



NEWPORT BEACH

City Council Staff Report

May 23, 2023
Agenda Item No. 15

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Paul Blank, City Harbormaster - 949-270-8159,
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TITLE: Ordinance No. 2023-8 and Resolution No. 2023-32:
Recommendations Resulting from Harbor Commission Objective 2.3
to Improve Navigation Safety, Allow for Additional Moorings Within
the Fields and Mooring Size Exchange Requests

ABSTRACT:

For the City Council's consideration are the authorization of a pilot project related to mooring field optimization and amendments to Title 17 (Harbor Code) related to mooring standards and permits. These efforts implement Harbor Commission Objective 2.3 (Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchange Requests). The recommendations and the request for authorization to implement them were approved by the Harbor Commission at its March 8, 2023 meeting.

RECOMMENDATIONS:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (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;
- b) Adopt Resolution No. 2023-32, *A Resolution of the City Council of the City of Newport Beach, California, Approving the Harbor Commission's Recommendations and Approving a Pilot Project to Reconfigure Mooring Field "C" in Newport Harbor, to Improve Navigation Safety and to Optimize Space within the Mooring Field;*
- c) Approve Budget Amendment No. 23-073 appropriating \$410,000 to Account No. 10045451-811008 as follows:
 - \$75,000 for consulting services and permitting with the California Coastal Commission and other agencies
 - \$275,000 for engineering and construction related to the realignment of the moorings in the subject pilot project
 - \$60,000 for post-pilot project consulting services for environmental review and permitting necessary to expand the reconfiguration recommendations to the City's remaining mooring fields; and

- d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2023-8, *An Ordinance of the City of Newport Beach, California, Amending Sections 17.25.020 (Anchorage, Berthing and Mooring Regulations) and 17.60.040 (Mooring Permits) of the Newport Beach Municipal Code*, and pass to second reading on June 13, 2023.

DISCUSSION:

Background

Newport Harbor is one of the largest small-craft recreational harbors on the West Coast, as well as a welcoming port to all boaters who cruise the local waters. The harbor also serves as a home to approximately 1,200 moorings, 1,000 residential piers, a dozen commercial marinas, several yacht clubs, scores of charter vessel operations, and various other marine activities.

On July 1, 2017, the City of Newport Beach (City) took over the management of the City's offshore and onshore mooring fields. Of the 1,200 moorings the City manages, approximately 800 of those are offshore moorings in 10 mooring fields. Since taking responsibility for administration of the moorings, the Harbor Department has received requests to extend the permitted length of several offshore moorings. Upon review of previous methods and processes for granting such mooring length extension requests, it was determined that no effective, objective methods existed for review and approval of such requests. The results were a disorganized arrangement of moorings of various sizes throughout the mooring fields. Further, the Newport Beach Municipal Code (NBMC) had no process or method for evaluating or granting such size adjustment requests. Harbor staff and the Harbor Commission set about rectifying this situation and while doing so, wrapped the effort into one of the Commission's City Council approved objectives. Specifically, Harbor Commission Objective 2.3 which reads:

Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety and optimization of space within the mooring fields.

In accordance with the Harbor Commission's charge under Section 713 of the Newport Beach City Charter to advise the City Council on matters relating to the use, control, operation and regulation of Newport Harbor, a subcommittee of the Commission was convened and has worked on recommendations for improvements to the mooring field utilization and a process to accommodate requests from permittees to adjust the size of their permitted moorings. The subcommittee's focus included ensuring safe navigation for all users of the harbor in and around the mooring fields, not just the mooring permittees. Other considerations included:

- Grouping vessels of similar size in the same row for the most efficient use of the limited space within each mooring field and potentially opening space for improved navigation and additional moorings

- Ensuring the fairways between the rows provide for safe navigation even in adverse conditions
- Acknowledging that fairways between rows are considered navigable water for all mariners, not just the mooring permittees
- Providing staff and the community with guidance for mooring extension and size exchange requests
- Maximizing the use of space within the mooring fields in the most effective manner possible
- The opportunity to utilize space freed up by the more efficient arrangement within the fields to increase open water for all harbor users and add a small number of new moorings.

Public hearings on this matter were conducted at the October 12, 2022, November 9, 2022, and March 8, 2023 Harbor Commission meetings. A stakeholder meeting exclusive to this matter and open to the public was conducted on December 14, 2022, during which significant public comment was considered.

The Newport Mooring Association, aided by City staff, conducted a work session specific to this initiative on January 30, 2023. Additional stakeholder meetings were held separately between December 2022 and February 2023 with the Balboa Island Improvement Association, Lido Island Community Association, Newport Harbor Yacht Club, and commercial operators providing services to the public throughout Newport Harbor. All stakeholder meetings resulted in significant feedback and comment that has been considered by the subcommittee and full Harbor Commission.

Mooring Fields Optimization Initiative Proposal

The Mooring Fields Optimization Recommendations were agreed upon by the Harbor Commission at its March 8, 2023 meeting and are now ready for review by the City Council. The Harbor Commission feels strongly that the recommendations support the objective by:

- Allowing more efficient arrangement of the offshore moorings
- Opening waterways on three of four sides for each moored vessel
- Opening waterways between rows within the mooring fields
- Opening waterways on the boundary edges of the mooring fields
- Creating a process by which requests for mooring length extensions can be effectively accomplished without compromising the efficient arrangement of moorings within a field

Proposed Code Amendments

As part of the Harbor Commission recommendations, revisions to NBMC Section 17.25.020, Anchorage, Berthing and Mooring Regulations are suggested and include clean-up and clarification of requirements for mooring in Newport Harbor.

