

Biddle, Jennifer

From: Jacobs, Carol
Sent: Monday, April 15, 2019 4:43 PM
To: Title 17 Review
Subject: Title 17 Comments

I spoke today to Mr. Tom Hynes who lives at 219 19th Street. He believes that the City has taken away a great public access when they put the “No Fishing” signs on the 19th Street dock. He would like to see fishing allowed on the dock. In addition, he would like to see enforcement on dinghy’s by chaining up boats and not hire any additional staff.



CAROL JACOBS

Assistant City Manager

cjacobs@newportbeachca.gov

949-644-3313

Biddle, Jennifer

From: Sunny Smith <sundialsunny@gmail.com>
Sent: Saturday, April 06, 2019 4:49 PM
To: Title 17 Review
Subject: Balboa island Channel

Thank you for all the fine work you do to keep our precious harbor safe and beautiful.

There is, however, one area that desperately needs your attention. That is the Balboa Island north channel. As you know, there is beachfront along the entire north bay front which makes it ideal for swimmers - many of whom are children. In summer months, there is almost a steady parade of boats - many 30' and over - motoring through the channel, down to the bridge and back. What is most frightening is that there seems to be a total disregard for the speed limit by these vessels, many of which are crowded with revelers. Needless to say, it is terrifying to be swimming around the bay only to look up to see a 25-35' power boat bearing down upon you.

We've called the Harbor Patrol numerous times but usually receive the same response: "By the time we get there, the boat will be gone."

Couldn't this channel be "off limits" to vessels over a certain size? And couldn't we occasionally have an officer ticketing those who ignore speed limits? There must be some measures that could be taken to make this lovely area fun and safe for us ALL.

Thank you again for your diligence and thank you for your consideration of this vital issue.

Sincerely;

Sunny Smith
Balboa Island Resident (24 years)

Sent from my iPad

Biddle, Jennifer

From: Sally Peterson <spete@att.net>
Sent: Monday, April 08, 2019 10:44 AM
To: Title 17 Review
Subject: 17.01.030G3

Since I am unable to attend tonight's meeting, I submit the following statement which I would hope will be entered into the discussion:

I do not feel that the current liveaboards are being monitored to prevent discharge into the bay and late night engine and generator noise. Until the City develops a plan and has sufficient staff to monitor such, the City should not extend the allowable stays by redefining live aboard.

Thank you for the opportunity to provide input.

Sally Peterson
Balboa Island Resident

Biddle, Jennifer

From: Mary Nasser <mary90403@gmail.com>
Sent: Saturday, April 13, 2019 4:54 PM
To: Title 17 Review
Subject: Harbor master meeting

I cannot attend the meetings, but I concur with those who believe large boats should not be allowed passed a certain point on the back side of balboa island.

Thank you very much,

Mary Nasser
Homeowner in Balboa

Biddle, Jennifer

From: airtimesports <airtimesports@aol.com>
Sent: Friday, April 05, 2019 10:14 AM
To: Title 17 Review
Subject: Thank you for this invitation,

1. 19th st public dock.

A. Many dinghies out in violation of 72 hr limit.

B. 19th st dock needs to be extended @ 10' into

the bay so that dinghies can make their way to the 72 hr area (back side) at low tide. Now at low tide you can not get in or out of that area.

2. Harbor use, recreational and live aboard.

A. With more and more people using the harbor each year, the key is not more restrictions, but better management.

B. mooring holders should have permits for the 72hr area at the public docks. that area should be for those permits only.

C. live aboard permits should be for 12 months,

The city should have a use permit for people like my wife and I who like many others have boats on moorings and live out of the area, and like to come to Newport and stay on their boats. I would suggest the use permit would allow 7 days per month and the boat would have to comply pump out regulations and be inspected for compliance.

Thanks again for including my input.

My family and I have lifetime residents of this great town

John and Grace Robert's. Mooring k 12

Sent from my Verizon, Samsung Galaxy smartphone

Biddle, Jennifer

From: Jim Mosher <jimmosher@yahoo.com>
Sent: Tuesday, April 09, 2019 11:48 AM
To: Title 17 Review
Subject: Title 17 revisions: there is no "Fish and Wildlife Code"

Carol,

If I ever have a chance to review Title 17 more thoughtfully, I will undoubtedly have more comments, but before I forget, there was at least one error in the [suggested correction](#) on "**handwritten page 6**" last night in the recommended changes to the definition of "Commercial Fishing Vessel" (a term used only once, in [Sec. 17.25.010.A.2](#)).

Although the California "Department of Fish and Game" *has* [changed its name](#) to "Department of Fish and Wildlife," so that change is correct, **the code** (of which it is a small part) **is still the "[Fish and Game Code](#)"**, so that name should *not* be changed.

Also, I'm not certain the specific code section referred to is the one intended. [FGC Sec. 7880](#) has to do with the *display* of the registration number.

The actual process of registering a vessel for use in commercial fishing is in [FGC Sec. 7881](#), and that seems more likely what was intended.

However, I'm not sure registering a vessel ensures one has the "permit" that seems to be referred to at the end of the definition. Commercial fishing licenses are covered in FGC [Secs. 7850 et seq.](#)

Unrelated to the above, I was also surprised by the suggested changes to the sentence on handwritten page 12 saying "*Vessels may extend channelward of the pierhead line by the maximum beam of the vessel.*" It seems to me that is the statement of a *regulation*, and has nothing to do with *defining* what a "pierhead line" is. I would hope the allowable amount of overhang is dealt with elsewhere. So rather than trying to revise that sentence, I would have deleted it (making sure overhang *is* dealt with in the "Berthing" regulations -- specifically [Sec. 17.25.020.C](#)).

Finally, as I expressed to the Harbor Commission at their last meeting, I am a bit disappointed in the decision to bring the revisions to the City Council in two parts, which precludes the possibility of comprehensively rearranging Title 17 as a whole into a more logically organized and readable form.

It also means the Council will be asked to approve some of the definitions before considering the code in which they are used.

-- Jim Mosher

Biddle, Jennifer

Subject: FW: Phone message - input for Title 17 meeting regarding live-aboards

From: Oborny, Shirley

Sent: Friday, April 5, 2019 5:50 PM

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

Subject: Phone message - input for Title 17 meeting regarding live-aboards

Hi Carol,

Mr. James Woodworth called to leave his input. I asked him if he was attending the meeting and he said he was; however, the last time he stood up and spoke out against live-aboards, they keyed his car and did some other damage to his property.

He lives at 15th and Bay. He also owns three moorings. He is against live-aboards for the following reasons:

- He feels about 70% of them are not good people; and
- They're one step away from being homeless, which brings about the same kinds of issues with the homeless – more thefts in the neighborhood, scavenging through the trash, leaving litter on the docks, drug dealing, etc.

If you need to reach him his number is 949-903-2628.

Thanks Carol,

Shirley Oborny

Executive Assistant to the City Manager

City of Newport Beach

100 Civic Center Drive, 2nd Floor, Bay E

Newport Beach, CA 92660

949-644-3001 Office, 949-644-3020 Fax

www.newportbeachca.gov

Biddle, Jennifer

From: Heidi Hall <hhatcl@outlook.com>
Sent: Tuesday, April 02, 2019 10:27 AM
To: Title 17 Review
Subject: 17.30(b)

Dear Harbormaster,

I am unable to attend the meeting, but I do have a concern that is extremely important and should be addressed at your meeting. It impacts the lives of people swimming, kayaking, paddle boarding, and generally enjoying the inside channel around Balboa Island. I have lived on Balboa Island for 50 years.

As a child we would swim out in the channel beyond the buoys between the offshore moored boats off Collins Avenue and South Bayfront. We knew we were safe swimming in the inside channel because the larger boats were restricted to come down that channel. We would swim for hours and play on our old surfboards, seeing how many people we could fit on one and still stay afloat until we tipped the scales and all fell off laughing and coughing up water. We played on blow-up rafts and just floated with our eyes closed holding on to the other rafts in tandem. We played sponge tag and while we warmed ourselves in the hot sand, we watched our mothers, aunts, neighbors and grandmothers swim out to the channel so they could just float together and talk beyond our ears. We did this for hours on end every day in the summer and late spring.

As the year progressed the larger boats started encroaching on the inside channel. I am not sure when that restriction was no longer enforced. As I and hundreds of others paddleboard around the Island, we are constantly subject to the larger boats looming down on us and to be honest, most of them are not even paying attention to what and most importantly who is on the water in front of them. I've seen some close calls where boats have had to either slam it in reverse suddenly or veer off to avoid running over a small children who were playing in the water in front of their vessel. You use it every day and especially on the weekends. That happens a lot with these rented Duffy's as well. You've probably witnessed these incidents yourself when you are out enjoying the water.

These hazardous situations can and should be easily avoided; as well as a law suit to the City. Many big, and I mean 30' – 60' boats cruise through the inside channel every weekend when most of the human activity is in the channel.

Boats use to only be allowed in the inside channel if they were going to or leaving their moorings. Let's be a smart and pro-active City and make the inside Channel all the way around the Island safe for the hundreds of children, youngsters, teens and adults to enjoy again without fear of being run over by an skipper not paying attention and potentially and realistically being impacted with the reality of on oncoming propeller. A reality each party will have to live with for the rest of their lives, and you too.

The courtesy of a reply is requested. Thank you for your consideration.

HIS,
Heidi Hall
949-285-1145
hhatcl@outlook.com

Courage does not always roar. Sometimes it is a quiet voice at the end of the day saying, "I will try again tomorrow". May
Ann Radmacker

Biddle, Jennifer

From: Buzz <buzzlaw@buzzperson.com>
Sent: Monday, April 01, 2019 8:25 AM
To: Title 17 Review
Subject: typos.. or little fixes...

Do you mean "LoA" in 17.01.030 R.2. I have always seen it as "LOA."

The added language to 17.25.10 C.1.f needs to be cleaned up a bit....

vessels tied up or secured in marked areas designated for **either twenty-four (24) hours or seventy-two (72) maximums** may not continue to use that same dock area beyond those established periods by relocating

Perhaps with "either twenty four (24) hour or seventy two (72) hour maximums."

Biddle, Jennifer

From: Atef Rafla <araflamd@gmail.com>
Sent: Thursday, March 28, 2019 8:23 PM
To: Title 17 Review
Subject: Comments on Title 17

Please do something about the eye soars of the abandoned boats and the non maintained boats that are occupying different moorings , obviously owners don't care , so city has to confiscate and get rid of them at owners expense its a health and environmental hazard along with giving /Newport harbor a bad reputation and

ATEF RAFLA MD

2019 TITLE 17 HARBOR UPDATE PUBLIC COMMENT

BY BRIAN H. OUZOUNIAN

1222 E. BALBOA BLVD., BALBOA, CA 92661

310-466-7960

EMAIL:brian.oci@sbcglobal.net

04-08-19

-REVIEW AND REVISE MOORING RATES TO BE IN LINE WITH STATE LANDS COMMISSION STATE SURVEY. I HAVE THE DOCUMENTS FOR YOU IF DECISION MAKERS AND I COULD MEET TO DISCUSS MY FINDINGS. CURRENTLY THE STATE LANDS COMMISSION SURVEY SHOWS \$.337/SF AND WE AS A CITY ARE OVERCHARGING IN THE DOUBLE DIGITS. BECAUSE NEWPORT BEACH IS AN AFFLUENT AREA THERE SEEMS TO BE A PERCEPTION THAT WE ARE ENTITLED TO CHARGE MORE BUT THIS IS AN INCORRECT PERCEPTION. THE SLC HAS THE DUTY TO ASSURE THAT NO HARBOR OVERCHARGES THE CALIFORNIA BOATING PUBLIC NOR GIFTS THEM RATES BECAUSE THE RATES ARE TO BE "FAIR" UP AND DOWN THE STATE. A RETRO CORRECTION (CREDIT) SHOULD ALSO BE MADE FOR THE OVERCHARGING THAT HAS TAKEN PLACE. THE CITY COUNCIL VOTE A FEW YEARS AGO THAT WAS A POLITICAL VOTE, NOT ONE BASED UPON FAIRNESS.

