

**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, June 24, 2019
6:00 PM**

Commissioner Kenney reported the review will cover proposed revisions to Sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 of Title 17 of the Newport Beach Municipal Code. Written comments do not need to be reiterated during the meeting. Comments should not focus on formatting, grammatical, or typographical errors. The Harbor Commission subcommittee will consider but may not incorporate each public comment into its final recommendations to the Harbor Commission. The subcommittee's final recommendations may be presented to the Harbor Commission in July. The public may provide comments to the Harbor Commission and the City Council.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
Section 17.40.010		
<p>If you look at the beginning of Title 17 where it gives the table of contents, under that it gives a prior ordinance history because this is not the first comprehensive update of Title 17. There was a comprehensive update in 2008. The little references are the sections, ordinances, and things that have happened since 2008. If you look through the previous ordinance history, you'll find Ordinance 89-7 was adopted in 1989, which is where this entire chapter, 17.40, came from. As you can guess from the purpose paragraph that was just read, it identified a sanitation problem that had to do with offshore moorings. The entire concept of live-aboards and regulation was confined to offshore moorings as the purpose paragraph still says. Over the years since 1989, sections have been grafted onto this that have to do with live-aboards on piers, at marinas, and so forth. The whole thing does not quite fit. To the public reading this, it's very confusing to read the purpose has to do with offshore moorings and then in the next paragraph to hear references to the things that are not moorings. I don't know what the line for that is other than I think we're taking a detailed approach</p>	<p>What I hear Mr. Mosher saying is it's more of a definitional issue. We have a preamble of what we're dealing with in this document. It doesn't speak solely to offshore moorings. We do make references to marina. Onshore references are made. Without knowing the legalese of how this document evolved and just reading that, that makes sense to me. Perhaps the purpose needs to be expanded to include all live-aboards within the Harbor. I'm not sure if I'm missing something legally by making that statement, but I agree with Mr. Mosher.</p> <p>At some point we need to take a step up and not be so focused on the details within each and every section and take a comprehensive look at the entire Code and all the sections within and how they fit together. The bigger point I hear is there is redundancy and inconsistency. Somebody should take a look at that level and clean that up.</p> <p>I think our goal is to look at the bigger picture. What is a live-aboard? What is not a live-aboard? I concur with you that the opening paragraph speaks</p>	<p>The City Attorney's office will address these issues during their review.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>here without looking at the bigger picture and focusing on little parts that are highlighted here as kind of missing that big picture. It's not fitting together still.</p> <p>There is an additional definitional problem. At the Harbor Commission meeting, you were debating a definition in another section of the Harbor Code that defined live-aboard as anybody who stayed onboard for more than 72 hours. When reading this section, if you do live-aboard, you have to have a permit. To have a permit, you have to promise that you live on your boat for a majority of the year. There is a vast gray area between 72 hours and half a year that doesn't seem to be addressed anywhere, which is part of not looking at the big purpose but looking at details in one part and details in another.</p> <p>The original purpose paragraph that we're looking at here, you see it labeled A. Before the last comprehensive update, there were A, B, C, D, E defining what the purpose was. The problem identified was the sanitation problem. The reasoning was the people on offshore moorings had no place to dispose of their waste. Whereas, those who lived at other piers and marinas could use onshore facilities for their needs. Therefore, that's what this chapter is addressing, that big-purpose problem of people with nowhere to dispose of their waste. It kind of explains the big-purpose picture of what the chapter is trying to do before the other parts got drafted onto it.</p> <p>(Crosstalk) onshore restrooms.</p>	<p>to offshore moorings, and yet we've incorporated later on in here commercial marinas. From a bigger-picture standpoint, the question was raised of are commercial marinas regulated. We didn't think they were pursuant to Title 17. Theoretically, a marina could be 100-percent live-aboards. From a bigger-picture standpoint, we're trying to address the commercial marina issue. Maybe it shouldn't be in here. In my opinion, here's where we need legal to help us. Mr. Mosher, I don't disagree with you. I would like to see this whole thing scrapped and started over. My read at the top is it's not going to happen. What we're looking at are the substantive issues and how do we address them. From a legal perspective in the end, we're going to have to rely on legal counsel to tell us how to reduce to proper wording the concepts that I think we're all approving.</p> <p>And be sure nothing is overlooked in the process. That's the important part that we're here today to do.</p> <p>In that regard, I would respectfully disagree with you. Back in 1989, there wasn't a commercial marina in Newport Harbor that I'm aware and that had any disposal facilities. Certainly a vessel that would be in front of a private home, a private dock would not have any disposal facilities either.</p> <p>But they could go use the shower at the residence. In the case of a commercial marina, they could go up and use the shore-based facilities rather than the facilities on the vessel.</p> <p>If we replace the words "on offshore moorings" with "in</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Newport Harbor," it would make the purpose much grander and provide some level of consistency across.</p> <p>I would agree with that to the extent we don't have differentiation between any of the rules or guidelines that we're making for just what Mr. Mosher speaks of. There is a different set of circumstances of offshore mooring as there is to marina mooring. As long as that overriding decision changing it to everything doesn't diminish our need to differentiate, then I can accept that.</p> <p>I like that change.</p>	
