

NEWPORT BEACH HARBOR COMMISSION
PUBLIC MEETING
Review of Proposed Changes to Title 17 of the Harbor Code
Marina Park, 1600 W. Balboa Blvd., Newport Beach, CA 92663
Monday, May 13, 2019
7:30 PM

Commissioner Kenney reported the review will focus on proposed changes to Sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 of the Municipal Code. Comments submitted via email will be considered and do not need to be repeated orally. Grammatical and typographical errors do not need to be noted as they will be corrected. If all the proposed changes have not been reviewed in the allotted time, staff will probably schedule another public meeting. The Harbor Commission Ad Hoc Subcommittee will consider each and every comment; however, the subcommittee may not incorporate each and every comment into the final recommendations to the Harbor Commission. The subcommittee's recommendations will be submitted to the Harbor Commission for review, comment, and hopefully approval. The Harbor Commission's recommendation regarding changes to Title 17 will be presented to the City Council. The public may testify at the Harbor Commission meeting and/or the City Council meeting.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Section 17.40.20		
That provision today is ambiguous. I've spoken to several commercial owners. They've been asking the question, "Can we have live-aboards in our marinas?" This change, which I strongly disagree with, is now allowing us to have live-aboards in the commercial marinas. That's essentially what you're asking to do here. There should not be live-aboards. They don't address this issue. What you're doing by default here is addressing that.	Do you think there should be live-aboards? If I'm incorrect, Assistant City Manager Jacobs will probably know. Commercial marinas are subject to a lease with the City of Newport Beach. The leases are the governing documents that deal with marinas. I believe they do, but I can't tell you with 100% certainty. I don't believe they do. The one that I read was silent, but I've only read one.	Commercial marinas are silent on the issues of live-aboards. A survey was completed and each operator deals with this differently as they are not specifically prohibited. Newport Harbor Marina has 3 and is considering adding 3 more. This is the most of the marinas surveyed. The subcommittee recommends limiting the live-aboards in commercial marinas to 7% of total number of slips except if they are adjacent to bayward residential properties.
	The Municipal Code only allows for 7% of the moorings in the Harbor to be occupied by live-aboards. There's a finite number of live-aboard permits that are available. The intent of the ad hoc committee is that the commercial marinas would be governed by that same 7% limit. The commercial marinas have other obligations like providing heads and showers, etc. I'm going to make two quick comments. The 7% number applies to offshore moorings only, not the entire population. That's the case today, and we're not proposing any changes	See comment above

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	<p>there. With respect to the commercial marina operators, I feel it should be their discretion. If they don't want live-aboards in their marines, that's fine. There's no obligation to have them. Under the language as it was yesterday, they're potentially prohibited. I would like to see them have the option to use their property at the highest and best use they think possible up to the same limit we impose upon the moorings. There is a distinction between a live-aboard at a marina that has parking and sanitation and things that aren't available on the moorings. If there was an unlimited amount that a marina could turn to a higher and better use for all live-aboards, then that obviously would be a complete pendulum swing to the opposite direction we've been seeking. Right now, there is the rule of 7%, which has been designed for moorings. Whether we come up with a limit or leave it to the discretion of the marinas, that's certainly subject for conversation here today. I'd be open to hearing about leaving it in the marinas' hands versus in the City's hands about something like that..</p> <p>If you read Section 17.40.20, it only deals with marinas that are bayward of residentially zoned properties. There are only a couple of instances in the Harbor where that exists. One of them is Bayshores. It's not every marina; only those that—two marinas in front of Bayshores. There's the old Swales and then the Bellport. There may be a third. There is.</p>	
<p>I think there's one over by the Balboa Yacht Club that has facilities and is adjacent to Little Balboa Island. The channel is only about 150 yards wide. You're now going</p>	<p>Northbound of BCYC also. We believe they have the right today. What we would propose would be to put the same kind of limit as is placed on the offshore moorings.</p>	<p>See comments above</p>

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<p>to have live-aboards directly adjacent. Now, you're going to have live-aboards in that marina adjacent to the homeowners that live there. I've just got to go on the record as saying that you're giving them permission now.</p>	<p>My thought is not to give them carte blanche, an unlimited number of live-aboards at a commercial marina. This carve-out does sort of leave that door open. I'm not necessarily saying as written here unless there are other caveats to what we will or won't allow a commercial marina to do or to operate or things in their lease documents that would prohibit certain ways they can operate. Unless that is addressed, a straight carve-out like this might open the door to many more live-aboards at a commercial marina than we'd want as an unintended consequence. If we put a limit on the commercial marinas the same as we do on the offshores, then we're at least limiting it to 7%. Without that, there's nothing. Right now, the way the ordinance reads, there isn't anything limiting them. I can't answer that. I'm not sure. What you're saying is the one you read does not have a prohibition. If it's silent, then it's unlimited.</p>	
<p>If I recall correctly, the mark-up in red limits it to 7% on the moorings and in the marinas.</p>	<p>We're going to get to that. It may, and you may be correct, but I can't tell you either way. I remember we addressed it, but we're not there yet.</p>	<p>See comments above</p>
<p>I'm a little confused. Ms. Jacobs just said that commercial marinas are governed by independent documents and not governed by Title 17. Essentially, by adding this language to this document, you are condoning the expansion of live-aboards in commercial marinas. Is that correct? Otherwise, if we're silent on it, it goes to the document on the individual marina or that owner can make an application to the Harbor Commission independent of this document. I'm just thinking about the infrastructure that we have in the</p>	<p>Title 17 does in many instances govern the marinas. Title 17 at this point may or may not govern whether or not they can have live-aboards. As this gentleman just stated, I think we added a provision. I can't remember all 86 pages of these documents. I believe we added a provision limiting the live-aboards in commercial marinas in the same manner that we limited them on offshore moorings. We're not there yet, so let's keep this as an open issue.</p>	<p>See comments above. Title 17 as proposed would now limit the number of live-aboards in marinas to 7% of the slips on site with the condition that residential properties are not bayward of the marina.</p>

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<p>Harbor with respect to the Harbormaster and our relationship with the Sheriff's Department. You're talking about putting live-aboards potentially or condoning live-aboards in marinas where they may or may not be allowed. Do we have a fire boat that has the type of hoses required to put out a fire that might spread very rapidly in a commercial marina? Something like 5,000 gallons per minute, not 250 gallons per minute that the Sheriff has? Does the City have a fire boat?</p> <p>What you're saying is you're going to allow potentially live-aboards live there who might have a barbecue or he might do something that any resident might do and ruin their home. You're going to put that in a commercial, dense field. There could be a fire. It could happen. We have boat fires all the time all over the state. We have no facility here in Newport to address that. By adding this, you're increasing potential damage to real property and to residents by adding persons in these commercial areas where they may or may not currently be allowed. All I'm saying is if you're going to do this, the City has an affirmative obligation to provide for the protection that all residents in this City are afforded by the Fire Department. You can't just approve this without doing that.</p> <p>The difference with this document is the City is now condoning through adding that language to this document live-aboards. Why is the City stepping into this when (crosstalk)?</p>	<p>No, the City does not have a fire boat.</p> <p>First of all, it's my understanding that the commercial marinas have the right to have live-aboards today. Second, every boater who has a boat in the marina has the right to use their barbecue or do anything else. It's just that they don't have a right to sleep on the boat 24/7. Third, the Sheriff today is responsible for fire. The City has been trying to get the Sheriff to upgrade the equipment. If we get the right kind of support, maybe we can get our City Council to spring for the dollars we need to get the proper equipment in the Harbor. Nobody's going to argue good or bad whether or not we have the right equipment. Certainly an upgrade would be positive. Let's get to the rest of the document, and see if there is a limitation already. It's our understanding that live-aboards are currently allowed in the commercial marinas. We all might decide, if we get the right citizen support, to ban live-aboards completely in marinas. We're not here to make every decision this evening. We're here to take input.</p>	
<p>In counterpoint to this gentleman. I think most marina operators, especially large marina operators, would tell you that having a small percentage of live-aboards enhances the safety of the overall marina. It's great to have eyes and ears out there all the time. We may see that start happening with regards to theft and vandalism and</p>		<p>See comments above</p>