-HARBOR USERS THAT CREATE WAKES IN THE HARBOR, ESPECIALLY RENTAL VESSELS, DAMAGE PRIVATE PROPERTY AND DOCKS. MORE PATROL AND VIOLATIONS WRITTEN ARE NEEDED, ESPECIALLY EAST OF THE FERRY TO ALL OUTBOUND AREAS PRIOR TO THE JETTY. RENTAL WAVERUNNERS SHOULD BE DIRECTED TO USE THE MAIN CHANNEL FOR OUTBOUND AND INBOUND TRAVEL, WHEREBY REDUCING EXCESSIVE WAKES ON PRIVATE DOCKS. IMPROVEMENT OVER THE WAKE PROBLEM IS NEEDED DURING THE TWO PARADES, 4TH OF JULY AND CHRISTMAS AS TO WAKE MANAGEMENT AND SUMMER MONTHS.

-RELOCATIOTN OF THE WHITE SEA BASS PEN. THIS WAS SUPPOSED TO BE TEMPORARY BUT HAS "SQUATTED" PERMANENTLY IN THE PRESENT LOCATION IN THE "A" MOORING FIELD.

-RELIEF IS NEEDED FOR THE DREDGING FOR BAYFRONT HOMEOWNERS THAT PERIODICALLY NEED TO HAVE DREDGING OF SAND TO SUPPORT STRUCTURAL BULKHEADS FRONTING THE HARBOR AND TO ALSO LOWER THE SAND LEVEL FOR VESSELS IN THE DOCKS TO KEEP THEM ABOVE THE RISING BOTTOM. THE NOBLE PRIVATE DREDGERS COMPLAIN ABOUT THE PROCESS CONSTANTLY AND THE COST TO THE BAYFRONT HOMEOWNER IS EXCESSIVE DO TO A BURDENSOME PERMIT PROCESS. THERE HAS TO BE A PARTNERSHIP OR MAYBE THE DREDGING IS SOMETHING THAT THE CITY SHOULD UNDERTAKE FOR THE HOMEOWNERS.

-AS TO DOCK REPAIR AND REPLACEMENT, THE SYSTEM IS A HUGE BURDEN BOTH IN COST AND SCHEDULING. MY RECENT REPLACEMENT TOOK 3.5 YEARS TO PROCURE. BETTER ASSISTANCE IS NEEDED FOR PRIVATE PROPERTY OWNERS TO IMPROVE THEIR DOCKS AND WATERFRONTS

-VACANT MOORINGS ALLOW FOR MORE VISITORS ACCESS TO MOORINGS. THERE SHOULD BE A LOWER FLAT RENTAL RATE FOR PERMITEES THAT HAVE LONG TERM VACANCY DUE TO VESSELS OUT TOURING OUR COAST OR OTHER DESTINATION. A SYSTEM OF CHECKING IN AND OUT WOULD BE ENVISIONED.

Comments on May 6, 2019, Title 17 Review

These comments on the Harbor Commission's [review by committee](#) are submitted by: Jim Mosher
jimmosher@yahoo.com , 2210 Private Road, Newport Beach 92660 (949-548-6229)

The presentation of the results of the April 8 public meeting in the form of a [transcript listing public comments and committee responses](#) provides an excellent record of the public portion of the process, which is very clear even to those who were not able to be present. The disclosure of the committee's subsequent private review of the comments is less satisfactory, with the logic and discussion that led to their recommendations rarely being obvious.

Regarding the specific topics listed in the transcript and their subsequent handling in the [proposed revisions](#):

Applicant definition

This definition has gone from bad to worse.

At the April 8 public meeting, the committee questioned the purpose of the final phrase "as defined further herein," which in the original definition appeared to apply to the word immediately preceding it ("*person*"): a word that is, indeed, further defined in Sec. 17.01.030.M.4 (very broadly, including "*any legally recognized entity*").

"as defined further herein" might, arguably, but a bit less plausibly, have also been intended to apply to the words "*business*" and "*vessel*," since the code offers separate definitions of those.

With the committee's original insertion of "*applying for any permit in or on Newport Harbor*" it now appears to apply to the term "Newport Harbor"

Whatever the intent, the purpose of the definition is unclear, since the persons who can qualify as applicants are presumably intended to vary with the kind of item being applied for.

I suspect (though I have not exhaustively checked) that the term is used only in connection with the issuance of permits, so I would suggest this simplified version:

"3. Applicant. The term "applicant" shall mean a person applying for a permit under this title."

or better:

"3. "Applicant" means a person applying for a permit under this title."

with an understanding that each subsequent section of Title 17 defining a permit will specify who is eligible to apply for it.

If that is not acceptable, I would suggest deleting the phrase "*as defined further herein*," although that still leaves a grammatically tortured sentence of uncertain intent: for example, is it trying to say an "owner" is an "applicant" for purposes of Title 17 even if they *aren't* the person applying for the permit? If that *is* the intent, it needs to be explained in understandable language, not in a convoluted sentence whose meaning would have to be interpreted by a court.

Fairway definition

The attempt to apply the definition of “Fairway” to mooring areas has introduced what looks like an unintended grammatical inconsistency between plural (“slips”) and singular (“mooring”).

More importantly, I am unable to picture how the definition is intended to be applied to mooring areas, including those with single-point buoys. An illustration showing the area designated as the fairway would be helpful.

At least equally importantly, the term “Fairway” does not seem to be used in Title 17. So what is the purpose of the definition?

Graywater definition

It looks like the committee has added the word “interior” (highlighted in yellow) to Sec. 17.01.030.G.2.

Grammatically, I believe the insertion should read “... any portion of the **interior of a** vessel, ...”

Whatever its definition, at present the term “graywater” does not appear to be used anywhere in Title 17. Since the definition is presumably being added with an intent to impose some kind of regulation on it, the appropriateness of the definition is difficult to assess without knowing what that regulation might be.

Houseboat Definition

The “Subcommittee Review” column says *“this is a definition only. No other reference in the code.”*

The latter conclusion is incorrect. Houseboats and activity on houseboats is prohibited in NMBC Sec. 17.60.050 (Houseboats).

So the definition matters.

Marina definition

I do not understand why the comment was rejected. Is the marina at Marina Park a marina?

Mono Pile definition

The term does not seem to be used in Title 17. What is the purpose of the definition?

Pierhead Line definition

I continue to believe the final sentence doesn’t belong in the definition. It describes a regulation stated elsewhere in the code.

Sub-Permit definition

The revised definition does not fit the grammatical pattern of the other definitions, and it now defines a sub-permit as a sub-permit. This needs work.

Vessel Length/Width definition

Definitions of two distinct terms have been confusingly combined in a single listing. Since “Length” and “Width” have no obvious connection, they should appear as separate listings. Even then, they need work grammatically.

In addition, on page 12 of [“FINALTitle17Version4second.pdf”](#), the definition of “Vessel Owner” has become item 1 in a new subsection “S”. It should be Item 3 of subsection “R. Definitions: V.” followed by a subsection “S. Definitions: W.”

Section 17.20.10.A

Similarly, on page 18, Chapter 17.20 begins with a Section 17.20.010 (Vessel Launching and Hauling) mislabeled (in red) “Section 17.20.020.”

In subsection B.3, what is “*Only human powered vessels or watercraft*” intended to mean?

“*every description of watercraft*” is already included in the Title 17 definition of “*vessel*”. Does human-powered modify only the first term? Or both? Does this now prohibit the hand-launching of a small boat, such as a Sabot, if it is subsequently operating by anything other than human power (rowing)?

Section 17.20.20.B.2

The phrase adding human-powered vessels to the others permitted in the Grand Canal could be tacked on more gracefully.

Note: the words “*having charge or possession of any vessel shall*” are missing from the sentence that ends at the bottom of page 19 and begins again at the top of page 20.

Section 17.25.10.C.f

The notation that this is under review seems to have been omitted.

Section 17.25.20 Sea Lions

The notes indicated someone was awaiting input from the Mooring Association. It is not obvious if that input was received or what it was.

General Comment

Regarding the revision process as a whole, I remain concerned about Title 17 being revised in two pieces, when a broader reorganization would seem beneficial. For example, Title 17 has a Chapter 17.60 titled “Harbor Permits and Leases,” yet permits are covered in many other chapters, including 17.10 (Marine Activities Permit), 17.50 (Harbor Development Permits) and 17.55 (Dredging Permits). Meanwhile, the permit needed to moor does not seem to be mentioned in Chapter 17.25 (Berthing, Mooring and Storage), but a live-aboard needs a permit that is explained only in the Chapter 17.40 (Live-Aboards). And the permit needed for a commercial pier seems to be in a different place from the one needed for a non-commercial pier (and not mentioned there). This does not seem logical or easy to navigate. But the problem could only be corrected by a complete re-organization of the title.