Section 17.40.50		
<p>I'm looking at all these moorings straight on (inaudible). Is that the City-owned mooring that you can live aboard or is that considered you can use it for weekends or what? These right out here.</p> <p>Are these owned by a person or by the City? These moorings right here in this whatever.</p> <p>But no one owns a mooring that is a City-owned mooring, to do whatever you want to do?</p> <p>Is that to the high standard?</p>	<p>There are two different types of moorings directly out in front. There's the regular mooring field. In order to be on a mooring there, you must be a mooring permittee. If you're a mooring permittee and want to live aboard, then you would need a live-aboard permit. There are also sand line moorings that are closest to Marina Park and that are temporary and short-term. They're for traveling boaters or yachtsmen that want to come into the Harbor. Length of stay maximum, I believe, is 72 hours. It can be extended.</p> <p>The one line of moorings is owned by the City. All the rest are also owned by the City, if you will, but they're subject to annual permits.</p> <p>In answer to your question, the mooring permittee does have the right to sell that permit. He can sell his permit, his mooring if you will, under certain circumstances.</p> <p>It typically goes to market.</p>	<p>No comment.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>The person that has the permit owns the tackle, the chain, the weight, the anchor, the float. The permittee has to keep that up. The service company has to come every two years to maintain all that so that it doesn't break. You are basically leasing that mud at the bottom of the bay, but you own the iron anchors and all that stuff.</p>		<p>No comment.</p>
<p>You own the expensive stuff.</p>		<p>No comment</p>
<p>Section 17.40.100</p>		
<p>Why twice a month? If you live there by yourself, you don't need a service twice a month. Sometimes it is twice a month, but it depends on if there's five weeks in a month. On a regular basis, I go every three weeks. A lot of people do live alone out there.</p> <p>Maybe it could if there are two or more people, then it has to be twice a month. A single person can go three weeks or once a month or whatever. You have to take into consideration the size of the holding tank.</p> <p>\$30, \$35 depending on which company you use.</p>	<p>Change it to monthly?</p> <p>For my benefit, what is the cost of a pumpout?</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>In the middle, it says the log shall be submitted to the Harbormaster. Each live-aboard permittee is required to contract with an authorized commercial pumpout service. I think the majority of people just take it over to the boathouse dock and pump it out. Isn't that adequate?</p> <p>It seems like if you take your boat to the pumpout station and do it yourself, you still have to have a contractor to sign it off?</p>	<p>We're talking about live-aboards only now.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>Some people have much smaller boats. They're easy. We wash our boats on a regular basis. We have to fill up with water. Going to the</p>	<p>How many are live-aboards that are in the audience? Three. I'm curious because we're looking for your input as well. Is this</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
pumpout dock is a regular thing for some of the live-aboards.	putting the onerous on you to have to do this?	necessary to ensure there is no dumping into the harbor.
Our holding tank is large. We go about every two to three weeks.	The idea of proposing something in this vein was that the current system is the honor system. If we can craft something with folks who are power users of the Harbor because they're residing on the water, if we could move to something that is beyond the honor system, it will support the overall goals. Are there other suggestions that could be different than this?	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
This language does not serve that. You can make me do that. I have a service, so I can prove that I do. If somebody's not going to be doing it, there is going to be the honor system with people that don't use a pumpout service.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
How about the people that go to the pumpout log it with the Harbormaster through a phone call or VHF radio call?		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
This is an honor system. There are some not honorable people up there. Even people that come in and rent moorings from the City. If you put a device on the discharge that you can check at any time, there's no need for that to ever be changed for somebody that's living aboard and saying they're not traveling around and living here and maybe doing (inaudible). There's no reason why we can't have some kind of application like that. That way, you at any time could check and see that thing's in place. It should be done with people that come in and rent moorings from the City because they are probably some of the worst abusers.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
The twister could have broken. The only problem is that people will go out fishing all the time, and they're outside the (inaudible).	We don't find that live-aboards are actually going out and fishing. I raised that issue because I thought that was the right solution. The mooring	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	association was strongly opposed to it. I would still support that.	