Revisions to NBMC Section 17.60.040 Mooring Permits are also suggested and include clean-up and clarification of requirements for maintaining a mooring permit in Newport Harbor. Revisions to this section also define the conditions in which a mooring size exchange or extension within a row designated for larger moorings can be requested by a permittee.

The proposed NBMC amendments also include a clean-up provision. In 17.60.040(B)(1)(a), the citation to “subsection (B)(3)(h)” is currently incorrect. Prior amendments resulted in section numbers being changed, and this cross-reference was missed. The correct citation is to “subsection (B)(3)(g)”.

The proposed NBMC amendments also include a provision for any new moorings installed or acquired by the City of Newport Beach to be made available to the public pursuant to a revised mooring permit that ensures equal opportunity for new mooring permittees to access public tidelands in Newport Harbor. Any new mooring permits created will not be transferrable. The transferability for all existing mooring permits will remain the same.

The proposal also includes a suggested amendment to the specifications for offshore moorings which define the requirements for spreader lines.

Pilot Program Overview

The pilot project consists of reconfiguring the C Mooring Field to double-row moorings replacing existing single-row moorings and that boats of like sizes be consolidated into the same row(s). To allow for testing of the new layout and for making any necessary adjustments, only one or two rows will be reconfigured initially. The fully completed reconfiguration will include regular inspections from Harbor Department staff as well as interviews with affected permittees and other stakeholders. The relocation of moorings and permittees for the first one or two rows is estimated to take two weeks. Subsequently, the full reconfiguration of the remaining rows in the C Field would take approximately 30 days.

The new double-row mooring system would be in the same location and serve the same purpose as the moorings being replaced. The reconfiguration would result in a meaningful increase in open water space within and immediately adjacent to the mooring field.

The double-row mooring arrangement allows better utilization of the available area within the mooring field, grouping of like-sized boats together, more open space between/abreast of boats moored in the same row, and expanded, more well-defined fairways between the double-rows.

The more efficient use of the space within the mooring field provides mooring permittees with more room to maneuver in three of four directions onto and off their moorings, and other mariners significantly more well-defined pathways through the field, plus allows for the addition of several new moorings. The double-row mooring arrangement will reduce the footprint occupied by boats within the mooring field and increase navigable waterways both within and adjacent to the existing mooring field boundaries.

Coastal Commission Review/Additional Permitting Requirements

The California Coastal Act guides development in the Coastal Zone in an effort to improve public access to coastal areas. As the proposed pilot program is in the Coastal Zone and not within the jurisdiction of the City of Newport Beach Local Coastal Program, a Coastal Development Permit will be required. In addition, other agencies including the Regional Water Quality Board, U.S. Army Corp of Engineers, and California Department of Fish and Wildlife may have jurisdiction in this area. Permits from those agencies will be sought for the pilot project.

Eelgrass is not currently present in the C Mooring Field and this pilot project is not expected to directly or indirectly impact eelgrass based on 2022 eelgrass surveys.

FISCAL IMPACT:

The Budget Amendment appropriates \$410,000.00 in additional expenditures from the Non-Capital Professional Services account in the Tidelands Operating Fund account no. 10045451-811008, which is funded from a transfer from the General Fund. \$60,000 of the total expenditure will be for consultant services to execute the permitting process for this project with the California Coastal Commission and other governing agencies with an interest, which will likely include the Army Corps of Engineers, the California Department of Fish and Wildlife, and the Santa Ana Regional Water Quality Board. It is estimated the permit costs will be another \$75,000. Preliminary work indicates the engineering and construction costs to move the moorings in the subject pilot project will cost \$250,000. A 10 percent contingency of \$25,000 is also included in the project costs.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (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. CEQA Class 2 consists of the replacement or reconstruction of existing structures and facilities where the new structure 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 project would replace the existing single-row mooring system within the "C" Field with a double-row system as a pilot program to test the safety and viability of the double-row system within Newport Harbor. The new mooring system would be in the same location and serve the same purpose as the one being replaced. The reconfiguration would result in a negligible increase in capacity of the mooring field and concurrently a meaningful increase in open water space. Since the project is within an area where eelgrass is known to be present, an eelgrass impact assessment was conducted to show that the project would not have effects on eelgrass habitat (Attachment G). There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of this exemption. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

NOTICING:

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

ATTACHMENTS:

- Attachment A – Resolution No. 2023-32
- Attachment B – Ordinance No. 2023-8
- Attachment C – 17.25.020 strikeout 2.24.2023
- Attachment D – 17.60.040 strikeout 2.24.2023
- Attachment E – Mooring Field Objective 2.3 Presentation Slides
- Attachment F – Feedback Received from 11.3.2022 thru 5.1.2023
- Attachment G – May 4, 2023, Eelgrass Impact Analysis (Dudek report – updated)
- Attachment H – Notice of Exemption
- Attachment I – Budget Amendment No. 23-073
- Attachment J – Correspondence