From: tomiovenitti@gmail.com
To: [Title 17 Review](#)
Cc: [Borsting, Kurt](#)
Subject: RE: Opinion title 17
Date: Tuesday, April 30, 2019 1:58:55 PM

Correction: Last sentence is Title 17 not Title 1

From: tomiovenitti@gmail.com <tomiovenitti@gmail.com>
Sent: Tuesday, April 30, 2019 1:57 PM
To: title17review@newportbeachca.gov
Cc: kborsting@newportbeachca.gov; tomiovenitti@gmail.com
Subject: Opinion title 17

Title 17 suggestions for consideration:

From:

Tom Iovenitti
1425 W Bay Ave
Newport Beach, CA 92661
949-887-0128

17.25.10 (C1- a through f)

Add/Modify/Include:

(g) For purpose of access by mooring permit holders, use of the public pier and overnight stay beyond the posted colors as designated above section (g) (to be added) in 17.25.10 (C1 a through f) of 72 hour regulation, (# TBD) long term dock permits per public pier, are available for purchase through the City Harbor Department (Cost TBD) in the amount of \$ XXXX issued for 12 months on the anniversary date and renewal of mooring permits, for ONE (1) access vessel, motorized or not, no greater than 9.5 ft in length, in serviceable condition, registered with the DMV including current annual license tags and numbers affixed to the vessel, with proper insurance on file with the NBHD, including affixed to the vessel the issued permit in a designated area (TBD) on the vessel, to be used in conjunction with other water related uses in Newport Harbor for access from a public

pier to the associated mooring. Those vessels not in compliance shall be subject to 17.25.10 (C1 a through f) as outlined in Title 1

Comments on May 6, 2019, Title 17 Review

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May 14, 2019

Ms. Carol Jacobs
Assistant City Manager
City of Newport Beach
100 Civic Center Drive
Bay 1B-D
Newport Beach, CA 92660

Re: Municipal Code Title 17 Update(s)

Ms. Jacobs,

I attended the ad hoc committee meeting last night regarding pending revisions to Title 17 of the municipal code ("Code"). Prior to attending the meeting, which I only recently became aware of through word of mouth, my knowledge of the Title 17 Code revisions effort was that the Harbor Commission was to focus the Code update to clear redundancies and to direct enforcement authority of the Code from the Harbor Resources Department to the newly formed Harbor Department and the Harbormaster. To my surprise I now understand that some of the revisions being discussed include the granting of additional overnight use to all of the mooring permittees (from 3 to 12 nights) and the additional residential entitlement to commercial marinas for live aboard use. As there seems to be a substantial increase of the Committees scope and the impact of its decisions, I have some follow-up requests. They are:

Notices and the Brown Act: Can you please send me the notice(s) of the meeting ("Meeting Notice(s)") which were provided to those impacted by Title 17? Can you identify all the manners in which Notice(s) were provided? Could you send me the list of those provided Meeting Notice(s)? By example I recently received a notice for the "Snowy Plover" Community Meeting [below], which is scheduled a week in advance on the same day, same time and same location. FYI, this meeting notice was mailed on the 11th of May, or 9 days prior to this meeting. Were similar Notices mailed for the previous two Title 17 meetings? In this regard please send me all of the communication, as a matter of public record on any and all meetings internal or with the general public regarding Title 17.

Commercial Marina Leases/Contracts: Based on last nights meeting, there appears to be some ambiguity amongst the Commissioners and City staff present regarding existing leases or contracts with commercial marinas as if relates to the permissibility of live aboards within commercial marinas. Has the City Attorney reviewed these leases and prepared a legal opinion on the matter of live aboards in commercial areas as provided by the existing leases or contracts? If so can you provide me with a copy of that opinion?

Residential Permit Expansion EIR/CEQA: It appears that the City is attempting to increase overnight use of moorings by mooring owners from 3 to 12 nights; this is a 300% increase in potential use. Furthermore it appears that the Committee intends to formalize and memorialize the right within Title 17 of residential live aboards in commercial marinas. It further appears that the Committee intends to out a cap on live aboards within commercial marinas of 7% of the total

square footage of the marina. When pressed to give an estimate of how many slips that additional entitlement might apply, no one on the Committee could provide me with even a rough estimate. It appears to be currently unknown how many commercial slips might be permitted/entitled by the expansion of residential live boards into commercial marinas. Consequently it is then currently unknown what impacts this change in the Code might have to parking, traffic, water quality and surrounding commercial uses.

Has the City Attorney reviewed the matter and determined whether these changes might trigger the preparation of an Environmental Impact Report ("EIR") to review the impacts of traffic (parking and ingress and egress) noise (generators) and water quality impacts. Further has the City determined that a failure to prepare the necessary studies to make these changes to Title 17 may be a violation of the California Environmental Quality Act (CEQA)?

California Coast Act/California Coastal Commission: Has the City contacted the California Coastal Commission for review, input and approval of the changes to the municipal Code being discussed by the Committee? Has the Coastal Commission been notified that that Committee is attempting to change the Code such that it is granting additional overnight usage of moorings by mooring permittees from 3 to 12 nights, a 300% increase? Has the Coastal Commission been notified that the City intends to grant an unknown residential live aboard entitlement within commercial marina's within Newport Harbor? Has the Coastal Commission been notified that no specific studies have been completed, if this is a fact, which address the impacts of the changes to the Code on the residents, traffic, parking, access and water quality?

Conflicts of Interest: At the meeting last night Commissioner Blank confirmed that he owns a mooring and in fact is a mooring permittee. Some of the changes Title 17 being discussed, changes which Commissioner Blank has had significant input and will vote on as a Commissioner (specifically the 300% increase in overnight usage by mooring permits) will have a substantial net economic benefit to those who own moorings in the harbor. Has the City Attorney reviewed these facts and determined that no conflict as it relates to Commissioner Blank's ownership of a mooring and his substantial role in pushing forward this 300% increase? Has the City Attorney reviewed whether Commissioner Blank should recuse himself from the vote and resign from this ad hoc committee?

Existing Illegal Live Aboard Moorings: A question was raised as to the removal of "Wild Waves" from its Mooring in the F field. There was a discussion as to whether this matter had been fully adjudicated by either the Superior Court. The Commissioners clearly believed the permittee still had the case under appeal and that the City had been estopped from taking any further eviction action against the permittee. You indicated this issue "*has been*" fully adjudicated and that the Wild Wave permittee had exhausted all appeal and has no further legal recourse to prevent the City from evicting the permittee from the Harbor. When did this occur, on what date? You indicated this matter was under review by the City and the Harbormaster. Does the City or Harbor Department lack the means or the political will to enforce the illegal occupancy Wild Wave? I would like a full update on the Wild Wave situation.

On a personal note, I simply do not believe that the Harbor Commission should be adding additional entitled use(s) to the mooring and commercial marinas if the Harbor Department lacks

the knowledge, skill and personal to manage the existing entitlements provided in Title 17. The continued existence of Wild Waves showcases the Departments paralysis as it relates to evicting the permitted (and other illegal live aboards, without permit). The continued occupancy of Wild Waves in Newport Harbor clearly shows that the Harbor Department has a long way to go before it can take on additional responsibilities, which would surely result if the Committee's recommendations as to the Code were allowed to stand.

I would sincerely appreciate responses to these very important questions in a timely and thorough manner. I can be reached at tlebeau@accretiverealty.com or (949) 633-5154.

Thank you,

Thomas LeBeau
Newport Harbor Resident
1324 E. Balboa Blvd
Balboa, CA 92661

cc Daine Dixon (ddixon@newportbeachca.gov)
Aaron Harp (aharp@newportbeachca.gov)
Paul Blank (pblank@newportbeachca.gov)



Western Snowy Plover Community Meeting



**Join us for a presentation of the revised
Western Snowy Plover Management Plan
for East Balboa Peninsula Beaches**

MONDAY, MAY 20, 2019

6 P.M. TO 7 P.M.

**MARINA PARK—EVENT ROOM (SECOND FLOOR)
1600 W. BALBOA BOULEVARD
NEWPORT BEACH, CA 92663**

City of Newport Beach
Community Development Department
Planning Division
100 Civic Center Drive
Newport Beach, CA 92660
949-644-3200

For more information, please visit
<http://www.newportbeachca.gov/snowyplover>
or contact Gregg Ramirez, Principal Planner
gramirez@newportbeachca.gov
949-644-3219

From: Tom LeBeau
To: [Jacobs, Carol](#)
Cc: [Harp, Aaron](#); [Blank, Paul](#); [Dixon, Diane](#)
Subject: Re: Title 17 Municipal Code Revisions
Date: Tuesday, May 14, 2019 1:27:53 PM

Thank you Ms Jacobs.

Sent from my iPhone

On May 14, 2019, at 1:22 PM, Jacobs, Carol <cjacobs@newportbeachca.gov> wrote:

Mr. LeBeau, thank you for your email. I have received your request and will provide a response as soon as possible.

<!--[if !vml]--><!--[endif]-->**Carol Jacobs | Assistant City Manager | City of Newport Beach**

100 Civic Center Drive | Newport Beach, CA | 92660

cjacobs@newportbeachca.gov | Phone: (949) 644-3313 | Fax: (949) 644-3020

From: Tom LeBeau <tlebeau@accretiverealty.com>

Sent: Tuesday, May 14, 2019 1:06 PM

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

Cc: Harp, Aaron <aharp@newportbeachca.gov>; Blank, Paul

<pblank@newportbeachca.gov>; Dixon, Diane <ddixon@newportbeachca.gov>

Subject: Title 17 Municipal Code Revisions

Ms Jacobs,

Please see the attached letter.

Thank you.

Tom LeBeau



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3001 | 949 644-3020 FAX
newportbeachca.gov

DELIVERED VIA EMAIL

May 21, 2019

Mr. Thomas LeBeau
1324 E. Balboa Boulevard
Balboa, CA 92661

Dear Mr. LeBeau,

Thank you for your letter dated May 14, 2019, requesting information on a number of issues regarding the harbor and the update to Title 17 of the Municipal Code. I think it is important that I share with you that there has been no decision on any change to Title 17. These are concept meetings to gather input and all community input is welcome. I will be sharing your letter and my response with the Harbor Commission and it will become part of the public record. Your opinions on this topic are very valuable and I appreciate the time and effort you have taken to share your thoughts on this very important subject. I have responded in the same manner in which you have outlined in your letter to ensure I respond to each of your concerns.

At the February 13, 2018 City Council meeting, the City Council received a report from the Harbor Commission regarding their 2018 goals and objectives. Object 4.1 States: "Review and update City Municipal Codes, Title 17, Harbor Policies 1-5 and Marine Activities Permits". The staff report can be found here: <http://ecms.newportbeachca.gov/Web/DocView.aspx?id=1263357&page=1&searchid=50ce432d-2041-4f7f-ba6f-0a5dea719bec&cr=1>. The minutes of the meeting can be found here: <http://ecms.newportbeachca.gov/Web/0/doc/1273994/Page1.aspx>. The City Council specifically asked the Harbor Commission to review Title 17 in its entirety.

Notices and the Brown Act.

The City communicates in a variety of ways, trying to reach our residents. As explained in greater detail below, a subcommittee comprised of less than a majority of the Harbor Commission, is receiving public input on Title 17 revisions. These stakeholder meetings for the review of Title 17 are not Brown Act meetings and do not fall under the same requirements as the Brown Act. However, I want to reiterate that any and all revisions to Title 17 will be vetted at public meetings before the Harbor Commission and City Council.

We encourage residents interested in a subject area to subscribe to our e-notifications. You can subscribe here: <https://www.newportbeachca.gov/government/open-transparent/sign->

[up-for-enotification](#). You may choose the Harbor Commission and you will be notified of all information regarding the Harbor Commission. Per your request, Attachment 1 is a list of all of our public outreach efforts for these meetings.

Commercial Marina/Leases and Contracts.

At the meeting, the subcommittee asked the staff to investigate further what information is contained in the City's commercial leases and permits. I have verified the following information. The City has nine commercial marina leases, and 52 commercial marina permits, for a total of 61 properties subject to the commercial marina program. There are six other commercial tidelands leases that existed prior to the commercial marina program going into effect, and they don't have the same form lease or terms and conditions – Balboa Bay Club, American Legion, etc. All leases require the tenant to comply with the municipal code, but is otherwise silent on any specific provisions related to live-aboards.

The City Attorney is required by our City Charter (Section 421) to sign all leases and contracts. His signature indicates the contract and lease is acceptable from a legal standpoint to the City. There is no specific legal opinion on this matter.

Residential Permit Expansion EIR/CEQA

I think it is important that I explain the Title 17 review process and hopefully this will help answer your questions regarding EIR's and CEQA.