I don't see how else, unless you make everybody have a mandatory service do it, which I don't think is fair.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
My suggestion, they at least log it with the Harbormaster. If they're going to pump out, they call him and say, "I'm at the pumpout" or make a VHF call.	<p>That would be admin intensive.</p> <p>Do you think that's something you could handle?</p> <p>For the live-aboard community, I think we could because there are 51 live-aboard permittees.</p> <p>Those are the only ones that this pertains to.</p> <p>If we made it an "or" clause, so they either agree to use a commercial service and make the records available to the City or they agree to call us at the time they're conducting their pumpout.</p> <p>On their way, so there can be a spot check.</p>	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
There are only 51 people that are living aboard. Probably the majority of them do have a service. It's not going to be that ...		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
I just see a simple solution. First of all, most people are really good. If they have a live-aboard permit, they're not out there to abuse it. The way we've been going with an honor system is fine. At Staples for about \$2, you can get a 3x5 spiral notebook. If you have a service come by, they can sign the service or they're going to leave you a receipt. If you take it to the dock yourself, you can use the notebook. At the end of the year, you've got to renew your permit. Show them that book. At that time, you can see if it looks weird. You have to call the Harbormaster every time you have to use it?	There's a requirement of the live-aboards to keep a log now. Again, it's still the honor system.	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>I can make a log, but it doesn't necessarily mean we did it.</p>	<p>That doesn't accomplish the goal. Kurt has a good idea. We could put an either/or clause in. Either you contract with a service, and they make their records available, or you call the Harbormaster and say, "I'm on my way to the pumpout at 15th Street," and they create a log.</p> <p>I think that's reasonable.</p> <p>Do we still want the one time a month or two times?</p> <p>At that point, it doesn't become an issue, I don't think.</p> <p>Right now, I'd say a minimum of twice as the way we word it.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>If you had a visiting family of five or six on a small boat with a 12-gallon holding tank (crosstalk). If you've got boats like ours, a 50-foot, and a huge holding tank and two of us, we're out and about.</p>	<p>I would advocate for monthly. Monthly is sufficient. It's either radio in or show proof of use of this commercial service.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>Besides just you making out a book?</p>	<p>I'm with you, ma'am. I'm not a fan of the log. That's easy to do.</p> <p>I would agree to monthly on an either/or basis.</p> <p>Let's do that. We'll go monthly.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>As far as a log, how about a requirement of cell phone camera picture to go with the log because those are time-stamped for people who want to do their own pumpouts. That would be more proof for the logs.</p>		<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>You could email a photo instead of a call.</p>	<p>I would personally support contact with the Harbormaster's office. The Harbormaster can certainly make sure it's happening, and then we know. We'll go monthly, and we'll put an either/or clause.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
Section 17.40.110		
<p>Is the Harbor now at 7% capacity on the moorings?</p> <p>We're capped out right now?</p>	<p>Yes. We have a wait list currently.</p>	<p>No comment.</p>
Section 17.45.30		
<p>The boarding at any time, have you guys talked about in general how you plan to approach that? In other words, it's a little concerning thinking at midnight you can board. I know that's not going to happen. Has there been any discussion on the setup on that?</p>	<p>We have discussed it. We've debated it. There's a certain protocol that will need to be followed, but that's on the operational level. The Coast Guard has the right to board a vessel at any time. The Orange County Sheriff's Department has the right to board a vessel at any time. The purpose for boarding a vessel is to make sure that there's no discharge. Typically, if there is discharge and it's illegal, it's probably being done not in the middle of the day on a Sunday afternoon with paddleboarders and boaters going by. If you don't have a little teeth in the regulations, it's not going to do any good. We all want to clean our Harbor. We're all boaters. You're more than welcome to board my boat at any time, anywhere and drop a dye tablet. I would ask that every other boater in Newport Harbor respect the same.</p>	<p>No change to proposed language.</p>
<p>It wouldn't be routine? It would be if you suspect or see or report somebody or something like that? You're not just going to be going out boarding boats in the middle of the night?</p>	<p>As we've gone through this process, there are plenty of regulations already in the Code. We're not trying to add regulation. We're not trying to add burden. We're trying to address a few key problems. The real issue is enforcement. There has been no enforcement in this Harbor for many, many years. Now that the City has taken back the Harbor, we have the opportunity. Once the word gets out that some of these regulations are being enforced, those who are violators will realize that it's time to clean up their act. That's our hope. What</p>	<p>No change to proposed language.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>we really need obviously is more enforcement. We need our City Council to provide us with the tools we need to enforce the current regulations.</p>	
