guidelines for eelgrass monitoring and mitigation. He advised the proposed sharing mooring configuration would result in only one buoy with a sand line.

Vice Chair Beer presented a rendering of a single-row mooring field in Newport Harbor and noted without policies defining row and fairway sizes, a mooring field can become a safety concern and become a very inefficient use of valuable waterways. He presented a picture of America's Cup Harbor in San Diego with a double-row mooring configuration. He noted that 90% of the moorings are in 50% of the space and are much safer for mariners. He presented a rendering of the new double-row mooring design in C Field.

Vice Chair Beer presented a typical mooring design in Newport Harbor and presented a rendering of a shared center weighted mooring anchor, a shared center helix anchor system, and a typical sand line mooring. ~~He advised a 2-point mooring configuration has higher costs than a shared helix mooring configuration.~~

Vice Chair Beer reported the City has Harbor Design Standards for marinas that require the fairways to be a minimum of 1.5 X the boat Length Overall (LOA). He noted the fairways between rows in a mooring field should be held to the same or stricter guidelines as a marina slip. He presented an example of a new mooring configuration of the B Field. He advised a configuration that complies with Harbor Design Standards will provide beachgoers and waterfront residents the ability to enjoy greatly improved Harbor views. He advised inefficiency at the J & H Fields also currently exists and will greatly improve with the proposed design.

Vice Chair Beer reported there are currently approximately 564 moorings in the City managed mooring fields and this initiative would allow the City to add up to 97 new moorings while increasing the space between the boats and the fairways. He advised the cost for Phase 1 is estimated to be \$450,000 with more than half going to new moorings so that cost could be reduced. He noted the City would recoup these costs because the new moorings would create new, incremental revenue. He provided a brief overview of the Summarization Outline of the Proposed Reconfiguration of Moorings, Future Requests for Extension, Suggested Guidelines for New Double Row Moorings, and outlined the net adjustments.

Chair Scully thanked Vice Chair Beer for the thorough presentation.

Commissioner Cunningham thanked Vice Chair Beer for his hard work.

Secretary Yahn applauded Vice Chair Beer's efforts for working tirelessly with the GIS staff to develop this plan. He believes the study does a good job of maximizing the space of the mooring fields along with being safe and having adequate maneuverability for all Harbor users and not just mooring permittees. He expressed his pleasure with the ad hoc committee for developing such a thoughtful methodology. He believes the bold new look of the mooring fields will provide a higher capacity of vessels and provide enhanced community access to the Harbor. He expressed support for the concept and once again, applauded Vice Chair Beer's efforts.

Commissioner Marston thanked Vice Chair Beer for his efforts.

Commissioner Williams commented that the City, the general public, and the boating community are incredibly lucky to have Vice Chair Beer leading this effort.

Secretary Yahn left the meeting at 6:14 p.m.

Commissioner Svrcek commented that the plan was very thorough and thanked Vice Chair Beer for his efforts.

Chair Scully thanked everyone in the room for their comments and hopes the air in the room is much clearer and there is a better understanding as to the direction that this objective has been going. He advised it is an opportunity to offer additional moorings as it is currently locked out.

Chair Scully opened public comments.

Wade Womack, a member of NMA, expressed confusion with the agenda item and noted it seems to revolve around a Harbor Commission vote on moving forward on a new mooring system that has not been vetted by the Commission or the public. He noted it also appears like the Commission is looking to revise Title 17 in anticipation of a new mooring plan that has not been agendized as a stand-alone item or fully discussed in public. He noted the only time the new shared anchor mooring plan was discussed was at the June 8, 2022 Harbor Commission meeting as a simple Harbor Commissioner update. He advised the proposed mooring plan was posted after the meeting so the public had no opportunity to review it for any thoughtful feedback at the June 8, 2022 meeting. He expressed concern that the mooring plan details are not attached to the agenda item and were not posted online for review. He expressed concern regarding the preliminary plans of the shared mooring anchor system that was in the conceptual phase on June 8, 2022 yet the details of the plans are not posted for review for this meeting. He inquired how the Harbor Commission can approve plans related to revisions to Title 17 when the plan is not posted for public review. He recommends the Harbor Commission take no action tonight and agendize the proposed mooring plan on a future agenda as a stand-alone item before making any revisions to Title 17. He expressed concern that new mooring permits will not be transferrable and believes the charges made against NMA tonight were unfair.