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<p>stuff. They're on it. I think a small percentage of live-aboards is a positive thing. We don't really have any large marinas here, so it's a little different. When you're talking about marinas with 25 slip fingers, they go out a long way. When there's nobody around, that's a bad thing. When people are around and boats break loose or fires happen, it's the live-aboards that usually are on it first calling the authorities. My second point is a little bleak. The State of California has a lot of rules and regs regarding affordable housing. I don't know them, but I know the City of Newport Beach will be required to provide X amount of affordable housing incrementally going forward. The live-aboard thing might be a good work-around for the City. This might qualify. I think it will actually. It might be in the overall best interest of the City in different respects to allow some live-aboards. Not a ton but some live-aboards in marinas.</p>		
<p>In response to your concerns about fire, those are real concerns. Every dock that's built in this City is inspected by the Building Department and has to meet certain requirements. We just finished a remodel at Newport Harbor Yacht Club. There's a 5 or 6-inch water main running to the far end of the dock and going off in a T to both directions. There's a 1.5-inch fire hose every 75 feet that has to be able to reach every boat and have ample water supply.</p>	<p>I believe it's in Harbor development permits. I believe you'll see there are some very, very stringent provisions with respect to landward facilities, showers, heads, fire protection, etc. That's in the design standards for new slips. Not every slip has been brought up to current Code. For those of you who don't know, the City Council just approved a complete rebuilding of the Swales anchorage. We put some requirements on there with respect to fire and life safety.</p>	<p>The Building Department is responsible for building codes in marinas to ensure life and safety of those in the marina.</p>
<p>The land-based Fire Department responds to all marina fires and also to mooring fires.</p>	<p>That's correct. How do they respond to mooring fires? The Sheriff can pick them up and take them out there.</p>	<p>The Newport Beach Fire Department responds to all fires on the land and waters of Newport Harbor with the assistance of the Sheriff.</p>
<p>They run the truck down to the Sheriff's Department, jump on the</p>		<p>No comment</p>

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boat, and go all the way to the other end of the Harbor to get it.		
If the trucks pull up and the big tugboat's not here in Newport Harbor, they have several fire trucks out there pumping water.		No comment
Has the percentage of live-aboards always been 7%? I thought it was 10%.	To our knowledge, it's been 7% for a long, long time. We could probably look into the Code that's online, and it'll tell you when each provision is updated.	To our knowledge 7% is correct
Last week, we were talking about houseboats. We were talking about not likely that a barge-type houseboat would come into Newport Harbor. When this provision is in there, I can see a marina having a barge-type houseboat. I think we used the term Seattle-type houseboat. I agree eyes and ears make it more safe, but I think we could max out real quickly. I'm a little confused where we were with the houseboat definition and then this restriction. I'm trying to get my arms around what's the right thing to do. Say nothing, self-regulate, make it in the lease rather than publish it in the fine print here? It's very vague which is the right way to go.	We realize that the definition itself is a slippery slope. We certainly will make sure that the types of facilities that you see in Sausalito or in Seattle are not allowed. Those are the ones that have fixed landward connections, sewer, water, electrical, etc. The prohibition of houseboats is those that are non-operable, functioning vessels. That would be put in the category of a Seattle-style houseboat as a non-operable vessel. Those are not permitted in the Harbor. That's the current language.	There are no changes to the definitions of houseboats in Newport Harbor
There's a section in the Code right now that says specifically no houseboats period. It's no problem. It's already addressed.	That's correct. We addressed it in the definitions when we were trying to define what is a houseboat. That's where the slippery slope gets in.	No changes to the definition of houseboat.
Section 17.40.050.A		
In my view, the elimination of "serve as the principal residence" vastly expands the availability, a population of potential lessees or people applying for a live-aboard permit. Are we saying that we're allowing that or that it's redundant? It opens up a whole other can of worms. Today we have very limited resources in the Harbormaster's	If we go back to the definition of live-aboard, it requires that they use it as their principal residence. It's redundant. We're talking about opportunities for the Harbormaster to deny permits. Whether it's the principal residence or not, if in the opinion of the Harbormaster the sanitation system is not	Recommend to leave as is. No changes to serving as a principal residence or number of nights allowed to stay on a vessel on a mooring.

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<p>office. I would contend that today we're not even coming close to enforcing our existing guidelines under these documents under lots of provisions. I for one happen to live adjacent to the F field where Wild Wave is. The gentleman continues to stay on that boat more than three nights a month. I have it on video. There's a gentleman on F19 who lives there fulltime, at least seven months out of the year and has not been addressed ever. I've made numerous reports to the Harbormaster about it, the previous Harbormaster as well as this one. For permitted vessels, F22 Sure Lily [phonetic] has been there now for seven months and has never had a single pump-out. There are two people living on that boat every day except for when they're on vacation. Giving more discretion to the Harbormaster in my view is a detriment to the citizens of Newport Beach and the residents that live adjacent to the Harbor. The budget is \$1.1 million. We're holding to that budget. The problem is this Commission is decoupling the enforcement issue from these provisions all throughout, including on the provision that you already made a change to or a potential change to, moving from three to 12 nights. We have no enforcement ability. In my view it's irresponsible of this Commission to make a recommendation that we know we're not going to be able to enforce. Once you start having 12 nights—at least now they know who's on the moorings for three nights. If you put it at 12, who knows whether you're 17, 30, whatever. You're opening Pandora's Box.</p>	<p>sufficient, the permit's going to get denied. It's redundant. Taking it out also gives the Harbormaster a little bit broader powers. The enforcement, in my own opinion, has been expanded greatly from the days of the Sheriff's Department managing the moorings. Second, in my own opinion—I'm not speaking for the Harbor Commission or my colleagues—we have plenty of regulations already. I agree with you that what we need is more enforcement. In order to get more enforcement, we need to impose upon the City Council to expand the budget of the Harbor Department so that we can put more people in the field to deal with the issues that you're dealing with. I personally would concur with you. This is not the forum for that discussion. The forum is the City Council. If you can't enforce the 12 nights, you certainly can't enforce the three so that doesn't make any sense. That's not the purpose for this discussion this evening. That needs to go to the City Council. Do we want to live that provision in or do we want to strike it?</p>	
<p>Strike it—I'm sorry, leave it in. Once those appeals are exhausted, which they have been in this particular case that we're referencing, the City has taken no action to remove that boat.</p>	<p>There is, in my opinion, a section in this Code that makes no sense. It's the section that provided for an appeal of the Harbor Commission's decision to revoke their permit to an</p>	<p>This case is still in the courts. We are following the directions of the judge in the case.</p>