<p>When those party boats come into our Harbor, can we add a few of those dye things? I've heard that is one of the problems.</p>	<p>Any vessel that's operating for charter, a party boat if you will, must have a marine activities permit. The requirements on those vessels are much more stringent than on a privately owned vessel. To my knowledge, there aren't any commercial boats that would be a party boat and are coming into the Harbor and then leaving. They're all berthed here. As such, they're subject to having a marine activities permit. Quite frankly, we've met now with two of the major charter vessel operators. They're already adhering to all the provisions in our Code in terms of graywater and blackwater. We were actually pretty pleased with those meetings. We will be revising that section of the Code that deals with the marine activities permit as part of this process.</p> <p>Two points of clarification. There are charter boats that do come into the Harbor for short periods of time, especially around special events. They are not all berthed here. Second, the language that's being inserted in here related to the use of dye tabs and especially the boarding and the suspicion is being vetted through the City Attorney's Office. The City Attorney's Office has given great guidance on who can administer a dye tab, when, and under what procedure. It's not called out right here, but it is called out elsewhere in the Code. It has to be a Code Enforcement Officer, and it has to be with reasonable provocation.</p>	<p>No change to the proposed language.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
Section 17.50.20		
<p>In 17.50.20, the application for the Harbor development permits, it looks like a specification of what you have to supply. Is that being removed? Is that somewhere else?</p>	<p>It's all now referencing 17.05.115. Yes, it is.</p>	<p>No comment.</p>
Section 17.50.120		
<p>In the last section, about maintenance permits, is there a definition somewhere of maintenance? It's an unusual new requirement. For somebody doing maintenance, do you require a permit?</p> <p>This seems to say you need a permit for any maintenance. Even a little touch-up paint would seem to be maintenance and now requires a permit.</p>	<p>Yes.</p> <p>I believe the Local Coastal Plan provides that the City can issue maintenance permits provided that the work doesn't exceed 20 percent of the overall value of the improvement.</p> <p>Whereas minor and cosmetic in nature, painting is okay.</p> <p>Anything under 20, the City is allowed to issue the permit.</p> <p>Mr. Mosher is correct. If you're going to pull up two boards, paint them, and put them back, you need a permit for that now. If you're going to replace the finial on your pile, you're going to need a permit to repair the finial.</p> <p>I would suggest we add the words "which would require a permit."</p>	<p>This is defined in the definitions in section 17.01</p>
<p>My question is what is the threshold for requiring a permit. Is it the percentage of value you talked about or square footage?</p>	<p>I can't answer that. I believe it would be dealt with in the same manner as land-based improvements, but I can't tell you ...</p> <p>We could consult with Public Works.</p> <p>Let's get somebody in Public Works to do that for us because they're the ones issuing the permit anyway.</p> <p>I could see striking that entire first sentence. It's superfluous.</p>	<p>See Maintenance definition in Section 17.01</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	Let's get a ruling from Public Works.	
Is part of the issue standard maintenance versus a repair versus an improvement?	<p>Correct. I don't think we want to deal in Title 17 with a whole litany of repairs and maintenance items and specify which need a permit and which don't. If you want to repaint your gangway rails when you're doing the siding on your house, you don't need a permit for that. On the other hand, if you have to replace a float under your pier, maybe you do need a permit. That determination, I believe, is made in this particular case by Harbor Resources.</p> <p>Public Works.</p> <p>Harbor Resources under Public Works.</p>	See Maintenance definition in Section 17.01
If I wanted to repaint the rails on my dock, I don't need a permit. If I need to replace a few boards, I do.	To be honest, we don't know the extent of repair. If I needed to replace a plank or two on my dock, I wouldn't go ask for a permit. I would just get it done. On the other hand, if the floats underneath needed to be replaced, I would rely on my dock contractor to tell me whether they need a permit. We'll work on this. We'll get input from Public Works. By the time we come back to the Harbor Commission, we'll have resolution on this, or let's say guidance.	See Maintenance definition in Section 17.01
Section 17.60.40(B)(1)(c)		
	We talk about the multiple vessel mooring system program. It says the Harbormaster can approve that for the yacht clubs. In the definitions in the first half of this revision, we changed the definition of multiple vessel mooring system to include all the double points as well. It could be anywhere in the Harbor that you can approve it. I think this paragraph needs to be removed.	No change proposed.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Instead of removing it, we could say the Harbormaster has the authority to do this for the yacht clubs and any individual permitholder anywhere in the Harbor. I'm going to advocate for removal.</p> <p>Because it's covered elsewhere?</p> <p>The definition is covered elsewhere. The language that gives you [the Harbormaster] the authority to issue the permit is nowhere but here, but it doesn't belong here specific to the yacht club. It either needs to be broadened and moved elsewhere or removed.</p> <p>Since the Harbormaster does have the right to either issue or deny, I would propose removing the language with respect to the yacht clubs and leaving it in offshore mooring fields.</p> <p>In (B), we give him the authority to issue and then in (1) we talk about some exceptions.</p>	
I think it's an exception.		No comment
It's to give the yacht clubs a little flexibility on how they pass out the moorings. If they don't have that exception, they'll have to every single time go get a whole permit.		The yacht clubs have a master agreement with the City on the number of moorings they manage.