The Harbor Commission subcommittee with the approval of the Harbor Commission and the City Council embarked on a process to update Title 17. The process has been established in the following manner:

1. The subcommittee reviews the code and based on their knowledge of the harbor community propose changes.
2. The subcommittee hosts community meetings at Marina Park to gather community input.
3. In order to effectively manage the process and to try and not make a meeting go on for hours, the subcommittee separated the review into three sections: On April 8 and May 6 the community reviewed the following sections: 17.01, 17.05, 17.20, 17.25, 17.30, and 17.35. The meeting on April 8 was to review the suggestions by the subcommittee and gather community input. The meeting on May 6 was to return to the community and review those items that the subcommittee and community had suggested and discuss those changes.
4. The second round of review began on May 13 and continues June 24 following the same process as above. The sections to be reviewed are: 17.40, 17.45, 17.50, 17.55, 17.65, 17.70 and a new section on mooring extension requests. The third review will be section 17.10 and no dates have been scheduled for the public as of yet.

5. Once the community meetings are completed, the subcommittee will provide a list of recommendations to the full Harbor Commission. I would expect lots of great discussion and would hope that everyone who has an interest in this topic will let the Harbor Commission know their thoughts.
6. The Harbor Commission will make recommendations to the City Council. At a City Council meeting, the City Council will receive public comment and, based upon all of the input received, approve, deny or modify the recommendations of the Harbor Commission, which will be incorporated into the Municipal Code.

The City Attorney's office has been working with staff as we go through this process. Prior to any of this going to the Harbor Commission, the City Attorney's office will review for compliance with the California Environmental Quality Act.

As we noted in the meeting, staff and the subcommittee need additional information on the status of live-aboards in commercial marinas. I believe the purpose of the provision is that the current leases are silent as to live-aboards and the subcommittee was attempting to limit the amount that could be in a marina. As a follow up the City has nine commercial marina leases and 52 commercial marina permits. There are an additional six other commercial tidelands properties that existed prior to the commercial marina going into effect, and they have separate terms. All lessees and permittees are required to follow the Newport Beach Municipal Code. The leases and permits are silent on the issue of live-aboards and staff has not had a complaint about this in the past.

Nothing that the subcommittee has discussed has been approved; the meetings are only to gather input. They are strictly a working group to provide suggestions to the full Harbor Commission who will then provide recommendations to the City Council.

California Coastal Act/California Coastal Commission

The City has adopted its Local Coastal Program and the Coastal Commission would only need to review the revisions to Title 17 if the proposed changes are inconsistent with the City's Local Coastal Program. Prior to implementation of any changes, our Community Development Department will review the changes and determine if the changes are consistent with the City's Local Coastal Program and if the changes require review by the California Coastal Commission.

Conflicts of Interest

Commissioner Blank is a mooring permittee; however, your perceptions regarding his conflict of interest are not accurate. From a staff perspective, I have personally been involved in every discussion with the subcommittee on Title 17 revisions. Commissioner Blank has recused himself from those discussions every time the issue has come up. The document we reviewed at the May 13, 2019 community meeting was not created by the Title 17 subcommittee, but by another Harbor Commission subcommittee. This discussion did come up at a prior Harbor Commission meeting and Commissioner Blank did recuse himself from that discussion as well as the discussion on May 13, 2019.


Existing Illegal Live-Aboard Moorings

The Wild Wave was issued a mooring by the Orange County Sheriff's Department in March of 2015. The history of the City's interaction with the Wild Wave and the process for revocation was discussed at the Harbor Commission Meeting of September 12, 2018, the entire report can be found here:

<http://ecms.newportbeachca.gov/Web/Browse.aspx?startid=691513&cnb=BoardsCommissions&dbid=0>. The report is 287 pages long and the staff report starts on page 13. An abatement warrant was issued on the Wild Wave on May 15, 2019 and the Wild Wave was moved off of mooring F-14 on May 16, 2019 to a City owned mooring in the A mooring field. As you are aware, over this last weekend, staff is making arrangements to have the vessel moved again so as not to disturb residents. That is anticipated to occur this week, weather permitting.

I appreciate your comments and concerns regarding the ability of the Harbor Department, and your concerns that we may have a long way to go until the Department can take on additional responsibilities. All new programs take time to develop and we continue to strive to provide the highest level of customer service to the residents of Newport Beach.

Sincerely,



Carol Jacobs
Assistant City Manager

Attachment 1: Documentation of Public Outreach Notifications

cc: City Council
Harbor Commission
Grace Leung, City Manager
Aaron Harp, City Attorney
Kurt Borsting, Harbormaster

Physical Advertising

- A-Frame Signs at the following Public Docks: 19th Street, 15th Street, Washington Street, Fernando Street, Coral Ave

City Webpage

- Promoted on the City's web homepage under News and Events
- Each event is on City Calendar
- Each Event had a City News Story; Story was also e-blasted to all users who signed up for General New, PIO News Releases, Harbor Commission updates
- Promoted on the Harbor Department homepage (featured 3 times under News & 4 times under Events)
- Title 17 has its own subpage under Harbor Commission, which can be accessed with a User Friendly URL: newportbeachca.gov/title17

Social Media:

6 Twitter Posts (Normal Post + Reminder the day before)





CityofNewportBeach @newportbeachgov · May 7

The Harbor Commission Ad-Hoc Committee is getting ready to review the second half of the Harbor Code! Join them at Marina Park on Monday, May 13 at 6 p.m. to provide comment & input on part two of the Harbor Code. [#harbor](#) [#community](#) [#newportbeach](#) [#newportharbor](#) [#civicengagement](#)



CONTINUED COMMUNITY INPUT NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17



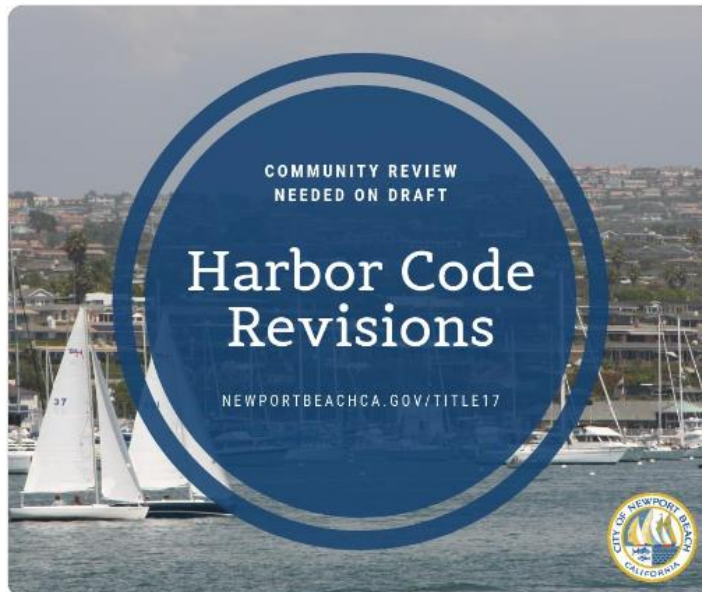
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CityofNewportBeach @newportbeachgov · May 5

Friendly Reminder! Tomorrow, May 6 at 6 p.m., the Harbor Commission Ad-Hoc Committee will be going over the first part of Title 17 draft revisions at Marina Park. For more information, check out bit.ly/2IXDbLv



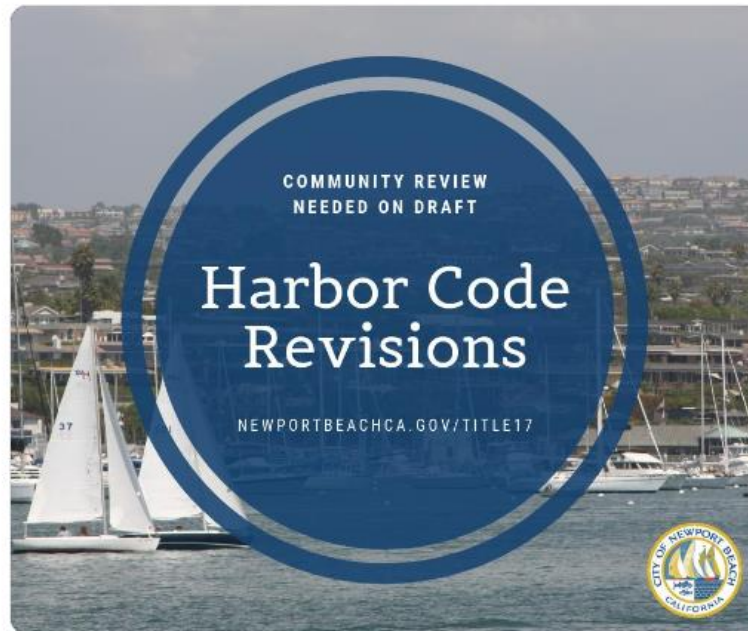
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CityofNewportBeach @newportbeachgov · Apr 28

📢 Attention Harbor Users & Stakeholders! We want your continued input on the draft revisions to the Harbor Code. Join us for our second meeting on Monday, May 6 (next week) at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.). For more info, check out bit.ly/2IXDbLv



↻ 3

❤ 2



CityofNewportBeach @newportbeachgov · Apr 7

📢 Reminder! We are having our first Harbor Code revisions meeting tomorrow, April 8, at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.). 🚤🚤🚤🚤 See you there!

Learn more at bit.ly/2OEY36



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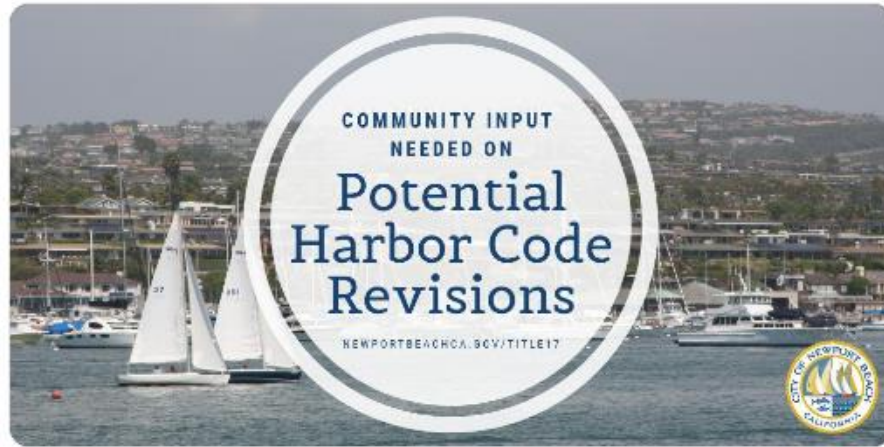


CityofNewportBeach @newportbeachgov · Apr 1

📢 Attention Harbor Users & Stakeholders. We want your input on potential Harbor Code revisions. Join us for our first meeting on Monday, April 8 (next week) at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.).