Hein Austin commented that applying this model in Newport Harbor will be a recipe for disaster, particularly in the C Field. He advised C Field has the highest current exposure in the Harbor. He provided detail on how the proposed mooring may be dangerous based on his personal experience. He noted what happens in C Field is vastly different from what is happening at America's Cup Harbor and believes this will make the Harbor unsafe.

John Fradkin advised he is an NMA Board member, a long-time mooring permittee, and a member of Balboa Yacht Club. He thought tonight was the night to make comments and apologized for not getting together with Vice Chair Beer previously but he did not get the invitation. He reported the NMA has not signed off on this and has not looked at it extensively until this week. He advised he is an expert on off-shore moorings and knows the Harbor very well. He noted Vice Chair Beer is not an experienced yachtsman and is not qualified to determine if the plan is solid. He noted America's Cup Harbor does not use helical anchors but uses weights. He believes there are pros and cons to this plan. He advised the double row system will not work well in the Harbor and is going to compromise safety. He noted Vice Chair Beer is missing how difficult it is to attach to the mooring given the current and the wind. He concurred there may not be deaths but there will

certainly be hand-crushing injuries. He recommended making changes to the plan and disagrees that the plan, as is, is a good idea.

An unnamed speaker advised he has only had a mooring since 2004 but has been on the Harbor since 1979. He advised he was concerned with the mooring settings, transferability, and how permittees could be moved to a different field. He noted C Field has many anomalies that the other fields do not have and it takes some time to moor. He encouraged the Harbor Commission to reconsider the plan.

Clint Acoutin, a tugboat operator who works with Chevron and Foss Maritime, advised he is very familiar with mooring systems and operations. He requested that a better image of the helix screw be provided for public review. He expressed concern regarding the proposed mooring plan and outlined an example. He noted he has worked with the helix screw and it works well but a better diagram would help the public better understand.

Drew Lawler requested clarification of the mooring configuration and inquired if the bow and the stern would be attached through a sand line. Vice Chair Beer confirmed that is correct.

Mr. Lawler inquired if there were any plans to make changes in the D Field. Vice Chair Beer advised there ~~could be plans to change all mooring fields because of~~based on the results of this plan.

Mr. Lawler expressed support for the plan to not move boat owners out of their existing mooring field.

Scott Carlin reported for 100 years through trial and error the current single mooring system works. He presented an example of approaching the mooring using the current system and using the hybrid system. He advised at the end of the day it is a roll of the dice and he does not want to roll the dice. He agrees it should be studied further but should not be voted on tonight.

Ken Hatch, a resident in J Field, reminded the Harbor Commission of the experiment with the sand line moorings from 4 years ago. He agreed with previous commenters that given the currents and the wind, the proposed plan will never work. He thanked the Harbor Commission for its efforts and believe the plan is close but needs additional work. He encouraged the Harbor Commission to come together with all interested parties to build a better plan.

Jessie Fleming, a resident of the Harbor since the early 1980s, advised she has had a mooring for the last 6 years. She expressed appreciation that the fairways will be made wider and increase the distance between vessels. She noted that mooring permittees are also part of a community and everyone is helping each other when there are high winds. She advised during high winds it is not necessarily the moorings that drag, it is that people do not tie their boats off properly and their lines snap. She expressed concern about the two boats meeting in the middle and inquired about the distance between the two boats sharing the mooring. She noted if one boat breaks loose in the front it will spin from the back and hit the boat behind it.

Vice Chair Beer clarified the distance between each ~~boat~~boat is approximately 20 feet and there is also a ~~connected to a cleat on deck off of that~~ bridle connected to a cleat on deck off of that.