That's the exception to the two mooring permit limit.	<p>It was really to allow the yacht clubs to do this pilot program. The pilot program has been a success, and so we've expanded the pilot program to be Harbor-wide. It's not unique to the yacht clubs.</p> <p>If you go to the previous page where we're talking about mooring permits, Paragraph B and then Item 1 below is exceptions. Exceptions deal strictly with Balboa Yacht Club and Newport Harbor Yacht Club.</p>	No proposed changes.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Sub a, Sub b, and Sub c as such are only dealing with Balboa Yacht Club and Newport Harbor Yacht Club. From a drafting standpoint, this is correct. From an operational standpoint, you are correct. The Harbormaster should have the ability to approve the multiple vessel mooring system elsewhere in the Harbor. Then, the question becomes does that need to be added somewhere else.</p> <p>I believe so. That authority has never been granted anywhere in the Code other than right here. That in conjunction with the definitions as it used to read were consistent, but now the definition in 17.10 says you can have this anywhere you want. We need to pull this out and put it someplace else.</p> <p>I would leave the language that's currently in alone because it's under the exceptions that deal strictly with Balboa Yacht Club and Newport Harbor Yacht Club.</p> <p>They're no different than any other permitholder.</p> <p>We should add a provision that allows the Harbormaster to issue a permit for multiple vessel mooring systems elsewhere in the Harbor.</p> <p>That goes where? Back up to (A)? Why do we need to be so specific? I think it just comes out. If somebody comes to you and says, "I want to put a multiple vessel system on my mooring. I am the permitholder on G-22," you evaluate it, look at the engineering, and say yes or no, as opposed to "I want to put a Cal 40 on there." I think it just goes away.</p> <p>I'm going to change my opinion now that I've read through each</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>of these. You could put a period after "mooring areas" and delete "at Newport Harbor Yacht Club and Balboa Yacht Club" and be okay.</p> <p>I'm good with that. Let's strike "of Newport Harbor Yacht Club and the Balboa Yacht Club." That gives our Harbormaster vast powers of approval.</p>	
Section 17.60.30		
<p>This is a chapter about permits and leases. The section just before this was entitled "Pier Permits for Noncommercial Piers." Taking the big picture, structural view of the Harbor Code, it seems a little strange that in this chapter you find something about noncommercial piers. If you want to find the rules for commercial, they're not in here. Presumably, they're in some totally different section of Title 17. I have a little trouble with this not being the comprehensive section about leasing Harbor water. It covers moorings, houseboats, noncommercial piers. Nothing in here about commercial piers, which I'm sure is in Title 17 somewhere.</p> <p>I think there is a section about commercial piers, but it's in a different chapter of Title 17.</p>	<p>Why wouldn't we just take that reference to noncommercial out?</p> <p>Right. Why isn't it just pier permits?</p> <p>Mr. Mosher, I don't think there is. If we look at the very beginning, 17.60.010, public trust lands, if we go down to the last sentence that's been added, it says "this chapter applies to permits or leases for public trust lands used for commercial purposes by an entity other than the City, pier permits for noncommercial piers, and mooring permits." I believe this is language that's been added by Legal and that we just got yesterday. The intent of this language is also to cover commercial piers.</p> <p>But they didn't.</p> <p>As we go through this word-for-word, Mr. Mosher makes a good point. If we're referring to noncommercial pier permits in 17.60.30, there should also be a provision for commercial permits elsewhere or the reference to noncommercial should be deleted and they all should be lumped together.</p>	<p>Added language confirming non-commercial piers.</p>
<p>One thing to be aware of is I believe there are people who pulled commercial permits but don't own the abutting land.</p>	<p>That is true.</p> <p>How that all factors in, I'm not sure, but that's true.</p>	<p>No comment</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>The person who would be issued the permit always has to own the abutting land.</p>	<p>Commercial permits in some cases—I wish I knew the answer to this—are subject to leases with the City.</p>	
<p>It sounds like you need a whole new section for commercial piers.</p>	<p>I don't know whether this would be covered under the commercial lease. If so, I don't know that every commercial pier is subject to a lease with the City.</p> <p>That's the connection right there. If it is, then it's covered. If it's not and there are any loopholes in that, it would have to be covered here. We need to verify what is covered.</p> <p>We need clarification on that. I don't believe all commercial piers are subject to a lease, but they could be. Swales for example.</p> <p>That's County, not us.</p> <p>How about Cal Rec slips immediately north of the north side of Linda?</p> <p>That might be a private waterway or County.</p> <p>If it doesn't apply, then we leave that as a placeholder to be addressed.</p>	<p>No comment, commercial piers have leases under the public trust lands, Section 17.60.60</p>