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Can it enforce its own laws?	<p>administrative law judge, which makes no sense whatsoever. Certainly we intend to change that so that next time any appeal goes to the City Council. In the case of Wild Wave, we have been estopped by the judge. This is in litigation, and there's nothing the City can do at this point.</p> <p>There is litigation in process. Wild Wave is claiming that the administrative law judge made the wrong decision. Until there's resolution of the case, if the City tried to boot Wild Wave, we'd get sued big time or the judge might throw a temporary restraining order against us. I don't like it either, but that's the way it is.</p>	
<p>That litigation is ongoing?</p> <p>I was under the impression that that appeal had been completely litigated. There's an appeal of the decision of the lower authority here had been litigated.</p> <p>Maybe the Harbormaster can speak to that.</p> <p>It goes back to my issue about Code enforcement being decoupled from these proceedings.</p>	<p>That's correct.</p> <p>My understanding is it's still in court.</p> <p>Not the topic for this evening.</p> <p>I would like an answer, yes or no, if you guys know what the status is.</p> <p>No, the litigation is completed.</p> <p>We are working to take the appropriate action, but I cannot say anymore than that.</p>	Litigation is on-going.
<p>It's a good comment on enforcement. I lived in a commercial slip for a few years when I moved back to Newport. Now, I'm a permitted live-aboard on the mooring. That's been during the time that the City took over from the Harbor Patrol. Let me tell you, the enforcement exists now. It didn't before. It's a pleasure to live out there. There's a lot of people that aren't here anymore. The live-aboards that are left and permitted and doing the right thing are grateful. Thank you very much.</p>		No comment
<p>I want to comment on the gentleman's comments on F field. I am a live-aboard on the F field. I believe you're referring to my boat. It's F22. Just for the record, we do keep a log of pumping out. When</p>		No comment

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the time runs out, we go outside and pump three miles out. We really try to keep to the law and keep the Harbor clean because we reside in the Harbor.		
<p>I've been out of town for the last few days, but there has been a discussion in the prior meetings of changing the number of days a permittee can overnight on his mooring.</p> <p>What was the genesis of that?</p> <p>I have one other question.</p> <p>Do any of the Harbor Commissioners that are on this ad hoc committee actually own their own mooring?</p> <p>Were you involved in that decision or that discussion to add the number of days from three to 12?</p> <p>Having that expansion from three to 12 days is (inaudible) to your permit.</p>	<p>That was the subject of the last two meetings. We're past that. If you'd like to make further comment on that, when this committee makes their recommendations to the Harbor Commission, you're more than welcome to come to that meeting and make any comments about any of those changes then. This evening we need to move on to Section 17.40. If it pertains to this, we'll answer. If it's not, we'll move on.</p> <p>I do.</p> <p>I participated in all the discussions and did participate in the formulation of the recommendations.</p>	<p>There are no recommended changes to the number of nights a mooring permittee may stay on their vessel.</p>
Section 17.40.060		
(inaudible) for striking the primary residence. You're striking the same provisions.	Again, we think it's redundant. If you read the definition of live-aboard, it requires that they use it as a principal residence.	Recommend leaving language in regrading principal residence.
Section 17.40.070		
<p>Jumping ahead a little bit, on page 8 there's a similar provision, part 2 about dye tablets, to apply to every vessel in the Harbor. Is this intended to be something (inaudible) from now?</p> <p>No. That's in part 2 of this, which is about the dye tablets. It seems to be identical to the later provision. All vessels are subject to that inspection.</p> <p>I don't see where part 2 adds anything.</p>	<p>Yes.</p> <p>It's unique and specific to live-aboards. The broader provision that you get to in page 8 does apply, but there are vessels that don't have marine sanitation devices. As long as they are not live-aboards, the provision is exclusive.</p> <p>If they have marine sanitation devices. There are boats that are not live-aboards and that do not have such devices. Like a Harbor 20.</p> <p>I think we're being specific about the permit for a live-aboard. Because it's their living space, we have the ability to enter your living space and put in a dye table to make sure that your</p>	<p>Recommend dye tabs may be dropped in a vessels holding tank at any time regardless of whether or not you are a live aboard.</p>

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	<p>sanitation device is working properly and according to your permit. The other section that you're referring to on page 8 is just a more general comment about sanitation as a whole because it's under the chapter called sanitation. We're trying to tie this, in this section on page 3, specifically to the live-aboard permits as a condition of your permit.</p>	
<p>There are two words in here that bother me. It says board the vessel any time. Any time? 24/7? If somebody knocks on the door in the middle of the night? It has to do with suspicion of illegal ...</p>	<p>If there's reason to believe that there is illegal dumping, absolutely. There's a burden there that there has to be suspicion. Where we're headed with this is we believe—we're all boaters. I have no problem with the Harbormaster coming to my boat at any time and dropping a dye tab. We think every boat that enters the Harbor should be under that same obligation. That's the way we feel. That's the way I feel.</p>	<p>Recommended anytime 24/7</p>
<p>Why isn't everybody subject to that, even if they're here for two nights?</p>	<p>That's where we're headed. They will be.</p>	<p>It is recommended that everyone be subject to the dye tab rules.</p>
<p>We're talking about dye tablets. Why wouldn't we require anyone who has a live-aboard permit to have a dye tablet in their head at all times? If they're here and tied up, why wouldn't we just make that a provision? Instead of us just suspecting that they're leaking blackwater into the Bay, if you're a live-aboard permittee, why wouldn't you be subject to having one all the time? Why wouldn't we make that regulation?</p>		<p>Recommend dye tabs can be dropped at any time.</p>
<p>How would it get there?</p>		<p>Harbor Department staff would place the dye tablet in the tank</p>
<p>I don't know. We're just talking here. I'm just thinking to myself. I don't know how long a dye tablet lasts. You're supposed to pump it out how often?</p>	<p>Until the tank is evacuated.</p>	<p>Proposed pump out regulations are at a minimum of twice a month.</p>

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When it's full.		Yes.
How often is that when you're living aboard?		Depends.
Once a week.		No comment
How much is a dye tablet?		City will provide tablets for testing purposes
How much is it for the Harbormaster to put it in there?		It is included in the cost of the Department.
It's something you request of the mooring permittee to do.		It is proposed that the Harbor Department may check at any time.
How are you going to tell if the dye tablet's in there?		Staff will drop the tablet in the tank and look in the water for the results.
If you don't trust them to not flush, are you going to trust them to put the tablet in?		This will be done by harbor staff.
That's not going to happen.		No comment
Section 17.40.110		
This is obviously now expressly giving them rights to do that.	Which we believe they had already, but now we're limiting it.	Added language to limit commercial marinas to 7% of total number of slips
Don't they already have other separate agreements?	Carol noted and supplied to us an example. There is a lease. Every commercial marina operator has a lease with the City because their property is over tidelands. That lease covers all sorts of conditions and responsibilities. The one lease that I read made no mention of live-aboards or an allowance or limit on such things. Our attempt here is to put an absolute limit on it should a commercial marina operator wish to include live-aboards in his marina. I believe today it was wide open. You could fill your whole marina with live-aboards.	Added language to limit commercial marinas to 7% of total number of slips
How is that percentage calculated? Say I have commercial slips with five slips and I want somebody to live there. Does that count as 20% occupancy? How does that work?	It's done on lineal feet of slip. You take the total lineal feet of those five slips, take 7% of that. If a boat can fit within that 7%, then it works.	By the number of slips available.