Learn more at bit.ly/2OErY36



2 Instagram Posts



CONTINUED COMMUNITY INPUT NEEDED ON
**Potential Harbor
Code Revisions**
NEWPORTBEACHCA.GOV/TITLE17



cityofnewportbeach • Follow
Marina Park

cityofnewportbeach The Harbor Commission Ad-Hoc Committee is getting ready to review the second half of the Harbor Code! Join them at Marina Park on Monday, May 13 at 6 p.m. to provide comment and input on part two of the Harbor Code and review two newly proposed sections. #harbor #community #newportbeach #newportharbor #civicengagement #harborcode

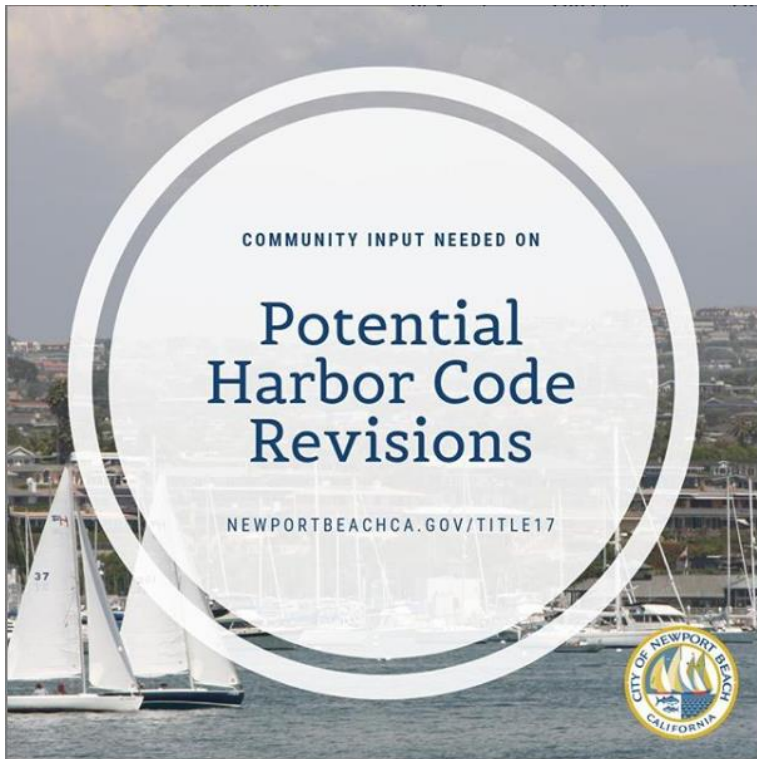


30 likes

6 DAYS AGO

Log in to like or comment.







COMMUNITY INPUT NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17









cityofnewportbeach • Follow
Newport Beach, California

cityofnewportbeach 📍 Attention Harbor Users & Stakeholders. We want your input on potential revisions to the Harbor Code. Join us for our first meeting on Monday, April 8 (next week) at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.).
📍📅🕒📌

#harbor #newportharbor #newportbeach
#communityinput #localgov
#communitymeeting #sailing #boating #sup
#swimming #marina #marinapark







40 likes

APRIL 1

Log in to like or comment. ...


6 Facebook Posts (Normal Post + Reminder the day before)




City of Newport Beach - City Hall
May 12 at 6:34 PM · 🌐

Friendly Reminder! Tomorrow, May 13 at 6 p.m., the Harbor Commission Ad-Hoc Committee will gather the community's input on the second part of Title 17 review at Marina Park. For more information, check out <http://bit.ly/2DV5elH>

📍📅🕒📌





CONTINUED COMMUNITY INPUT NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17

👍 5

1 Share



City of Newport Beach - City Hall

May 7 at 7:19 PM · 🌐

The Harbor Commission Ad-Hoc Committee is getting ready to review the second half of the Harbor Code! Join them at Marina Park on Monday, May 13 at 6 p.m. to provide comment and input on part two of the Harbor Code and review two newly proposed sections. For more information, visit <http://bit.ly/2Lv1bIH>



CONTINUED COMMUNITY INPUT NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17



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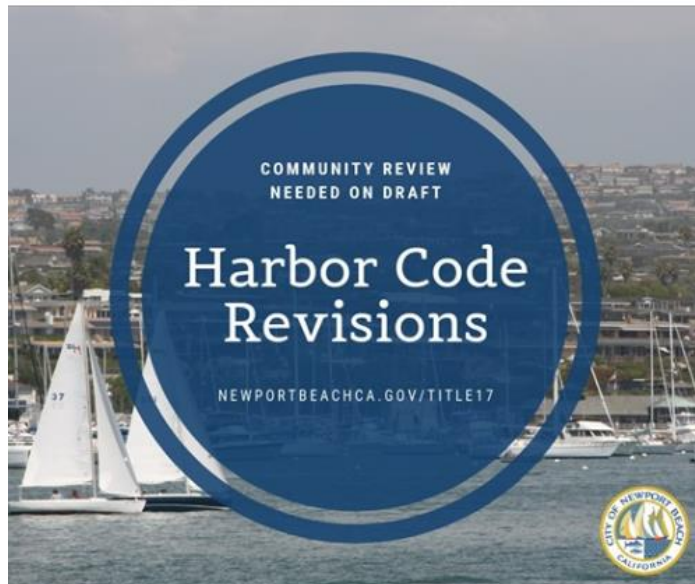
1 Share



City of Newport Beach - City Hall

May 5 at 6:03 PM · 🌐

Friendly Reminder! Tomorrow, May 6 at 6 p.m., the Harbor Commission Ad-Hoc Committee will be going over the first part of Title 17 draft revisions at Marina Park. For more information, check out <http://bit.ly/2IMDfhY>



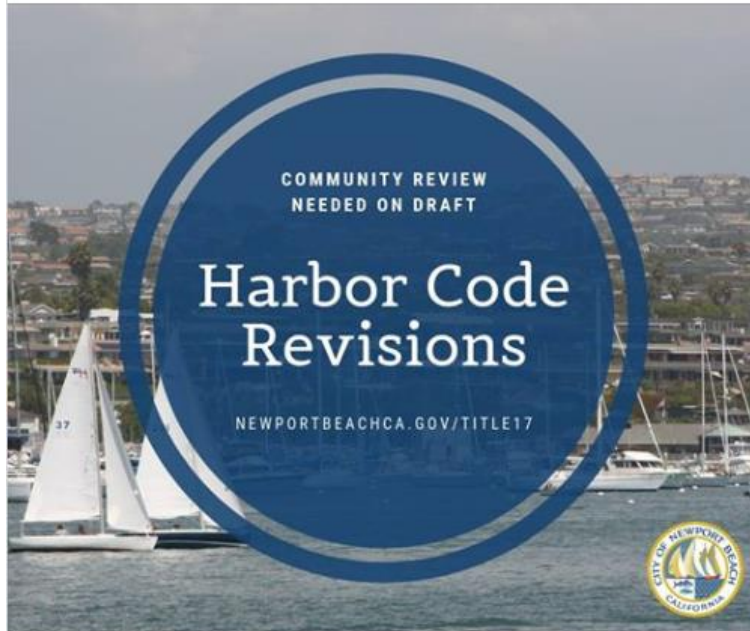
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City of Newport Beach - City Hall

April 28 at 6:03 PM · 🌐

🚩 Attention Harbor Users & Stakeholders! We want your continued input on the draft revisions to the Harbor Code. Join us for our second meeting on Monday, May 6 (next week) at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.). For more information, check out <http://bit.ly/2IMDfhY>



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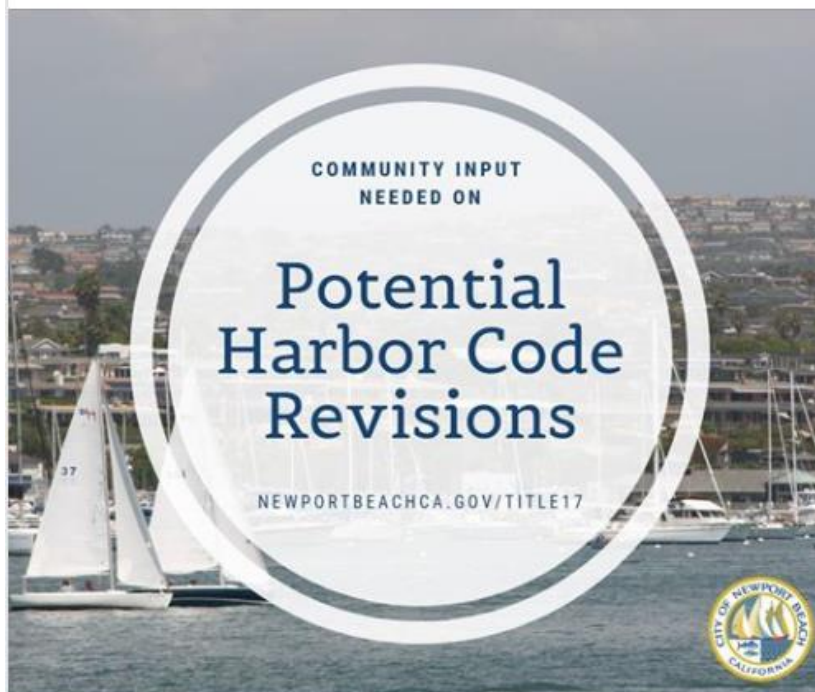



City of Newport Beach - City Hall

April 7 · 🌐

🚩 Reminder! Our first Harbor Code revision meeting is tomorrow at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.). 🚤🚤🚤 See you there!

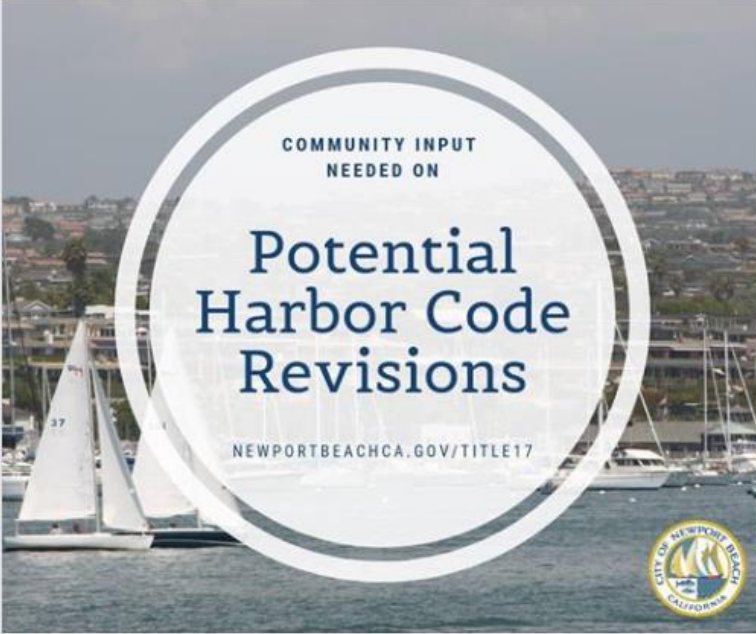
Learn more at <http://bit.ly/2OEY36>



**City of Newport Beach - City Hall**
April 1 · 🌐

🔔 Attention Harbor Users & Stakeholders. We want your input on potential revisions to the Harbor Code. Join us for our first meeting on Monday, April 8 (next week) at 6 p.m. over at Marina Park (1600 W. Balboa Blvd.).
🚤🚤🚤🚤🚤🚤


Learn more at <http://bit.ly/2OErY36>




COMMUNITY INPUT
NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17



 6

1 Comment 2 Shares

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1,814 followers
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Attention Harbor Users & Stakeholders. We want your input on potential revisions to the Harbor Code. Join us for our first meeting on Monday, April ...see more



COMMUNITY INPUT
NEEDED ON

Potential Harbor Code Revisions

NEWPORTBEACHCA.GOV/TITLE17



 4

NextDoor Post



New event: Title 17 Harbor Code Review

Public Information Officer/Management Analyst Mary Locey · 3 Apr

APR
8

Title 17 Harbor Code Review
Mon, Apr 8, 6:00 PM

1

3 Apr · Subscribers of City of Newport Beach in Events

Title 17 Harbor Code Review



Title 17 Harbor Code Review

Mon, Apr 8, 6:00 PM - 7:30 PM

Marina Park Community Center/ Sailing Center/ Harbormaster

Going? ▾

...