<p>What's the significance of the date May 11, 2017? It comes up a couple of times.</p> <p>It's under the yacht club moorings only for those moorings assigned by the City within certain established mooring areas or locations prior to May 11, 2017.</p>	<p>I think that's when we established this department.</p> <p>Wasn't that July 1?</p> <p>Again, this came from Legal. We did not put this in there.</p> <p>My guess, there was an updated agreement with the yacht clubs that was dated May 11, 2017.</p>	<p>This is the effective date of Ordinance 2017-7, which added language to the NBMC that revised section 17.60.030.</p>
<p>Some tidelands adjustment in '17 at the Coastal Commission?</p>	<p>Not to my knowledge.</p> <p>There may have been a change in the rules associated with that. Prior to May 11, 2017, the yacht clubs might not have been</p>	<p>See comment above</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>allowed to acquire more moorings. At this point, if the yacht club in their wisdom wants to acquire additional moorings, they're allowed to. Prior to May 11, 2017, a mooring might have had to have been in the name of a person or a trust, not in the name of an organization. That May 11 ordinance probably allowed, in the case of yacht clubs only, an organization to hold a permit.</p>	
Section 17.60.40(F)		
<p>One of the things on a transfer, if you pick up a 40-foot mooring, you didn't want to get a boat before you have a mooring. I was under the idea right now that you don't need to have a boat to pick up the mooring. Isn't that the way it is now?</p> <p>Is this rewritten so you actually have to have a boat in waiting to go on the mooring?</p> <p>You can pick up a mooring before you have a boat. It might take you 30 days or a year and a half. In the meantime, the City could use the mooring. That's the way it is right now.</p>	<p>Yes.</p> <p>No, it's not. The only change we made deals with requests for extension. If you own a mooring and you want to extend it because you want to get a bigger boat, you have to get a bigger boat within a certain amount of time. Not a mooring per se. You can leave a mooring vacant.</p>	<p>The subcommittee did not change the regulations regarding a boat on a mooring, however did add a section on when and how a mooring extension would be approved.</p>
Section 17.60.40(H)(7)		
	<p>If you had someone pick up a mooring for 15 days, shouldn't they be subject to inspection?</p> <p>If there's suspicion of discharge, of course.</p> <p>You already have the right with suspicion.</p> <p>I don't see another reason.</p>	<p>The revisions as proposed would allow the City to drop a dye tablet in any vessel in the harbor with a sanitation device.</p>
<p>The Harbormaster may grant extensions for longer than 15 days. You have no inspections on these boats that come in. There have been many times in the past where the boats were rented for</p>	<p>The Harbormaster has the authority not to grant an extension.</p> <p>I'm with you. The issue is there are two different types of vessels</p>	<p>You cannot legally rent a mooring without first checking in with the Harbor Department and providing the necessary paperwork.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>months, never moved, didn't run, got pushed on the moorings.</p> <p>I understand that. When somebody comes and they want to rent a mooring, you don't see the boat. You don't see what it even is. I've seen boats on moorings in the past for extended periods of time that didn't run, got pushed onto the moorings. They're not going to a pumpout dock, and they're not having the service. There were several.</p> <p>That might be. I'm just saying what I've watched happen in the last few years. Boats were on moorings for a few years, and these people were living onboard.</p>	<p>that might come into the Harbor for an extended period. When I say extended period, I mean more than two weeks. One would be a cruiser that's maybe going up and down the coast. The other would be a vessel that came in and that needs service in one of the yards and may be here for a period of time. That's the argument that we heard the other night.</p> <p>I'm okay with "may," but I'm not okay with "shall."</p> <p>Here is where we get back to enforcement. They can't live aboard for more than 72 hours, or they need a live-aboard permit. We're covered there. I'm sure it happened in the past. I know it happened prior to the City of Newport Beach taking over. Please lobby your Council Members and get more funding for the Harbor Department so that we can up the enforcement. The ultimate beneficiaries, in my opinion, are you all that are doing it right.</p> <p>Your point is very well taken. It can happen the way you're describing it.</p> <p>Do we require the Harbormaster to inspect that boat before he gives them a 15-day temporary permit when something goes wrong?</p> <p>If I'm the Harbormaster and a guy says he's going to take his boat into a shipyard and he doesn't know when they can get him in, I'm going to call BS on that.</p> <p>Are you going to do it only after an inspection? How do you handle it operationally? The guy has to come to the office at some point and pay his bill.</p>	<p>If someone is there illegally, code enforcement staff will address.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>I don't have enough experience with this particular circumstance. The one example I do have is with an unnamed vessel where getting it into the shipyard became a protracted, difficult circumstance. Even collecting rent from the person became difficult.</p> <p>Let me play devil's advocate. In that particular case, would a mandatory inspection upon issuance of the first sub-permit have improved or changed that situation at all?</p> <p>I don't think so.</p>	