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Do you need to have a certain amount of slips to be able to do that?		
<p>I appreciate you guys trying to limit this to 7%, but my point remains that I think you're actually opening it up from zero to seven.</p> <p>I get that. The only reason I bring it up is that I know from speaking with the previous Harbormaster that there were inquiries from commercial marinas about this exact case. It was unclear, so he was unable to provide adequate response. They were saying, "We would like to have live-aboards, but are we allowed to?" He didn't have an adequate response. Now, we're saying, "Now, you can. You can have 7%."</p>	<p>What we're trying to suggest—we will investigate more—is if a lease is silent on the subject of live-aboards, they could have 100%. Their whole marina could be live-aboards because the City is not restricting their use. Our purpose here was to restrict the use. I'm sure there's not a marina with 100% live-aboards, but we're trying to put some number.</p> <p>I'd like to recommend our Commissioners ask our Harbormaster to do an audit of what number exists today of live-aboards in commercial marinas so we have some context as to what this number actually is or isn't. We're just guessing. Just to have an idea because we know how the Bay operates today with whatever number that is. In the context of 7%, it might be the right percentage, it might be the wrong percentage, but let's get a little information before we go further on this topic.</p> <p>We should also ask the lease administrator what the lease administrator's interpretation of the absence of language in this regard means.</p> <p>I'd like to throw out a third concept. Does it make sense to require a live-aboard in a commercial marina to also obtain a live-aboard permit?</p> <p>Yes.</p> <p>That's in there.</p> <p>I don't believe it's in there.</p> <p>Yeah, we put it in there.</p> <p>Then we already have too many live-aboards. No, we don't.</p> <p>Never mind.</p> <p>Under 17.40.40, application for live-aboard permit, Section E, the second paragraph now says applications will be accepted only from persons holding a</p>	<p>Currently leases are silent of if live-aboards are allowed. Therefore, they are allowed without restriction. The proposed language would restrict live-aboards to 7% of the total number of slips.</p> <p>The Harbormaster did conduct a survey and the number of live-aboards is very small in each marina.</p> <p>Recommend that the marinas continue to manage their live-aboard clients and the City conduct audits per the lease agreement to ensure compliance.</p>

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	<p>valid mooring permit pursuant to Chapter ... or a valid rental agreement from a commercial marina.</p> <p>A live-aboard in a commercial marina would be under the same obligation to pump out and do all those other things.</p>	
<p>A question for Kurt. I know the Long Beach marina has lot of experience with this. I'm just curious what is the percentage at, say, Alamitos Bay Marina that they allow.</p> <p>I was just curious what that number was. They must have a ton of experience with that exact topic.</p>	<p>It's 10%. There's a minimize size requirement that the vessel has to be at least 25 feet. The number is also restricted in that there's what I'll describe as a peppering quality to it where different basins of the marina can't exceed that 10%. You can't over-concentrate them. Those are the principals that are applied.</p>	<p>No comment.</p>
<p>Last year, I was looking for a slip. Not (crosstalk) allow live-aboards (crosstalk) I could not find a place to put my boat (inaudible).</p>	<p>I'm going to pose a question. Does it make sense to entertain a change to prohibit live-aboards in commercial marinas?</p> <p>I don't want to place that restriction on the property owners, the marina operators. I would prefer to give them the latitude to do what they think is best for the marina. I am opposed to it. If you guys overrule me, that's fine.</p> <p>I think I'm being cautious to granting that much control over the marina operator without falling into what we'd consider the guideline for the City because it could become a situation that we don't desire with a whole lot of extra marine live-aboards. My thought is not to completely prohibit it but have it under some—I don't know what the right number is or what the threshold should be, but I'm still open to that conversation. Could we ask the Harbormaster to report on the number of live-aboards that actually exist today in commercial marinas and the total as a percentage of the total slips. We'll leave this as an open subject.</p>	<p>See comments above regarding proposed limits on commercial marinas.</p>
<p>Section 17.40.070</p>		