1 Going

Event details

The Harbor Commission Ad-Hoc Committee seeks public input on revisions to the City's Municipal Code, Title 17 Harbor Code. The Committee is holding a series of meetings to thoroughly review Title 17. During the April 8 and May 6 meetings, the following sections will be reviewed:

- 17.01 Definitions
- 17.05 General Provisions
- 17.20 Vessel Launching and Operations
- 17.25 Berthing, Mooring and Storage
- 17.30 Harbor Use Regulations
- 17.35 Harbor Development Regulations

A working draft of potential revisions to these sections of Title 17 is available for viewing in red-line format. Please note: These are preliminary revisions and do not represent recommendations of the Harbor Commission. Your feedback, comments, and suggestions are invited and encouraged.

Learn more at newportbeachca.gov/title17.

City News

Community Input Needed for Potential Harbor Code Revisions

The Harbor Commission (Commission) has initiated a process for reviewing Title 17, the Harbor Code section of the Newport Beach Municipal Code. The Commission recently formed an Ad-Hoc Committee to conduct a thorough [review of Title 17](#) and to identify potential modifications. Gathering community input is an essential part of this review process.

To help facilitate public input, the Ad-Hoc Committee has divided Title 17 into three sections to allow an in-depth and thoughtful examination of the entire code. A series of meetings has been scheduled to review each section. The full meeting schedule is available [here](#).

The Ad-Hoc Committee will examine each section twice. The first meeting is intended to garner feedback and solicit comments from community members. The second meeting will allow for a review of the draft revisions prior to presentation to the full Commission. The first meeting will be held on Monday, April 8, at 6 p.m., at Marina Park. Marina Park is located at 1600 W. Balboa Blvd.

Once the Ad-Hoc Committee has completed its work, the Harbor Commission will then review and consider the draft revisions. Should the Commission approve of any or all of the proposed revisions, the recommended changes will be forwarded to the City Council for its review and consideration.

[Return to full list >>](#)

City News

Community Invited to the Second Review of Title 17

The Harbor Commission (Commission) is continuing the process for reviewing Title 17, the Harbor Code section of the Newport Beach Municipal Code. The Commission recently formed an Ad-Hoc Committee to conduct a thorough [review of Title 17](#) and to identify potential modifications. Gathering community input is an essential part of this review process.

To help facilitate public input, the Ad-Hoc Committee has divided Title 17 into three sections to allow an in-depth and thoughtful examination of the entire code. A series of meetings has been scheduled to review each section. The full meeting schedule is available [here](#).

The Ad-Hoc Committee will examine each section twice. Please join us for our second meeting regarding sections 17.01, 17.05, 17.20, 17.25, 17.30 and 17.35, allowing for a review of the draft revisions prior to presentation to the full Commission. The meeting will be held on Monday, May 6, at 6 p.m., at Marina Park, located at 1600 W. Balboa Blvd.

- [Second working draft of sections 17.01, 17.05, 17.20, 17.25, 17.30 and 17.35.](#)
- [Public Comments from April 8](#)

Once the Ad-Hoc Committee has completed its work, the Harbor Commission will then review and consider the draft revisions. Should the Commission approve of any or all of the proposed revisions, the recommended changes will be forwarded to the City Council for its review and consideration.

[Return to full list >>](#)

City News

Community Input Invited on Harbor Code

Thank you to the community members who joined us in reviewing the first portion of Title 17. The Harbor Commission's Ad-Hoc Committee is eager to continue obtaining the community's input on the second portion of Title 17.

The first meeting reviewed sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, 17.70. On Monday, May 13 at 6 p.m., newly proposed sections 17.01.030 and 17.60.040 will be reviewed at Marina Park, 1600 W. Balboa Blvd.

The Harbor Commission (Commission) continues reviewing Title 17, the Harbor Code section of the Newport Beach Municipal Code. The Commission formed an Ad-Hoc Committee to conduct a thorough [review of Title 17](#) and to identify potential modifications. Gathering community input is an essential part of this review process.

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The Ad-Hoc Committee will examine each section twice. The first meeting garnered feedback and solicited comments from community members. The second meeting will allow for a review of the draft revisions prior to presentation to the full Commission.

Once the Ad-Hoc Committee has completed its work, the Harbor Commission will then review and consider the draft revisions. Should the Commission approve of any or all of the proposed revisions, the recommended changes will be forwarded to the City Council for its review and consideration.

[Return to full list >>](#)



NEWMAYER & DILLION LLP
ATTORNEYS AT LAW

CHARLES S. KROLIKOWSKI
Charles.Krolikowski@ndlf.com

File No.:
1951.008

June 6, 2019

VIA E-MAIL & CERTIFIED MAIL

Attn: City Clerk & Harbor Commission
City of Newport Beach
100 Civic Center Drive
Bay 1B-D
Newport Beach, CA 92660
Title17review@newportbeachca.gov

City Manager's Office
City of Newport Beach
100 Civic Center Drive
2nd Floor, Bay E
Newport Beach, CA 92660
gleung@newportbeachca.gov
cjacobs@newportbeachca.gov

Re: Proposed Revisions to Title 17 of the Municipal Code

Dear Clerk and Commissioners:

This office represents Thomas LeBeau, an interested property and business owner directly impacted by the City of Newport Beach's ("City") proposed revisions to Title 17 ("Proposed Revisions") of the Newport Beach Municipal Code ("NBMC"). The City must revisit the Proposed Revisions in an open and public forum, with the opportunity for meaningful written comment and public participation in the deliberative process. Without doing so, the Proposed Revisions remain subject to future challenge.

In addition to detailing Mr. LeBeau's concerns, this letter also serves as Mr. LeBeau's request for all public records, including communications, related to the Proposed Revisions from January 1, 2017, to present. The scope of this request is further detailed below.

1. Background on the Proposed Revisions.

For context, it appears that the City of Newport Beach Harbor Commission ("Commission") is currently in the process of reviewing and revising Title 17 of the NBMC, also referred to as the Harbor Code. (See City, Harbor Comm'n, Title 17 Review ("Title 17 Review").)ⁱ As a general matter, the Commission exercises the authority to make such revisions pursuant to the City Council's delegation under Section 700 of the City Charter. (See Ord. No. 2013-14.) Like the City's Planning Commission, the Harbor Commission exercises limited authority over approvals within the City of Newport Harbor. (Ord. No. 2013-14.)

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see also Full Agenda Packet, City Council Regular Meeting (Feb. 13, 2018).ⁱⁱ The task of reviewing Title 17 is also formally recognized in the Commission's 2018 goals and objectives, which ask the Commission to "[r]eview and update City Municipal Codes, Title 17, Harbor Policies 1-5 and Marine Activities Permits[.]" (*Ibid.*)

Based on a review of the limited information available, the Proposed Revisions present what appear to be all-encompassing changes that will result in significant impacts to the environment and surrounding community. (See Title 17 Review, *supra* [discussing scope of changes, not impacts].)ⁱⁱⁱ Those changes include considerable substantive modifications to various permit, lease, appeal, and enforcement provisions in Sections 17.40 through 17.70.^{iv} (*Ibid.*) But, more importantly, the City broke down its review of the Proposed Revisions into three parts. (*Ibid.*) Per the City, it appears that each part will have its own set of meetings, with the first meeting soliciting comment and the second meeting incorporating the solicited comments into a working draft of Title 17. (*Ibid.*)

Here, the first part has already occurred and addressed proposed revisions to Sections 17.01, 17.05, 17.20, 17.25, 17.30, and 17.35. (See Title 17 Review, *supra*.) The "Ad-Hoc Committee" engaged a selection of the public to participate and provide comments at meetings held on April 8, 2019, and May 6, 2019. (*Ibid.*) The second part covers Sections 17.10, 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70. (*Ibid.*) This portion of the review covers marine activities permits, live-aboard, sanitation, harbor development permits, dredging permits, harbor permits, leases, appeals, and enforcement. (*Ibid.*) The Commission, via the Ad-Hoc Committee, already solicited a selection of the public's comment on May 13, 2019. (*Ibid.*) The second meeting incorporating those comments into a final working draft is currently scheduled for June 24, 2019. (*Ibid.*) The dates for the third part of the Proposed Revisions are still to be determined, although it appears that the third part will address the new Sections 17.01.030 and 17.60.040. (*Ibid.*)

2. The Commission's Analysis of the Proposed Revisions Should Include Environmental Impacts under the California Environmental Quality Act.

Because the Commission is essentially taking action and considering the Proposed Revisions without a concurrent analysis of the environmental impacts, the City also faces potential issues under the California Environmental Quality Act ("CEQA").

As the Commission is aware, CEQA compliance must occur before the City approves a project because when a public agency gives a project "approval" it "commits to a definite course of action in regard to a project." (CEQA Guidelines, 14 Cal. Code Regs., § 1532, subd. (a).) In *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 130–132, for example, the Court struck down a project finding that the city violated CEQA because it had impermissibly committed itself before completing an adequate CEQA review. Similarly here, a court may express concern given the extensive revision work that the Commission has done without proper compliance.

Moreover, given the substantive nature of these changes to Title 17, particularly with respect to duration of live-aboard permits and enforcement, an Environmental Impact Report (“EIR”) will likely be required. Again, an EIR is at the heart of the environmental control process established by CEQA. A proper EIR provides the public and governmental decision-makers with detailed information on a project’s likely environmental effects, describes the ways of minimizing such effects, and considers potential alternatives to a project. (Pub. Resources Code, §§ 21002.1, 21061, 21100.) Any consideration of such extensive Proposed Revisions should consider this environmental analysis.

Ultimately, the City is responsible for the failure to prepare an adequate EIR.
(*Mission Oaks Ranch, Ltd. v. County of Santa Barbara* (1998) 65 Cal.App.4th 713, 723-724.)

3. The City’s Serial Meetings on the Proposed Revisions Violate the Brown Act.

The Ralph M. Brown Act (“Brown Act”) (Gov. Code, §§54950–54963) requires meetings of “legislative bodies” of public agencies to be open and public. (See Gov. Code, § 54953, subd. (a).) Subject to a limited number of exceptions, meetings regulated by the Brown Act must be conducted in public and afford the public the opportunity to speak on every item on the agenda, as well as any item within the subject matter jurisdiction of the legislative body. (See Gov. Code, §§54953, subd. (a), 54954.3, subd. (a).)