Jerry LaPlane, D Field mooring permittee, advised he is a power boat owner who has run boats for 35 years. He advised he uses a spreader line similar to what Mr. Austin described. He noted

in the comparison to slips being relatively the same distance, a slip is like a spreader line with a dock on each side. He expressed concerns regarding the Title 17 changes and noted the red line regarding transferability is unclear and needs clarification.

An unnamed speaker reported he is a live-aboard in H Field and uses the public pier at 15th Street several times daily. He advised if 90 more moorings are added there will be no place for dinghies to park.

Bill Allen, F Field mooring permittee, advised he has been to every Harbor Commission meeting over the last 3 or 4 years and has never heard a discussion on a cutoff date for extending the mooring. He advised he recently submitted an application and was denied and is now only hearing that there was a cut-off date. He inquired how the Harbor Commission came up with the cutoff date and noted that it is not very fair since it was not published.

Keegan Heggarty reported he has been involved in collisions in the mooring fields due to a lack of line of sight between moorings and believes the increase in channel size will offer better visibility and vessels to be oriented correctly before approaching the mooring. He believes the plan will increase safety and navigability in the Harbor. He inquired if there is anything that prevents uses of the proposed mooring system from using a spreader line on the shared moorings.

Steven Turansky, J Field mooring permittee, reported he has been inquiring about the mooring extension for several years and the reply has always been that applications are not being taken, and is now hearing there was a cut-off date. He expressed concern that the cut-off date was not made public. He advised all different boats have different displacement versus windage and expressed concern that there could be accidents if there is a shared mooring system.

Nigel Bailey, H Field mooring permittee, advised all boats on H and J Field face one direction because the wind is coming from another direction and mooring should take place into the wind. He noted the proposed shared mooring system will place vessels bow to bow and someone will have to approach the mooring with the wind behind them which will be very difficult.

George Hylkema, an NMA Board member, reported he approaches the mooring against the wind or the current and does not see how he can approach the mooring if he cannot compensate for tide and not have the boat press on past the buoy and hit the boat ahead of him. He noted there are many empty moorings in the C Field. He expressed appreciation for the efforts that have gone into the design but believes it needs additional review by experts.

Val, A Field mooring permittee, reported she has a 35-foot sailboat and advised she uses a spreader line when approaching the mooring and noted it can be very difficult. She expressed concern regarding the danger of trying to attach to a shared mooring on a windy day.

Stacy Kline, a C Field mooring permittee, would like to be fully informed about this process and wants to be involved with the process. She encouraged the Harbor Commission to include boat owners in the decision-making process and noted they want to be part of the solution.

Richard Gourd, a C Field mooring permittee, agreed with the comments of the experienced boaters that the shared mooring system would almost be impossible and there would not be a way to stop the boat. He requested clarification of the transferability of the mooring permit.

Vice Chair Beer clarified that existing permittees will be able to transfer mooring permits as long as it is permitted in Title 17.

Chair Scully closed public comments.

Commissioner Williams noted it has become apparent to him that there is a mooring problem and there is a relationship problem. He advised the Harbor Commission is comprised of volunteers who have the best intentions for Newport Harbor. He advised the Commission does not hear from the NMA until the evening before a Commission meeting and that the emails that are being received are unprofessional. He noted if he was an NMA member, he would be questioning the NMA leadership and advised they are doing a disservice to its members, the public, and the boaters in the Harbor. He encouraged all parties to do better, to collaborate, to stop spreading disinformation, and to fix the relationship.

Commissioner Cunningham advised there are a lot of issues with moorings. He agrees that the Harbor Commission is not getting many ideas from NMA for improvement to the mooring system and the experience for mooring permittees. He explained the Harbor Commission has been thinking about the mooring system for the long term and not just for today.