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>The issue with the pump-outs is—I do know on F19 that boat has never left the marina. It's a single guy. No, Aurora. The issue is we don't have any enforcement over pump-out. We don't require a log. I understand, but it's on the honor system. I would propose that we require pump-outs for live-aboards from an authorized pump-out service or somebody sign-off on their log at the dock and move to a structure where we're ensuring that the pump-outs are happening rather than dumps. I know the dumps are happening.</p> <p>Illegal live-aboard.</p> <p>It gets into the whole thing. If we're incapable of managing the obligations that we have affirmatively now, why would we be condoning an additional 7% in our commercial marinas, which is just that much more work for our understaffed Harbor Department to manage?</p>	<p>We do require a log. Every live-aboard has to keep a log. I'm going to defer to my colleagues. Is that something that either of you or both of you would want to consider?</p> <p>What I know to be true is there is more enforcement today than there was a year ago. I would like to see continued additional enforcement. I would not like to write additional legislation that won't be enforced or won't be enforced anytime soon. I'd like to see the ramp-up efforts for enforcement of our existing Code continue.</p> <p>Is Aurora that you mentioned a legal or illegal live-aboard?</p> <p>We're talking about things we want to do to tighten up the live-aboards that are legal. It's an enforcement question about those that are illegal. We're only as good as our enforcement is capable in that situation.</p> <p>We've already addressed that. We're going to respectfully disagree. We believe that they already have the right and they probably have the right to rent out 100% of their slips to live-aboards. We think we're tightening it up by going to 7%. We all agree that we would love to see more enforcement. It's up to each and everyone of you who believes in more enforcement to go to your City Council person and get them to allocate more funds to the Harbor Department so that we can put more people on the water. That's no longer a topic of discussion for purposes of Title 17.</p>	<p>Added language regarding dye tablets and requiring live-aboards to use a commercial pumpout service with services provided available to the City.</p>
<p>The situation is that enforcement is way more than it's every been before. Previously there were many live-aboard permits available. Now, there's a waiting list, and all the permits are gone. Obviously, the enforcement has increased already.</p>		<p>No comment.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>On the sanitation, we're legal live-aboards, and we regularly pump out. We do so at the same time as we fill our water tanks and wash the boat. It would be an unnecessary cost for us to have to hire a service. Maybe there's a way where we could just call the office and say we're at the pump-out. No one has to come out. We'll never know whether you're going to check our logs. Something like that. I'm against it because we would have to go to the pump-out dock to fill our water anyway. It would really be a waste of money for us to get a service.</p>		<p>Added provision to require commercial pumpouts and provide proof of service upon request.</p>
<p>Section 17.45</p>		
<p>Does this relate only to commercial? When I read A under 14.45.010, if I were to read that for a private property dock, it would be very strange. It's not strange for a commercial dock. This lends itself only to a commercial development. What if the dock's already existing and you're going to replace the dock?</p>	<p>No, sir. That provision is in the Building Department Codes also. I built a home on the Bay, and I could not get a permit for my dock until all of my rough plumbing was installed and permitted. You already have plumbing.</p>	<p>No changes recommended</p>
<p>It's really dealing with the back-flow device.</p>		<p>No changes recommended</p>
<p>If it is the back flow ... Do you read this as no problem for a private dock replacement, repair, or new? Do you have to have sanitation facilities? It makes it clearer.</p>	<p>It's not the back-flow device. It's actually the plumbing itself. It's whole plumbing. No. If you have a home and it has a bathroom, then you meet this provision. This deals with new construction. Back in the '80s and '90s, there were people buying properties and didn't put homes on them because they wanted the docks. It's not that way so much anymore, but there was a period when it was like that. The late '80s. Or you can get a dock permit; that's correct. Would it make the crowd feel better if we inserted the word "upland" before "dwelling unit" in that section of Code so as to</p>	<p>No changes recommended</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>imply the house, which must have rough plumbing at least before you can get a dock permit?</p> <p>The permit would run with the dwelling unit, but we could certainly put that word in there. I'm just suggesting. I'm not recommending.</p> <p>Put that word in there if you would please, Carol.</p>	
Section 17.45.030		
<p>The only time I've ever been boarded is by the Coast Guard. I was outbound, and they wanted to check the vessel for safety. Would they have this ability as the Harbormaster?</p> <p>Should they have the requirement to check it?</p> <p>But they could?</p> <p>Last Thursday, there was a grueling meeting here with the Water Board. I don't know who they hail to the most. I think the State. It seems we have one layer of laws. There's another layer of laws. The Harbormaster can board, but certainly the Coast Guard can board. There's something very complicated about this.</p>	<p>Yes.</p> <p>You better talk to the Coast Guard about that. We have no control whatsoever over the United States Coast Guard, and we have no control whatsoever over the County Sheriff's Department.</p> <p>I'm certain the Coast Guard absolutely has the right. They're chartered with protecting federal waters. The channels of Newport Harbor are federal waterways.</p> <p>You have elected officials that you can address these issues to and with. We debated this. I feel very strongly that any vessel that comes into this Harbor should be by entering the Harbor permitting a jurisdiction, whether it be the City, the County, the State, or the Federal Government, to make sure that, especially with respect to marine sanitation devices, that those devices are operable and all through-holes are shut, and there is no discharge. That's a violation of federal law, and it's a violation of City Code. That's the way I feel about it. That's why we put it in here.</p> <p>What he said.</p>	<p>Added language to allow Harbor Department staff to board a vessel with a marine sanitation device at any time and to drop a dye tablet into the tank. A leaking tank may result in the immediate removal from the harbor.</p>
<p>The Coast Guard has absolute authority to board at any time. They have the option to extend that to local law enforcement. Local law enforcement can board, which is the Sheriff's Department. If the Harbor</p>	<p>Irrespective of authorization by the Coast Guard, this change to the Code gives them the authorization at any time. That's exactly what we're trying to accomplish. When we</p>	<p>See comment above regarding proposed changes.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Department becomes a law enforcement agency, they will automatically be authorized by the Coast Guard under the Coast Guard's authority.</p>	<p>implemented the temporary anchorage in the west turning basin, we actually wanted the Harbor Patrol—when a boat dropped anchor out there, we wanted them to approach the vessel and drop a dye tablet and provide them with a welcome memo that said watch noise and lights because you're close to the west end of Lido Isle. There were those, including some electeds, who pushed back on that because they didn't want an officer with a badge and a gun coming on their boat. Now, we have just regular people out there in our Harbormaster boats, but we still want that right.</p>	
<p>As far as the Harbormaster being able to board your boat at any time, I'm all for that, but there's nowhere that states somebody has to be present on your boat while they board. Can they board when you're not on your boat? I personally would like to see it stated.</p>	<p>That's a good question. We didn't think about that. I would submit there are certain situations. If you're not on your boat and it's discharging, there should be somebody with authority to go on your boat and try to take care of an emergency situation. Other than that, it's not stated. We're leaving it open. What if we said, "except in the case of emergencies, subject at any time to boarding provided there's an occupant on the vessel"? I don't care who's on there. If somebody's on there, you have the right to board. We'll play with that language and bring it back to you next time.</p>	<p>See comments above regarding proposed changes.</p>
<p>In regards to boarding, are you guys boarding in pairs or as a single entity? The Coast Guard and Sheriff's Department have two people specifically for that. The reason I bring it up is as live-boards, if you're a married couple (inaudible) I have my wife in my boat, I don't mind you guys boarding. Obviously, you take care of business. If there's two individuals, there's not a singular person of the opposite sex boarding my boat while my wife is on board.</p>	<p>I don't believe that's something that should be—we can take this Code to 500 pages if we want. That would be an operations issue. Kurt, how would you handle that? For our team's safety, we would look to go with two personnel.</p>	<p>As a matter of practice, two staff members would be present.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Is there a stipulation where you can bring two personnel to a boarding so there are some checks and balances in that regard?		
Section 17.50		
<p>Getting a dock permit has got to be the worst experience of my whole life. Three and a half years. Since we're on the subject, I've got a bulkhead that if I don't get it dredged and put sand in it, it's going to fall apart. I can't afford to do it on my own. We have to have a block party. The 3 1/2 years to get a City preliminary. Coastal Commission, it got rejected four times. To get Army Corps of Engineers, and then get the Water Board, which was 85 pages for the application, and then go back to the City and it got rejected. I made eight trips to the City.</p> <p>How to make this process more efficient without getting too elaborate tonight with all the people here.</p> <p>It's the purpose of 17.50.010 as we get into this. What I'm saying is it's not only restrictive, but (inaudible). If this was just in charge of community development, we wanted to encourage repair and maintenance and upkeep, there would be a way to fast track this. I don't know how to get around all the verbiage other than what I just said. There has to be an easier way. If I call up one of the marine contractors and I need a bulkhead repair, if I'm lucky, he can do a certain percentage under repair, but he can't fix my whole bulkhead. I'm trying to put this in relation to the Code. Is there a way to modify this Code that facilitates a better way to repair and maintain baseline property?</p> <p>If I submit that to you, you'll take it under consideration?</p>	<p>If you have specific recommendations, we'd love to hear to them.</p> <p>The City of Newport Beach has not control over the Coastal Commission, as you saw the other night, the Water Board, the Army Corps of Engineers. We're talking about federal, state, county, and local bureaucracy. That's not the purpose for this discussion. I had to get a permit for a dock.</p> <p>That's not a topic for this meeting. If you want to make specific changes to the Code, we're more than happy to take those into consideration. We can't change community development. That's a separate division. We certainly can't change the Army Corps or the Regional Water Quality Control Board or the Coastal Commission.</p> <p>There could be. We're just not smart enough to figure it out, so we're going to have to rely on you.</p> <p>Absolutely.</p>	<p>No changes, the City does not have authority over other governmental agencies that have responsibility in the Harbor.</p>
Section 17.50.030.B.2		

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	Insert "where applicable" because I don't think it is in every case. We don't want to make it mandatory.	Added language "as Required"
In that section, is there Water Board? You think you're coming to the finish line, and someone says (crosstalk). Don't put it in?	The Water Board's not in here. We'd be happy to put it in if you'd like.	No recommended change to add the Water Board.
Section 17.50.050		
What I'm referring to is eelgrass. My understanding was that the eelgrass survey requirement has gone away. Can we remove all the references to eelgrass and Caulerpa? In this section, it's requiring you to have—applications shall include eelgrass survey.	The City takes care of it for you now. You as an individual permittee seeker do not have to have your own eelgrass survey. You can rely on the City's eelgrass data. No. You can't because you're still subject to RGP-54, which is the City's permit to circumvent the requirements of the individual dock owners. The real issue is not surveying for, it is replacing. Prior to RGP-54, if you wanted to dredge under your dock and you had eelgrass, you had to replace and cultivate that eelgrass at a rate of 1.38:1 somewhere else in the Harbor. RGP-54 allows us to manage eelgrass globally in the Harbor. So long as the total amount of eelgrass in the Harbor isn't being reduced over time, individual dock owners can dredge without that replacement requirement. The City now performs the survey for you as part of a Harbor-wide survey.	No changes proposed
Section 17.60.030.C.6		
	We need to look at this, Carol. It may be in the wrong place. There are certain portions of the Harbor where the waterways are privately owned. The don't come under the same jurisdiction. There is also one area in the Harbor, Promontory Bay, and this relates also to tidelands assessments. When Promontory Bay was created,	Added the provision; " The provisions of this Section shall not apply to piers, dock and other structures located in the Promontory Bay and the waters over privately owned land."