In enacting the Brown Act, the Legislature declared the existence of governing bodies like the City Council and the Commission to be contingent on its ability “to aid in the conduct of the people’s business.” (Gov. Code, § 54950.) For that reason, the Brown Act’s declared intent is to ensure that such legislative bodies deliberate openly. (*Ibid.*) Indeed, the Legislature understood that public agencies exist to conduct the people’s business. (*Ibid.*) In full, the Legislature found as follows:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other **public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.**

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(*Ibid.* [emphasis added].)

A. The Commission's Ad-Hoc Committee is a Legislative Body Subject to the Brown Act.

The Brown Act applies only to “legislative bodies,” which may include the Commission’s Ad-Hoc Committee. Generally, the City Council or other governing body, as well as other subsidiary decision-making bodies and advisory committees such as planning commissions, parks and recreation commissions, and even blue ribbon committees created by formal action of the legislative body, are all considered “legislative bodies” within the meaning of the Brown Act. (See Gov. Code, § 54952.) Occasionally, a legislative body may convene a temporary committee composed of less than a quorum or the minimum number of members that must be present to make the proceedings valid. Such “ad hoc” subcommittees are not “legislative bodies” subject to the Brown Act unless the ad hoc committee is (1) a standing committee of a legislative body, and (2) retains continuing subject matter jurisdiction *or* (3) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body. (See Gov. Code, § 54952, subd. (b).) Government Code section 54952, subdivision (b) provides for the following, in full:

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(Ibid.)

Here, the Ad-Hoc Committee need not be comprised of the majority of the Commission for the Brown Act to apply because “irrespective of [its] composition” it has “continuing subject matter jurisdiction” over the initial red lines and working drafts of the Proposed Revisions, as well as a “meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body. . . .” (See Gov. Code, § 54952, subd. (b).) Specifically, as noted above, the Ad-Hoc Committee has broken down its Title 17 review into three parts. (See Title 17 Review, *supra*.) Each part contains its own set of meetings, with the first meeting soliciting comment and the second incorporating the solicited comments. (*Ibid.*) Here, the first part addressed proposed revisions to Sections 17.01, 17.05, 17.20, 17.25, 17.30, and 17.35 on April 8, 2019, and May 6, 2019, respectively. (*Ibid.*) The second part covering Sections 17.10, 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 already had the first meeting on May 13, 2019, and the second meeting is currently scheduled for June 24, 2019. (*Ibid.*) The dates for the third part, a review of Sections 17.01.030 and 17.60.040, are still to be determined. (*Ibid.*)

Given that this amounts to a regular meeting schedule, the Brown Act applies irrespective of the Ad-Hoc Committee's composition. As such, the Ad-Hoc Committee is considered a legislative body for purposes of the Brown Act regardless of the fact that it is a "subcommittee comprised of less than a majority of the Harbor Commission[.]" (City's Letter, at p. 1.)

B. Serial Meetings Soliciting Public Comment on the Proposed Revisions Must Be Open and Public under the Brown Act.

The Brown Act broadly defines what "meetings" must be open and public. (Gov. Code, § 54952.2, subd. (a).)

(a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(*Ibid.*) Because allowing for serial meetings would render this requirement meaningless, the Brown Act prohibits using a "series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body." (Gov. Code, § 54952.2, subd. (b)(1).) The prohibition on serial meetings excepts communications with City staff "if that person does not communicate to members of the legislative body the comments or position of any other members or members of the legislative body." (Gov. Code, § 54952.2, subd. (b)(2).)

Here, the Ad-Hoc Committee engaged in serial meetings resulting in a violation or violations of the Brown Act. Effectively, the opinions of members of the Commission, several of whom make up the Ad-Hoc Committee, are being communicated to each other and to a selection of the public, both in the red lines, working drafts, and collected public comment incorporating revisions into Title 17. (See Gov. Code, § 54952, subd. (b); with City's Letter; Title 17 Revisions.) As distinguished from stakeholder meetings where public input is merely being passively received, here members of the Commission are acting and deliberating on a matter within the Commission's jurisdiction, the Proposed Revisions, without going through the proper public process. (City's Letter; Title 17 Revisions [listing redlines and working drafts, as well consolidated public comment from first part of revisions].)

Thus, the Ad-Hoc Committee's conduct amounts to serial meetings in violation of the Brown Act. Accordingly, the Commission should consider providing a properly open and public meeting that acknowledges the procedural due process rights of impacted business and property owners.

4. Commissioner Blank's Potential Conflict of Interest as a Mooring Permittee.

In addition to the issues raised above, problems are also present with respect to Commissioner Blank's conflict of interest. While the Commission asserts that Commissioner

Blank has “recused himself from those discussions every time the issue has come up” (see City’s Letter, at p. 3), this response is shortsighted.

The Political Reform Act of 1974 (Gov. Code, §§81000–91014) governs disclosure of campaign contributions, spending, lobbying, and ethical rules by which state and local government officials must abide. Passed by statewide initiative, the people found and declared that their public officials *must* act in an impartial manner free from bias caused by competing financial interests:

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them[.]

(Gov. Code, § 81001, subd. (b) [emphasis added].) The requirements of the Political Reform Act are to be “liberally construed to accomplish its purposes.” (Gov. Code, § 81003.) This purpose includes a mandate against financial bias infiltrating local government decision-making. (Gov. Code, § 87100.)

Specifically, Government Code section 87100 requires that no local government official “shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.” (Gov. Code, § 87100.) An official has a financial interest in a decision when it is “reasonably foreseeable” that the decision will have a material financial effect on his investments, property or income. (Gov. Code, § 87103.) The conflict of interest laws operate without regard to actual corruption or interest; instead, the laws establish an objective and preventive standard that acts upon tendencies as well as prohibited results. (*Commission On Cal. State Gov. Org. & Econ. v. Fair Political Practices Com.* (1977) 75 Cal.App.3d 716, 723 [142 Cal.Rptr. 468, 472] [citing *United States v. Mississippi Valley Generating Co.* (1961) 364 U.S. 520, 549-551 [81 S.Ct. 294, 309, 5 L.Ed.2d 268]; *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569 [25 Cal.Rptr. 441, 375 P.2d 289]; *People v. Watson* (1971) 15 Cal.App.3d 28, 37-39 [92 Cal.Rptr. 860].)

A violation occurs not only when the official participates in the decision, but when he or she directly or indirectly influences it. (*Ibid.* [citing Gov. Code, § 87100; *Stigall v. City of Taft*, *supra*, 58 Cal.2d at p. 569].) The fact that a commission is advisory does not automatically exempt it from the statutory provisions described above. The statutory exemption is limited only to those boards and commissions that are *exclusively* advisory. (*Commission On Cal. State Gov. Org. & Econ. v. Fair Political Practices Com.*, *supra*, 75 Cal.App.3d at p. 724; see also Gov. Code, § 1090 [codifying similar requirements to avoid such conflicts in contracts].)

Of course, a public official may express opinions on subjects of community concern without tainting his or her vote on such matters. (*Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1172 [56 Cal.Rptr.2d 223], *as modified on denial of reh'g* (Sept. 11, 1996).) But, conflicts may arise for a variety of reasons, including where voting or acting on an item as would affect a member’s personal interests. (*Id.* at pp. 1172–1173.) For example, in *Clark*, the

Court found a councilmember interested and potentially biased in part because “the specific project before the Council, if approved, would have had a direct impact on the quality of his own residence.” (*Id.* at p. 1173; see also *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, [35 Cal.Rptr.2d 782] [invalidating a city council decision to reverse a planning commission decision after the council appealed the planning commission's decision to itself]; *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, [22 Cal.Rptr.3d 772] [holding the prehearing bias of one planning commission member was enough, by itself, to invalidate a planning commission decision that had overruled a city planning director's approval of a project]; *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1016–1017 [183 Cal.Rptr.3d 318, 320–321] [concluding the trial court erred in not granting Woody's request for an administrative writ of mandate restoring the original planning commission's grant of its application].)

Similarly, here, Commissioner Blank faces a potential conflict as a mooring permittee because it creates a personal financial interest in the Proposed Revisions. This includes the fact that the Proposed Revisions may enact a 300% increase in overnight usage available to those with mooring permits, like Commissioner Blank. As a mooring permittee, Commissioner Blank stands to gain a substantial economic benefit by approving this particular increase in overnight usage. The “reasonably foreseeable” standard governing such financial conflicts of interest directly contemplates this type of issue. (See Gov. Code, §§ 87100, 87103.) To interpret it otherwise would run contrary to the statutory scheme, moving away from a preventive standard that acts upon tendencies toward a prophylactic one that focuses solely on prohibited results. (Cf. *Commission On Cal. State Gov. Org. & Econ. v. Fair Political Practices Com.*, supra, 75 Cal.App.3d at p. 723 [citing *United States v. Mississippi Valley Generating Co.* (1961) 364 U.S. 520, 549-551 [81 S.Ct. 294, 309, 5 L.Ed.2d 268]; *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569 [25 Cal.Rptr. 441, 375 P.2d 289]; *People v. Watson* (1971) 15 Cal.App.3d 28, 37-39 [92 Cal.Rptr. 860].)

Thus, the Commission should avoid this and other such conflicts at all stages of the public process.

5. Request for All Public Records Related to the Proposed Revisions from January 1, 2018, through the Date of Production.

As noted above, the Commission's serial meetings and other conduct give rise to Brown Act violations. Accordingly, we seek all public records, including information, documents, and communications, related to the Proposed Revisions from January 1, 2017, through the date of production. We hope that this stated purpose will aid the City in “identify[ing] records and information that are responsive to the request or to the purpose of the request, if stated.” (See Gov. Code, § 6253.1, subd. (a).)

Specifically, pursuant to the California Public Records Act (Government Code sections 6250, et seq.), we request that the City provide (1) all documents or communications related to the Proposed Revisions from January 1, 2017, through production; and (2) all other documents or communications referenced in evaluating this letter that have been construed as outside of the scope of category (1). The abovementioned writings are considered “public records” within the

meaning of the description in Government Code section 6252, subdivision (e). (Gov. Code, § 6252, subd. (e).)

We request that you provide the responsive information within ten (10) days of receipt of this letter, or earlier, if possible. Should you deny any part of this request, please provide a written response describing the legal authority or authorities on which you relied for your determination to deny the request. Please also describe where the requested records are located and provide suggestion for overcoming any practical basis for denying access to the records or information sought. If the records are located with another public agency, please forward a copy of this request to that department and advise of same.

Finally, please provide me with the anticipated cost of duplicating the requested records. We are prepared to pay up to \$100 of the applicable copying charges for the requested documents upon demand from the City. Should copying costs exceed \$100, please contact the undersigned for approval.

6. Conclusion.

In sum, the Commission has rushed this process without respect for the proper procedure. As a result, it should revisit the work done on the Proposed Revisions thus far. In addition to the concerns laid out above, the City should also continue to investigate what information is contained in the City's commercial leases and permits, potential issues related to inconsistency with the Local Coastal Program, and existing violations that remain unabated.

Nothing in this written comment should be construed as a waiver of any right or defense in favor of Mr. LeBeau.

Thank you in advance for your anticipated cooperation.

Very truly yours,



Charles S. Krolikowski

SLT:vrf

Cc: Client
Newport Beach City Council citycouncil@newportbeachca.gov
Aaron Harp, Esq.