Vice Chair Beer reported he has been a boater in Newport Harbor for 20 years, has captained a 58-foot Viking for the last 14 years, and has attached to the mooring by himself in rough conditions. He noted he has taken a lot of consideration of the conditions and can see how using the spreader line can be easier. He can also recognize that this is a mooring field and not slips and requires experience. He reported the vast majority of permittees do not use spreader lines. He explained the Harbor Commission has to look to the next decade and beyond on how to accommodate most of the people in the mooring fields. He advised there may be many empty moorings in C Field but they are not for sale and have almost created a monopoly for moorings. He recalled a situation where a mooring sold for \$165,000 and noted that is not affordable boating and is not fair to the public because they cannot get onto the Harbor and tidelands to use and enjoy. He reported the space is there to provide additional moorings safely. He believes there is only one issue which is the sand line. He believes boaters should be able to operate their vessel and not run into another boat.

Vice Chair Beer reported America's Cup Harbor is a harbor that experiences a lot of wind and there is wakes from large vessels that travel the main entrance channel that feeds into the harbor. He noted the use of spreader lines to slow the vessel is very low optional.

Chair Scully advised he disagreed with public commenters that this item has not been addressed at the Harbor Commission. He noted change is hard and will be difficult here. He expressed support for picking a field, working on it, and perfecting the design of the mooring field in the harbor.

Commissioner Cunningham expressed support for selecting 1 field and piloting a shared mooring field. He advised he is not opposed to obtaining additional feedback, more dialogue, and rolling it out slowly.

Commissioner Svrcek expressed support for selecting 1 field and piloting a shared mooring program.

Commissioner Williams echoed Commissioner Cunningham's comments and noted the Harbor Commission wants to work together with NMA and the public positively and constructively.

Commissioner Marston noted she would like to see more constructive input from the community rather than barraging emails. She encourages the public to provide alternative approaches and plans to the Harbor Commission in writing. She expressed support for implementing a phased approach. She noted Vice Chair Beer took the time to go through his records to confirm he contacted NMA multiple times and received no response which is unacceptable.

Vice Chair Beer noted heads were shaking when Commissioner Marston advised he contact NMA multiple times via email. He confirmed he has the emails that were sent and encouraged NMA to find them but would like to put that behind ~~them~~. He clarified the plan that was introduced is to identify and approve one mooring field initially and conduct a pilot within that mooring field before completing the entire field. He agreed that a field test will need to be conducted to confirm Noble Engineering's findings.

Vice Chair Beer does not see how anyone can disagree that this initiative is not intended to benefit ~~all to the~~ stakeholders. He believes there ~~are~~ are alternatives that ~~can~~ may satisfy all parties and looks forward to ~~the~~ ate dialogue.

Chair Scully inquired if Vice Chair Beer would be agreeable to continuing the item to continue dialogue with mooring permittees and NMA to come up with additional feedback and come back to the Harbor Commission. Vice Chair Beer agreed but noted it needs to be a short timeline.

Chair Scully continued the item to the November 9, 2022 meeting of the Harbor Commission.

4. Establish Ad Hoc Committee to Review and Suggest Harbor Commission Objectives for 2023

The Harbor Commission establishes annual Objectives to focus the Commission on issues that are important to the City Council, the Harbor Commission, and the community. At the Harbor Commission meeting of September 14, 2022, the Commission requested to set up an Ad Hoc Committee to review and suggest Objectives for 2023.

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) Appoint Harbor Commission Members to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023.

Harbormaster Blank reported a staff report was presented to the Harbor Commission as part of the agenda packet.

Chair Scully, Commissioner Cunningham, and Commissioner Williams volunteered to be a part of the Ad Hoc Committee.

~~Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion.~~

Chair Scully opened public comments. There being no speakers, public comments were closed.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: Secretary Yahn

5. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Chair Scully advised Harbor Resource Manager Chris Miller will be needed for the Review of City Council Policy H-1 – Pier and float extensions beyond the pierhead line. He hopes to have something to review at the next meeting.