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>each lot was granted a perpetual easement for repair and slip purposes before the property was dedicated to the City as tidelands. The City took the waterway and made it public, but they took it subject to the easements. That made those docks tantamount to private property. There are certain conditions and restrictions that don't apply in those cases.</p>	
<p>Section 17.60.040.B.2.c</p>		
	<p>In this case, adding "except in the event of an emergency" would not apply. This is just a requirement for a permit. Leave it as is.</p> <p>For the permittee that is not a live-aboard, if there is something serious going on, by virtue of the fact that your boat is not occupied, you cede permission to the Harbormaster to board if he feels there is an issue.</p>	<p>Added language as a condition of being a permittee the vessel can be boarded at any time regarding the sanitation device.</p>
<p>Will that mean someone who boards a boat is restricted to only looking at the sanitation system or does that give them the ability to call out other things that they may find are an issue or outside what the permit allows.</p> <p>When they're granted permission without an emergency but specifically for the sanitation system, are they allowed to make violations on other things as well? I find it a little bit disconcerting that men will be boarding the boat when I'm there alone.</p> <p>I don't expect to have difficulty. I'm just trying to understand the boundaries (inaudible).</p> <p>With the live-aboard, it's like (inaudible).</p>	<p>There are other provisions in the Code that allow the Harbor Department to inspect and note violations.</p> <p>First of all, I don't believe we need permission to board to drop a dye tablet if you're a live-aboard. Second, there are other requirements in the Code that you must meet. Whether they board solely to drop a dye tablet or to check other violations is irrelevant. If you are in conformance with all the requirements of the live-aboard permit, you won't have any difficulty.</p> <p>If one of our Harbor employees comes aboard, they have the right to look at all the provisions of your permit, whether it's an unkempt boat or improperly stored materials on deck or an inoperable or faulty holding tank, or anything else. That's exactly what we're trying to deal with right now.</p>	<p>Only for the sanitation device.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>But limited specifically to the provisions of the permit. They're not looking for other areas of compliance with any other law, any other component of using your boat. The only things they're authorized to do are look at the specifics of compliance with your marine permit. They are not sworn officers, and they're not looking for anything other than what you're supposed to be doing anyway.</p>	
<p>In the case of issuing permits, we provide the option of inspecting vessels. Should it not be compulsory that the Harbormaster or his designee inspect the vessel before issuing a live-aboard permit? We had a situation like that. No, it's not. I don't believe it's written into this document.</p>	<p>It is a requirement. We would respectfully disagree. If you can find where it's not, let us know. We made that a requirement.</p>	<p>Prior to issuing a mooring permit, the City has the right to inspect the vessel that will be moored.</p>
<p>In regards to the Harbor Department boarding your vessel like a live-aboard, will the Harbor send you notice saying, "We boarded your vessel to drop a dye tablet in your vessel"? This section is to mooring permittees, correct? Not live-aboard permittees (crosstalk). That's what I'm saying. If they do go out to your boat and drop a dye tablet and you're not there, say you don't go to your boat for two or three weeks, they'll let you know?</p>	<p>If you're not a live-aboard, then the Harbormaster is not going to board your boat to drop a dye tablet or do anything unless there's an emergency. If they can see a discharge, they may try to help you out and stop the discharge. This says anybody that's issued a mooring permit is agreeing to this. These are conditions to your permit. If you're a mooring permittee, you're going to agree to allow the City to drop a dye tablet anytime. The Harbor Department is not going to go on an unattended vessel to drop a dye tablet unless there's an emergency. Then, the intent to go onboard would be not to drop just the dye tablet, but to try to fix the problem. That's the key. Most likely we would we would immediately try to contact you. One of the things we're requiring is a way to get a hold of each and every mooring permittee so we can get a hold of you in an emergency.</p>	<p>Harbor Dept. will not board a vessel without the permittee present unless there is an emergency and the owner cannot be reached.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Is there a limited amount of permits or moorings that we're going to have or are the mooring fields going to continue to grow?</p> <p>This field down here has certainly got more than it needs.</p> <p>In some places, it's almost not navigable if you're in a big boat. It didn't used to be that way; that's why I asked.</p>	<p>The mooring fields are not going to grow. There is a limited amount of moorings.</p> <p>When the Marina Park transient moorings were first established, they were established all along this southern border of the mooring field. To appease some residents who were at the end, they moved them to the east end.</p> <p>There are also occasions when a temporary permit is granted for dredging equipment, and it's usually placed at the east end. We did add the seven sandline moorings for guest boaters shortly after Marina Park was completed. Those are all right out here.</p>	<p>The Harbor Commission is recommending new extension rules to the City Council approved at the HC meeting of June 12th.</p>
<p>The mooring permit is defined as a license to set a mooring. Always we've paid permit fees. In this chapter, it's saying we're paying mooring rent fees. We are not renting moorings because we own the moorings. We're paying a fee for the permit to put the mooring on the bottom.</p> <p>It's further down in the same chapter, under 40. It also talks about sub-permittees.</p> <p>There is no mooring permit fee any longer?</p> <p>It's a license to put the mooring there. We're renting the water. We're permittees. The City is renting moorings to people and calling them sub-permittees. They should be a tenant because they have nothing to do with the mooring.</p> <p>The permit fee went away, and it's been changed to (crosstalk).</p>	<p>Can you show us where?</p> <p>I think what you're referring to is subparagraph h. I believe the City Council has established a rent not for the mooring but for the water area that you're using. It's the tidelands assessment.</p> <p>The mooring permit fee would only be the transfer fee in the event of a purchase and sale.</p> <p>The permit is how we keep track of the fact that you have your own mooring ball on tidelands water space.</p> <p>That's the way it's always been. That's required by the State Lands Commission.</p> <p>We're going to let legal make that determination. If you'd like to propose alternate language, we'll give it to legal. I'm not smart enough to figure that out. I just know that the State Lands Commission requires a fair rent for piers and slips and for the use of the waters.</p> <p>I'm not qualified to answer that.</p>	
<p>There was this language about fair market value. What's that based on again?</p> <p>Are they comparing our moorings to our slips or our moorings to</p>	<p>The City hires a third-party appraiser who's an expert at mooring fields up and down the state. They do a survey and come back with a recommendation about what the</p>	