<p>In Avalon, you can pull up to the red boat so they know your boat's running and they get a chance to check it out. I don't know how our system works. Do they check in with one of the patrol boats on the water or do they go straight to the mooring?</p> <p>You don't have the staffing to have them meet one of the patrol boats?</p>	<p>They go straight to the mooring. We may come at a later point.</p> <p>I assume you're in radio contact with them and tell them they're going to pick up the mooring.</p> <p>Not universally at this point.</p>	<p>This is an operational issue that will be addressed by the Harbor Department.</p>
<p>They (inaudible) too because a lot of times they don't have the proper lines. It's like shoelaces tied together. It's a little scary.</p>	<p>These are all operational suggestions. The professionals within the Harbor Department can make the assessment. Writing it into the Code is not the right approach.</p>	<p>Harbor staff will review operational issues to ensure safety.</p>
<p>I think it's (inaudible) Harbormaster grant extensions only for 15 days. That gives him flexibility to adapt.</p>		<p>As proposed the Harbormaster may extend past 15 days.</p>
<p>Does the Harbormaster have the discretion to deny a sub-permit? It's in the Code?</p>	<p>Yes, because the boat has to be operable.</p>	<p>The Harbormaster has always had the authority to deny a sub-permit. This is in the rental agreement.</p>
<p>Section 1760.40(H)(9)</p>		
<p>Let's say you belong to the Cruising Club of America. You could say somebody different could come every weekend that was really the Cruising Club of America, but they're all different boats and different people. You</p>	<p>If you own the mooring, you have the ability to let someone else use it. If you do, that person or boater will be required to pay a fee to the City. You can't let somebody use your mooring for free. You can allow them to use</p>	<p>Staff response is correct.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>could do that and give them the mooring? Maybe they might feel like giving you some money.</p>	<p>it. It's like owning a mooring in Avalon. You can call ahead and say Commissioner Blank is going to use my mooring this weekend. Because he doesn't own the mooring, he has to pay.</p>	
<p>If I have a mooring and it's vacant, I could bring a friend that has a boat in Long Beach and come down. I'm not saying he's going to live on it. They could come into town and stay on the boat on my mooring for free, which I'm not using at the time, for 30 days. That's all been stricken out?</p> <p>Besides that, which I thought was just completely out of line, was the raising of the fees to rent a mooring. The daily fees went up astronomically. Are those fees still at those levels?</p> <p>I've got my friend in Long Beach who'd like to keep his boat because he lives in Newport. It would be nice for him to bring his boat here and leave it on my vacant mooring. If you had had a different pay schedule for that situation—how many boats are even renting moorings after the fees went up compared to what it was before? The fees went up by like 300 percent. It's not a dock. Is the Harbor really making a ton of money on raising those fees?</p> <p>I own the mooring, and my friend's going to pay \$350 a week. He can go to the anchorage, and that won't cost him.</p> <p>Not that many people are using this feature.</p>	<p>They can't stay on it for free.</p> <p>That's correct. That's the proposed change.</p> <p>There are two separate issues. Number 9, we struck "for free." Here's the deal. You can loan your mooring to anyone you'd like, just as you could if you owned a mooring in Avalon.</p> <p>We're a little far afield from this discussion. The fees went from \$16 per night for a 40-foot boat to \$50 per night. That is an increase of 300 percent, but it is still commensurate with other harbors in our general demographic area. That fee schedule was vetted by the City Attorney's Office and the City Council and everybody else.</p> <p>He can go to the anchorage for three days.</p>	<p>A mooring cannot be loaned for free. Once a mooring is vacant it, the City has the right to rent out the mooring, not the permittee.</p> <p>This language was removed as it is the experience of the Harbor Department, that this was being abused by a number of permittees and creates code enforcement issues.</p>