Commissioner Marston reported the Ad Hoc Committee to review piers and ports was convened a year and a half ago under the impression that there were many issues in the Harbor. She advised she and Secretary Yahn conducted extensive field reviews and only found a few issues in the Harbor. She reported they presented at a Harbor Commission meeting in July 2021 and at the stakeholders meeting in February 2022. She advised she and Secretary Yahn recommend that the Ad Hoc Committee on this item be closed and the few issues identified are being addressed and it was determined no policy needed to change.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and ports, seconded by Commissioner Williams.

Chair Scully opened public comments.

Eric Peterson inquired if the Ad Hoc Committee is closed and the original problems return will the Committee be reinstated. Commissioner Marston advised the previous problem should not return as it is regulated under the current policy.

Chair Scully closed public comments.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and floats. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None

Abstain: None

Absent: Secretary Yahn

Commissioner Cunningham reported the Ad Hoc Committee on the Review of the Harbor and Beach Master Plan met with Harbor Resources Manager Miller last month and will be brought back to the Commission in November for discussion.

Chair Scully opened public comments. There being no speakers, public comments were closed.

The item was received and filed.

6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a project update.

Recommendation:

- 1) Determine this action is 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, Division 6, 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: Secretary Yahn was absent from the meeting and unable to provide any updates.

Functional Area 2: Vice Chair Beer noted his time has been spent on Objective 2.3 and had no comments at this time on any of the other objectives in Functional Area 2.

Functional Area 3: Commissioner Cunningham advised the CIP Ad Hoc Committee did discuss CIP vessels but will push comments to the next meeting.

Functional Area 4: Chair Scully reported that for Objective 4.1, the Trash Wheel obtained all of the necessary permits and staff is now working on grant funding for the project. He reported he and Commissioner Marston continue to talk about Lower Castaways. Commissioner Marston

advised that Harbormaster Blank recommended putting Lower Castaways on hold due to what was going on with the City Council. She inquired if they should continue to review that objective. Harbormaster Blank advised he will take action to obtain additional information and report back at the next meeting of the Harbor Commission. Chair Scully reported that on Objective 4.3, he and Commissioner Williams continue to work on the Newport Harbor Safety Committee. He reported it is going very well with the first meeting will be held on October 18th and anticipates between 15 and 20 operators participating.

Chair Scully opened public comments.

Mr. Mosher inquired about Objective 4.2 - Lower Castaways and noted the sub-committee seems to know more than the public. He noted the minutes indicate it may have something to do with the YMCA and referenced a Closed Session of the City Council about property acquisition somehow related to the YMCA with no explanation but the notice for that meeting gave an address of the Upper Castaways. He commented that the last meeting's minutes for Functional Area 4.3 reference the Newport Harbor Safety Committee and asked for additional details on the Committee.

Chair Scully advised as part of Objective 4.3, he and Commissioner Williams worked to develop a Safety Committee comprised of harbor operators, both non-profit and commercial, to discuss any safety issues that have occurred, discuss best practices, and try to get the community to work together for public safety and navigating in the water properly. He clarified the first meeting of the Newport Harbor Safety Committee will be on October 18th.

Chair Scully closed public comments.

The item was received and filed.

7. Harbormaster Update – September 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

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.

Harbormaster Blank reported in regards to keeping the Harbor clean, Harbor Service Workers (HSW) assisted the City Park Patrol in removing a couch that had been thrown off the bluff below Galaxy Park in Upper Newport Bay. He advised most of the pumps-out hydrants at Marina Park

have been replaced. He thanked marine sanitation guru Noel Platchak for coordinating and supervising the work and noted Mr. Platchak sent two nice notes regarding the work of HSWs in that effort. He reported a sub-contractor pressure washed all of the public piers in addition to the monthly maintenance they provide.

Harbormaster Blank reported in regard to keeping the Harbor safe, all equipment was removed from all 3 patrol boats, identified, and only equipment that supports patrol activities was returned to the boats. He advised training sessions on performing basic engine maintenance and the cooling systems of the boats were conducted. He reported a post-Summer Harbor Summit was held on September 27th with the audience consisting of Marine Activity Permit holders and sailing programs. He advised it was well-attended.