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>moorings in Morro Bay and San Diego and whatnot? Seems like ours is about 300% or 400% higher.</p>	<p>fair market value is. That's how the Council can determine what a fair market rent is. Allegedly it's all over. That appraisal, I believe, is online if you want it. We looked at it and made recommendations. Our recommendations weren't followed totally by the Council.</p>	
<p>What was passed was a formula that laid out exactly what they could do and how much they could be increased and exactly how it was done going forward from that date. It's an established formula. It's not really (crosstalk).</p>		
<p>Section 17.60.040.C</p>		
<p>In my case, the mooring in front of my house was extended, and a much larger vessel was placed on the mooring that was there. It's a substantially larger vessel. There was no appeals process or no voice of the residents that are directly adjacent. In my case, 100 feet from the end of my dock. The vessel size went up way larger than the previous vessel. There's no provision in this for any hearing or public forum?</p> <p>I would have to guess. It probably went from a 45-foot boat to a 60-foot boat.</p>	<p>This limits the extension to 5 feet maximum, I believe. It contains a bunch of other provisions. As one party to this, I would not be opposed to a right to appeal a decision to extend. Before an extension is granted, the City would have to notice those within 300 feet just like they would for a building permit. If somebody objects, then that decision if granted would be appealable to the Harbor Commission.</p> <p>What size vessel was in front of your house that went up so dramatically? Not sure how that could happen.</p>	<p>The new proposed mooring regulations for extensions would require all extensions over 5 feet in length to go to the Harbor Commission for review. These are all publicly noticed meetings.</p>
<p>We did not extend the mooring. All we did is add more weight. We upgraded the chain. The mooring was barely 65, and was not extended.</p>		
<p>When we have (inaudible), there are fenders all across the side of the boat, on the Bay-facing side of the residences, that protect that boat when it does hit the other boat. It's too big of a vessel for that situation.</p>	<p>That was the case apparently where there was an absolute right for a 60 or 65-foot boat. We can't correct all the prior ills in the Harbor. What we've tried to do here, if you read this, is have objective criteria for disapproving. If you encroach into a fairway and we define a</p>	<p>See proposed mooring extension policy. All requests over 5 feet would have to have Harbor Commission approval.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>fairway not as the fairway in the main Harbor but fairways within the mooring fields, If in the discretion of the Harbormaster it's unsafe to expand that mooring, then the Harbormaster can certainly turn down the request.</p> <p>Whatever happened there, it already was a 60-footer. It did go from 45 to 60. The idea here is to not allow a marketable increase. By only 5 feet we think that's relatively capping. We're trying to "order of magnitude" this so that you don't wake up and some huge boat's in front of your house the next day. That's not this at all. Whether it involves public comment or has some input from those local residents, I'm open to that concept, but we also want to try to make it as strategic—following the guidelines. If they were followed correctly, those things won't happen. You won't be surprised that next day.</p> <p>There is the ability in here to request a larger extension, but that would be a decision for the Harbor Commission. In that case you would receive notice that there's a public hearing, and you would have every right to testify.</p>	
<p>There are several moorings that are 25-30 feet mixed with 55 and 45-foot moorings. A 55-foot extension on a 25-foot mooring when the boat behind it is on a 55-foot mooring and the boat in front of it's on a 55-foot mooring. If it's between the two, it's reasonable that it should also qualify for 55 feet if there's room. The same with 30-foot boats.</p> <p>Setting the maximum length in a row of moorings would probably be a good way to recover that.</p>	<p>We would respectfully disagree with you. Staff has done an analysis off all moorings and how they're situated throughout the Harbor. We believe what's being proposed is fair. If there's an individual case where you have a 50-foot mooring, a 50-foot mooring, and a 25-foot mooring and the owner of the 25-foot mooring wants to go to 35 feet, there's a procedure in here to allow him to do that. He would have to apply for an extension. That extension would be subject to review and</p>	<p>The new proposed mooring extension standards identify the maximum lengths of vessels per row within each mooring field.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>approval by the Harbor Commission.</p> <p>There are also other requirements in here. If you ask for an extension and that extension is granted, you have to put that length of boat on there within a reasonable amount of time, and you have to keep it there for a period of time.</p>	
<p>I'm a little confused on the 5-foot cap. He gave us an example, and you said it's only 5 feet. Then, you said they can go for 10 feet if it (inaudible).</p>	<p>You can apply for up to a 5-foot extension through the Harbormaster. If your request meets all the criteria in here, then the Harbormaster can grant that. If you choose to apply for an extension larger than that, then your request would have to go to the Harbor Commission for approval. That means public hearings and testimony from the private sector. It is possible but a bit more difficult.</p>	<p>The new proposed policy sets maximum lengths. If the vessel is at its maximum, it cannot be extended. If for some other safety or navigation hazard issue, the Harbormaster can deny the request/</p>
<p>Am I hearing this right that Section (b), the mooring permit as amended shall not be sold or otherwise transferred for a period of 12 months. Is that saying if we do get granted our 5 feet and we've extended our 5 feet, we can't sell that mooring within 12 months?</p>	<p>Correct.</p> <p>I believe what the provision says is if you do so within 12 months, then you lose that 5-foot extension. It goes back to the original length.</p>	<p>Correct.</p>
<p>Section 17.60.040.C.2.b</p>		
<p>As many people that buy moorings buy a mooring in anticipation of buying a boat. That happens all the time.</p>	<p>There are provisions that allow you a certain period of time, especially when you're buying a mooring and you want to put a new boat on there but you don't have the new boat. You certainly have to bring the new boat within a period of time. If someone wants to buy a mooring, they need to read the Code and be sure they can comply with the Code before they start purchasing the mooring.</p>	<p>No comment.</p>
<p>Your comment was for a situation where you're transferring a boat and a mooring at the same time? That wasn't clear.</p>	<p>It says if a transferee intends to purchase an assigned vessel and doesn't have title to the vessel owned by the mooring</p>	<p>The City does not allow a boat not registered to the mooring permittee on a mooring. If there is a transfer, the City will</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>permittee and transferor at the time of transfer, within a certain period of time, they have to bring in registration documentation, etc. They have to have the vessel inspected.</p>	<p>allow time to transfer ownership of the vessel.</p>
<p>What if you're transferring a mooring with no boat? (crosstalk) boat on the mooring. We're not required to keep a boat on our mooring now? That would go on to the transferee also?</p>	<p>You have the right to transfer your mooring without a boat. Again, it's going to be the transferee's responsibility to meet all these requirements. It's a 60-day period. The transferee has 60 days to provide us with the information. No.</p>	<p>This is correct.</p>
<p>It seems like we should have language in there that says something to the effect that before a vessel goes on a mooring where you had a transfer, that vessel has to be inspected before it goes on the mooring.</p>	<p>A transfer can happen without a vessel. When the vessel is going to be assigned, it has to be inspected. If the vessel did not meet the City's standards, what would we do to the transfer? Not assign it to the mooring. The permittee still has the permit, but he can't put that boat on it. He has the mooring, but it's an empty mooring. That raises a question I can't answer. If you purchase a mooring, do you have to put a vessel on that mooring within a certain period of time? What if you're not purchasing the assigned vessel?</p>	<p>The City will inquire about the boat to be moored on the vessel. If a boat is to be purchased, the City will provide the permittee time to do so. If the boat is transferring ownership, the boat will be inspected by Harbor staff prior to approval of the transfer.</p>
<p>If I sold you my mooring and you didn't have a boat and there's no boat on my mooring, you wanted it for, say, two years down the line, the City doesn't require you to have a boat on the mooring. You can have a transfer to the new transferee, correct? That wouldn't stop my transfer?</p>	<p>I'm not sure. Before the new permittee can put a boat on it, they're going to have to go to the Harbormaster and have an inspection. Harbor Services workers see what is supposed to be an unoccupied mooring with a boat on it, they're going to note that. It's not going to stop the transfer. It's only intended to protect what boat eventually gets assigned.</p>	<p>We would not stop a transfer if no boat is on the mooring. The City would have the right to rent the mooring.</p>
<p>Some people buy moorings way in advance of their boat. There's one by me that he bought the mooring seven or eight years ago because</p>		<p>No comment</p>

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he's building a boat that will fit the mooring. He's had a 25-foot boat on it for the last ten years.		
On 2.a., why is that 60-day thing in there? If the guy buying the mooring doesn't have a boat yet, this implies he has to give you the name of the vessel within 60 days, but yet he's not required to have a vessel out there. It seems like the language is fuzzy. I think the idea was if you do buy a new vessel, you already have the mooring, you put the vessel out there, you've got 60 days to show you the documentation.	How about "prior to a boat occupying the mooring, the new permittee shall show us documentation, registration, and inspection"?	Added some additional clarifying language.
This gives the Harbormaster the right in every case for every transfer to see the vessel before it goes on the mooring. Is that correct?	Then, we can deny the vessel. That's the intent.	Yes, that is correct.
Section 17.60.040.F.2.a.		
There are two a's there. The second one is cool. The first one is kind of weird.	We need to wordsmith this.	Fixed numbering
Section 17.60.040.G.2.a		
	I think we should change "may provide written notice" to "shall provide written notice." I'm going to argue against that. My boat is currently in the yard. It was only intended to be in the yard for one week. It has now been there 45 days. I would not like to be under obligation to notify the City that my mooring was unexpectedly vacant for 45 days. It would be nice, but it's an administrative nightmare. I'll retract my suggestion.	No change
Section 17.60.040.H.7		
Hundreds of boats go south every year.		No additional changes
What about the rights of the residents that are adjacent to some of these moorings?	The moorings are going to be occupied one way or the other. The only question is can they	This section is for visiting mariners. If they are causing a