<p>Just thinking out loud. What if that was a 50 percent jump? In that case, his buddy gets a discount. The theory is the fee's pretty high right now. Who knows if it's priced right? His question is are they getting rented out. While you're playing with all this, could that be a</p>	<p>This is an item we discussed at length. The counterpoint is the mooring permittees are out there renting their moorings and taking a cut of the profit.</p>	<p>Permittees not using their moorings for more than 30 days may have their mooring rented by the City. We do not want to create an underground rental market for staying in the harbor.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>50 percent (inaudible) as far as loaning it out?</p> <p>This is a concern about people renting them out and taking ...</p>	<p>We want the people on the moorings to be boaters who own and use their boats.</p>	
<p>I'd like to clarify that the anchorages have a maximum of three days (crosstalk) five days.</p> <p>If Joe wanted to go on one of my moorings and I loaned it to him, he would have to pay \$1.25 per foot per night for his boat on my mooring, correct?</p>	<p>That is correct without a permit, 72 hours without a permit.</p> <p>Correct.</p>	<p>Staff response is correct.</p>
<p>Section 17.60.60</p>		
	<p>Here are the large commercial marinas.</p> <p>This requires a commercial marina, Mr. Mosher, to enter into a lease or permit with the City. I think Ms. Jacobs would tell us that every commercial marina has an agreement with the City. That's why they would be dealt with differently than a noncommercial pier. Don't know that for sure.</p>	<p>All commercial marinas have lease agreements with the City.</p>
<p>It looks like, in that case, the title may need a little adjustment because the title says public trust lands.</p>		<p>No change.</p>
<p>It still doesn't say commercial piers. It's in (A) actually.</p>	<p>Let's add a title, make this a bulleted, bold section that says "provision for commercial marinas."</p> <p>Let's make sure that's the case.</p> <p>How about "leases, permits including commercial marinas"?</p> <p>I want to make sure this doesn't refer to noncommercial piers because noncommercial piers are also on public trust lands.</p> <p>Is there another example besides a residential that's a noncommercial? It's either</p>	<p>The City has a defined area of responsibility for all public trust tidelands within the harbor. If you read the section, only commercial property is referred to.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>residential or commercial, or is there some other category? Previously we said residential noncommercial.</p> <p>Now, we're getting sticky. You can have a residential pier. You could have a residential dock, which is a dock that's permitted in front of a residential use, but it can be a commercial marina if the resident chooses to call it so.</p> <p>In which case, rates are different, and you have a lease, not a permit.</p> <p>I can't answer that. I think you're right.</p> <p>I'm confident in answering it that way.</p> <p>I would agree that the title is misleading. Should it say something like "commercial marinas and piers on public trust lands"?</p> <p>Okay.</p> <p>17.60.60 and 17.60.10 have the same title.</p> <p>The heading of 17.60.60 in the table of contents says Lease/Permits of Public Trust Lands.</p>	
<p>Section 17.65.40(F)</p>		
	<p>That's not right. If you go back to the bottom of page 35, it says the written decision of the Harbor Commission shall be served on the appellant within five working days after the decision. Most likely there should be a period there. It should say "the written decision of the Harbor, Public Works Director, Community Development Director, and/or Harbormaster as applicable shall be served within five working days."</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	You are correct.	
Section 17.70.20(C)		
	<p>Where did Hearing Officer come from?</p> <p>It's nowhere else in the provision, so I think it's leftover. I think we can strike that.</p> <p>There is no Hearing Officer. We got rid of all that.</p>	The Hearing Officer reference has been removed.

Commissioner Kenney advised that the proposed changes will be revised as discussed. The subcommittee will reconvene and be prepared to make recommendations for this portion of Title 17 to the full Harbor Commission. If the Harbor Commission approves the subcommittee's recommended changes or modifies and then approves the changes, they will be presented to the City Council for review and approval. The public can testify before the Harbor Commission and the City Council. The public can also submit written comments through a designated website. Commissioner Yahn added that public comments are available for review on the website.

In response to a request for the Harbor Commission's rationale for not increasing the time limit for mooring permittees to remain on their vessels, Commissioners Kenney and Yahn shared their perspectives of the Harbor Commission's rationale.

Joe Ring [phonetic] remarked that increasing the number of nights would not result in boat owners living on their boats. The problem seems to be the increase from three nights to twelve nights. Maybe something between the two could be considered.

Members of the public suggested a special permit for mooring permittees to stay aboard for perhaps seven nights or a mooring permittee contact the Harbor Office to report he will be staying onboard for four or five days.

Commissioner Kenney indicated members of the public could present proposals for some type of short-term permit to the Harbor Commission.