Harbormaster Blank reported in regard to keeping the Harbor well-enjoyed, he advised they take a proactive stance on any usage limits and anchorages and noted there have been some challenges enforcing them. He advised no one has overstayed their anchorage and problem vessels have left the Harbor. He noted HSWs also consistently enforce noise limits and noted a recent call from a well-known waterfront resident to report a charter vessel that was out of compliance with noise limits and a Notice of Violation was issued. He reported there was a collaborative effort with OCSD to assist a disabled vessel in the Classic Yacht fleet when the commercial/tow assist vessel that was assisting them also became disabled in Marina Park.

Harbormaster Blank reported a suggestion was made during the Harbor Summit that the City reconsider competing with private enterprise rental of small vessels. He noted the City offers instructional classes in small boat sailing and racing, kayaking, and paddle boarding. He explained qualified customers can rent from the City-owned fleet of kayaks, paddleboards, RS Quests, and J-22s. He advised the Harbor Department is undergoing an operational review conducted by an outside consultant that is reviewed but never published so he is unable to share it with the Harbor Commission. He reported he will provide a published report based on that information during the next couple of months. He recalled an incident where a resident reported inappropriate behavior on one of the patrol boats but when questioned on the specifics became defensive. He reported the caller escalated the issue to the City Manager who also experienced the same behavior from the caller. Lastly, he presented an image of the sea star that was finally captured at Marina Park and is a sign of good health in the Harbor. Lastly, he announced that a fundraiser will take place at the Lido Marina Village on October 13th at 6:00 p.m. in support of the Navy Seals Foundation.

Harbormaster Blank provided a brief overview of revenue statistics and noted the Harbor Department continues to exceed its prior year's revenue. He advised last month's noise statistics were inaccurate due to switching to the new system but noted this month's statistics are correct. He reported that 907 of the 929 mooring permits have been fully executed.

Commissioner Williams thanked Harbormaster Blank for everything he does.

Commissioner Marston expressed excitement at seeing the image of the sea star. Harbormaster Blank reported it is visible at low tide although it moves.

Vice Chair Beer thanked Harbormaster Blank for his efforts and noted the improved water quality in the Harbor is a direct result of the work done keeping of pumping waste out of the Harbor and the dredging that has been conducted.

Chair Scully inquired about the polypropylene line that was removed. Harbormaster Blank reported approximately 2,000 feet of polypropylene line was removed from the Harbor and was probably from a fishing vessel.

Chair Scully inquired if any additional information was available on the fatality that occurred in the anchorage. Harbormaster Blanks reported he had no additional information.

Chair Scully opened public comments.

Len Bose applauded Harbormaster Blanks on the Harbor Summit and noted he looks forward to attending the Safety Committee meeting. He encouraged the Harbor Commission to consider restarting the group meetings regarding the ferry boats.

Richard Dorn reported there has been a problem at the Fernando Street public docks with boats being left for a month at a time without being put away overnight. He advised there have been reports of the Code Enforcement officer not enforcing impounding the vessel.

Harbormaster Blanks advised there is an extensive effort that goes into public dock enforcement every day. He advised there are reasons boats are not impounded on occasion because there is not sufficient evidence to support the impound.

Hein Austin thanked Harbormaster Blank for being such an excellent communicator and noted it is a pleasure working with the Harbor Department. He reported the walkways on the public dock at D Field have not been painted for quite some time along with some nails sticking out of the dock and requested an update.

The item was received and filed.

7) MOTION FOR RECONSIDERATION

None

8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Chair Scully reported attendance at the Water Quality/Coastal Tidelands Committee meeting where the Lower Newport Bay Dredging Project update was provided by Harbor Resources Manager Miller along with a report on bay and ocean water quality which resulted in A ratings across the board.

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

None

10) DATE AND TIME FOR NEXT MEETING: Wednesday, November 9, 2022 at 5 p.m.

11) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:44 p.m.