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	<p>stay here longer than 15 days. Homeowners have rights obviously if there are violation of noise or light or whatever. If there's a complaint, the Harbormaster doesn't renew the next time around. Or we pull it in advance. We have that ability.</p>	<p>problem we simply revoke the sub-permit.</p>
<p>Will these people staying 15 days or longer be required to meet that same criteria as a live-aboard? The condition of the vessel and the insurance and all that stuff. People in the C section were complaining about some boats that were there over the past winter season. They were basically derelict boats with derelict people on the boats. Yes.</p>	<p>Absolutely, certainly with respect to the dye tablet. Before they can get a sub-permit, they have to show registration and proof of insurance. He raises a good issue. If someone's going to stay in the Harbor for 15 days, should that vessel be subject to prior inspection? I would say yes. As a sub-permittee? I suggest we put in an inspection requirement if you're here longer than 15 days. I'm comfortable with that. I'm good with it. Is there really a requirement to do that? Do all the sub-permittees come here first and then go to their mooring or go to the mooring first and then come here to check in and register?</p>	<p>Yes, visitors are subject to the same rules as mooring permittees.</p>
<p>Yeah. They have to come to the dock anyway.</p>		<p>No comment.</p>
<p>That was not what I (crosstalk) in speaking with the previous Harbormaster. There are many situations where the boats went straight to the mooring and only the paperwork got processed in the office. (crosstalk) every boat that goes on a mooring.</p>	<p>That's still the case. How would they know where to go? Do they phone or email ahead and get assigned? We'll see the customer and the paperwork, but there's not a requirement or practice to bring the boat to the dock at this point. Should we add that?</p>	<p>This is an operational issue, staff will sort out.</p>
<p>Yes.</p>	<p>Our staff goes out there every single day and looks at every single boat. To perform the equivalent of a live-aboard inspection would necessitate them to come to the dock. I think that's overkill.</p>	<p>No comment.</p>

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Especially if the docks are pretty full.	Why can't you perform the same level of inspection on the mooring? I suppose we could. It just hasn't been our practice.	This is an operational issue, staff will resolve.
Part of that live-aboard inspection is you have to prove that vessel can be moved. That's why you have to bring it to the dock.		Yes.
On Number 7, the verbiage is the Harbormaster can grant a 15-day plus extension, more than 15 days. Does that have a cap or is it open-ended? They could be here for a year or two years?	We think the intention was to leave it open-ended, but it's at the discretion of the Harbormaster. He's dealing with these people because they have to come in and renew every 15 days. It's not like they go unattended. Yeah. We could put a cap on there.	Discretion of the harbormaster and the individual situation. Harbormaster has authority to revoke at any time.
I don't think so because some people have to go back home.		No comment.
It's expensive. It's like Catalina. It's not like someone's going to keep plunking it down to buy a mooring.	It could be a vessel that's broken down and waiting for a part to be ordered. It would have to stay a period of time. Seven has to do with the sub-permittee's ability to stay aboard the vessel, not about whether or not we extend beyond 15 days. It also says pending vessel inspection.	No comment.
If they're a long-distance cruiser, they have nowhere else to stay. They might be 1,000 miles from home.	I would suggest subject to an inspection, a sub-permittee may be allowed to stay aboard the vessel for a period not to exceed 15 days. If you want to stay on your boat for 15 days, we're going to inspect it just like a live-aboard.	No comment
Who starts the 15-day count?	When they get here. The first day you pay for your sub-permit. Do we want to put a cap on this? I'm good with the discretion of the Harbormaster. I'm good with the Harbormaster's discretion.	The Harbor Department staff.

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It's reasonable to let them stay if they're a good tenant. If they're not a good tenant, they should go.		
Section 17.60.040.H.9		
Is that saying I can loan my mooring to another vessel free of charge? Is there now a fee? That is?	It is not free of charge. Free of charge has been removed. Yes, sir. That goes through the City. Basically, you can't rent your mooring to a third party nor can you rent it or offer it for free.	That language has been proposed to be removed. If a mooring is vacant, the City retains the right to rent the mooring and is subject to the sub-permittee fees, rules and regulations.
Let's say I have a friend that has their boat coming. They have to go through you at the City for my mooring?	Correct. You can give them the right to use your mooring, but they're going to be treated like a sub-permittee. They're going to be inspected and pay the fee.	This would be considered a sub-permit with the City.
There used to be a 30-day free period that you could do three times a year. Is that no longer?	We found that was being abused.	This language is proposed to be removed.
I loaned one of my moorings to a friend earlier this year. He was only given 30 days. Now he can have more than 30 days? He was a live-aboard. When the 30-day time came, the Harbormaster guys came out and said he was done. He wanted to stay another month, but he wasn't paying me. I see you have the 30 days crossed out.	He can have as long as he wants, but he has to pay for it. Is he going to live aboard it or have the boat sit there?	He can stay based on the terms outlined by the sub-permittee permit.
You're saying now it's not available at all.		Correct.
If he wanted to stay another 30 days and he paid you where he didn't have to pay before because it was on loan, he could do that? Would they be charging him the same rate?	There is a 30-day limit in the Code today. There is also the right for you to loan your mooring for free. We're proposing to take out the 30-day limit. If you let someone use your mooring, they become a sub-permittee, and they have to file with the Harbormaster. They have to pay a fee for the use of that mooring. They don't get it for free. If these Code changes are adopted, you could loan your mooring for 60 or 90 days where today it's only 30.	This is proposed to be changed. Permittee's can no longer loan their moorings.

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	They would be charged the same rate as a sub-permittee.	
What's the top rate? Would this (inaudible) lower the value of all the moorings? Maybe I own a mooring because I have some friends with boats, but I want to come visit, and I no longer want to (inaudible). I feel like it lowers the value of all moorings.	It's \$1.25 a foot a night unless you have a catamaran. Then it's \$1.50 a foot a night. I don't believe that's the case, but we can agree to disagree on that.	Correct.
What's being proposed is consistent with what they do in the city of Avalon. If you're not on your mooring, they rent it, and they get the fee.		No comment
Is there a (inaudible) for dock owners? You guys are enforcing that too?	There are prohibitions against renting your residential pier to someone. If you're going to rent your residential pier to someone, you become a marina operator, and you pay a different rate for your permit. All of the homes within planned developments, Promontory Bay, Linda Island, Dover Shores, have restrictions through the homeowners association that you can't rent your dock. I'm not saying it doesn't happen.	Dock owners cannot rent their docks either.
If we went cruising for six months, we can't rent our mooring at all?	Correct. You can't rent it. A residential homeowner who wanted to rent their dock could do so, but they would have to apply to the City to become a commercial marina. There are other requirements in the Code that deal with commercial marinas. Their tidelands assessment would be significantly higher. It's not that much different than a mooring sub-permittee. They're going to pay a lot more than the mooring permittee does.	No comment.
Section 17.60.040 K.1.b.		
There's no provision that I've seen that deals with commercial activity occurring on a vessel. It is happening in this Harbor. There's	That's all happening outside the Harbor. Didn't you hear the testimony?	Harbor Department staff will address as part of code enforcement.

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fabrication, machining, welding, (inaudible), dumping. It's all happening on the F mooring field. There's slag being dumped in the Bay. There are all kinds of issues.	There are provisions in the Code. It's not allowed.	

Assistant City Manager Jacobs explained that the subcommittee will review all comments. Staff will prepare a document detailing the subcommittee's actions on the comments and suggestions. A second public meeting will be scheduled to review the comments and new proposed changes.

In response to a member of the public's comment about meeting notices, attendees discussed options for and the realities of providing notice to the public.

The next public meeting is June 24 at 6:00 p.m. at Marina Park.