1951.008 / 8225515.1

ⁱ (Copy on file, but also available at <https://www.newportbeachca.gov/government/departments/harbor/harbor-commission/title-17-update> (last accessed May 30, 2019 at 7:25 AM PST).)

ⁱⁱ (Copy on file, although the City confirmed that the correspondence became part of the public record.)

ⁱⁱⁱ (Copies on file, but the first and second working drafts of the Proposed Revisions to sections 17.01, 17.05, 17.20, 17.25, 17.30 and 17.35, are available at <https://www.newportbeachca.gov/home/showdocument?id=62891> and <https://www.newportbeachca.gov/home/showdocument?id=64086>.)

^{iv} (The first working draft of the second set of Proposed Revisions to sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 is available at <https://www.newportbeachca.gov/home/showdocument?id=64160>.)

From: Wade Womack
To: [Title 17 Review](#)
Subject: dye tablet ordinance
Date: Saturday, May 18, 2019 7:48:10 AM

Hi,

Sorry I missed the last meeting when this was likely discussed. In case the committee is looking for good verbiage/language for the dye tablet aspect, I found this on the City of Avalon Website:

<http://www.cityofavalon.com/content/3182/3209/3230.aspx>

(h) In order to enforce the provisions of this section and to safeguard and protect City waters from contamination, the owner and/or other person in charge of any boat or vessel entering City waters shall, as a condition of entering and/or remaining the City waters, allow City personnel to board the vessel and place dye tablets into the vessel's marine sanitary device, and to perform a test or tests to ensure that the marine sanitary device is in such a condition as to prevent any contaminants from being discharged into City waters. It shall be unlawful to any person to deny City personnel access to a vessel for purposes of placing dye tablets in the marine sanitary device, to refuse or interfere with testing of the marine sanitary device by City personnel, to tamper with or remove while in City waters any dye tablet placed in a marine sanitary device by City personnel, or to place any substance in the marine sanitary device with the intent to interfere with the enforcement of this section. Violation of the provisions of this subsection shall be punishable as a misdemeanor. In addition to the penalties prescribed herein and in subsection (i), the Harbor Master shall have the authority to order any owner or person in charge of any boat or vessel upon which any act or omission specified herein has occurred, to immediately remove such vessel from City waters.

Perhaps it is worth borrowing some of their wording. Not a big deal, just thought the committee might find it useful if it's members had not already reviewed it.

Thank you for working to make the harbor a better place.

Sincerely,
Wade Womack
1865 Port Abbey Pl
Newport Beach, CA
949-292-1165

Biddle, Jennifer

From: P+B C. <patandbud@gmail.com>
Sent: Friday, July 26, 2019 12:15 PM
To: Title 17 Review
Subject: Vessel discharge

Follow Up Flag: Follow up
Flag Status: Flagged

Harbor Commissioners,

After attending a few of the meetings reviewing title 17 I'd like to thank you for all the discussions on so many of the issues. I appreciate your listening to all the thoughts many of us have and I understand you won't please everyone but, hopefully, will please most.

In regards to section 17.40.100, the discharge log, I'd just like to reiterate what was mentioned at a few of the meetings but seems unclear in the recent draft. It reads the live-aboard permittees can use the pump out facilities and keep a log, however, it then states we are required to contract with a commercial service for a twice a month service. It was discussed at a couple of the meetings that a few of us live-aboards that routinely and responsibly use the pump out dock to not only discharge waste but fill our water tanks and a quick washing of our vessels would not have this requirement with verification. We would continue to do this despite being required to pay a service simply because we need to fill with water and we want a clean boat. I hate spending money on something I do not need so I'm hoping the wording can be such that we have the choice. I have no problem with a verification that the live-aboards are doing the right thing, perhaps a call to the office while at the dock which could be matched to the log turned in at the renewal request. This was mentioned at at least two of the meetings and it appeared to be verbally accepted by the committee. I very much hope the wording to this section can be such that us responsible permittees will have the choice.

The other consideration with the required twice a month contracted pumpout is that each situation is different. There are single people with large holding tanks, families with small holding tanks, and people off their boats for days and even weeks at a time. I believe we all are doing the responsible thing and discharging properly as needed but then I want to believe that is the case with all the approximate 9,000 boats in the bay which, of course, could not possibly be verified.

We live-aboards have the most to gain with a clean bay and the most to lose (our home) if doing the wrong thing.

Thank you in advance for your consideration, Sincerely, Herman (Bud) Coomans, mooring H813

**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 6, 2019
6 PM**

Commissioner Kenney reported proposed changes to Sections 17.01, 17.05, 17.20, 17.25, 17.30, and 17.35 will be reviewed. Proposed changes to the second half of the Harbor Code will be reviewed the following Monday night. Comments submitted during and outside the meeting are available to the Harbor Commission Ad Hoc Subcommittee, who will consider each comment. The public is invited to comment on the proposed revisions during the Harbor Commission's review of the subcommittee's recommendations and the City Council's review of the Harbor Commission's recommendations.

Assistant City Manager Carol Jacobs advised that the Harbor Commission Ad Hoc Subcommittee met following the prior public meeting, and its determinations are provided as comments in the redline document.

PUBLIC COMMENT	RESPONSE	Subcommittee response
Applicant definition		
A trust, company, business is not a person.	I would support using the simplest definition, applicant means a person applying for a permit under this title. The definition of person includes trust, corporation. Staff will suggest the definition to the City Attorney for consideration.	Changed to simple definition. Waiting for CAO review.
Bulkhead definition		
If the bulkhead lies on private property, we're paying property taxes on that. If it was farther out, beyond the bulkhead line, it would all be on state lands. Correct? The best tool the City has come up with is when the dock tax came up, you have the satellite image of where the bulkhead line is and where the pierhead line is when they're the same. We found out where our property line is in relation to the Harbor. I don't know that this is the place to make that distinction. If a bulkhead lies inside, meaning on the private property side, of the bulkhead or coincides with it, then it is private property. My tendency is to think that should be explained here.	I'm going to advocate against that. The bulkhead is the bulkhead whether it lies on the property line, inside or outside. There are property definitions and implications thereof when the bulkhead lies in one of those three positions. This is not the place to define that.	No change recommended.
Fairway definition		

<p>I believe that should say the area designated by the City. Otherwise, it makes it all over the whole mooring field. In most places there's not room for passage between the different boats except the areas that are left open, which is a fairway. To put any mooring balls basically makes the whole mooring field a fairway. There are now established fairways where there are spaces left for pressing between the mooring fields.</p>	<p>Gaps in the mooring fields are different from what we're trying to define here. We're trying to define a fairway within a mooring area.</p>	<p>No additional changes recommended. This will also be addressed with the proposed changes to the mooring extension discussion.</p>
<p>I have the same problem trying to visualize what it's trying to do, define, or illustrate. Whether a mooring field has a fairway in it, many or all of the spaces are fairways. The bigger question is, is the definition needed for anything. Is it used anywhere in the Harbor Code or is it referred to in other regulations that maybe say as defined in the Harbor Code? I could not find it in Title 17. Should it perhaps be there in Title 17? Why is it here if it's not referred to elsewhere in the Title? I would again suggest it could be illustrated. You might have a little diagram showing what you're trying to describe.</p>	<p>It's referred to in the design and building standards for structures on the Harbor, including moorings. We're also using fairways when we add the language dealing with extension of moorings. It's something to come. We could have a federal fairway and a city fairway within a mooring field. We could put in the U.S. Coast Guard definition of a fairway, and then we could put in mooring fairway, which would identify the open space between the lanes. Or a mooring field fairway. What if we said Fairway A as defined by the U.S. Coast Guard is X, and B, mooring field fairway, is Y. Since there is not yet a diagram anywhere else in Title 17 and I am clear on what a fairway is, I'm going to advocate that we don't put in a diagram at this time.</p>	<p>Recommended against a diagram in the Municipal Code.</p>
<p>Some of this stuff like this particular discussion, it's important that there's an establishment of stipulation. The City's acting in good faith to try to come up with definitions and write the agreement, and we as mooring holders go along with some of this stuff because you could litigate every paragraph in this. You've got to have a little trust in the boaters, and we've got to have a little trust in you.</p>		<p>General comment only.</p>
<p>One comment about a diagram. That may impede you from extending or changing the mooring (inaudible). If it's fixed in</p>	<p>If you put a diagram in, you can't dimension it because there's the potential that the distances will change.</p>	<p>Do not recommend a diagram.</p>

the diagram, you're locked in to those areas. The way it's worded is really good.		
A fairway is not a channel. These fairways are designed with people with common sense. Hundreds of rental boats a day have no training, no idea, so they don't know the difference between a fairway and going 90 degrees up the channel or down the channel through the moorings. We're boaters here. We could have a show of hands of how many people understand the concept of the fairways between the moorings, and I think you'll see we're doing okay on this one.		General comment.
The problem is the position of the boats change all the time by the wind and by the tide. Sometimes, like mooring field C, some of them are laying to the tide, some of the them are laying to the wind. Sometimes they're 6 feet apart. Other times, they're 35 feet apart. It changes constantly, all day long every day.		General comment.
Which is why this wording is different.	It gives us flexibility to accommodate those kind of changes. That's the point. Here's what I would recommend. We will take this set of comments; we'll have the subcommittee review them; we'll send them to the attorneys. The next round of comments is going to be at the Harbor Commission meeting. We'll define for you what we've changed from this meeting to the Harbor Commission. If you still have concerns with it, then I would suggest at that time we bring it up with the Harbor Commission and let them make the final call before it goes to Council.	No additional change recommended at this time.
Another alternative is just to define one—it's either federal or it's not federal. If it's federal parameters, then whatever else is in the Harbor that is not federal is considered fairway.	Are we going to have two definitions or are we going to leave it like it is? I vote for leaving it like it is. Let's have a show of hands. Who wants to leave it like it is? Who advocates for changing it? Just a few.	No change based on vote

	I think the majority rules on that one.	
Federal Channel definition		
That's an example of if you start designating the type of channel. The first question is where are the federal channels? I just finished my dock permit, and the Army Corps was all over it, lending itself to say, "It's in our jurisdiction too." It must be here, I guess, for a reason, but it seemed just like (inaudible) the type of channel. No boater is going to know which is a federal channel and which is not a federal.	The federal channels are marked on the nav charts. They are what they are. They were established by the Army Corps. That's why the definition is in here.	No recommended change.
Graywater definition		
I direct you to the Pacific Fisheries white sea bass pen. When they pump out their—I want to call it wastewater, which has waste from the fish growing up, it used to have antibiotics and other things. They pump it into the Harbor. Do you know if that's still done? Is that called graywater? They may have changed.	I believe they have an obligation to dispose of that elsewhere. I can't tell you with 100 percent certainty. My recollection is that they have an obligation, just as the charter fleet does, to empty the pen. Any residue, dead fish, etc., have to be disposed of properly, not dumped in the Harbor. First of all, it's against the law, for those of you that are fishermen, to dump your bait tank in the Harbor as you're coming in. Those have to be disposed of before you enter the Harbor. I recently attended a presentation made by that group. My memory is that they described vacuuming those contents. I'd be happy to confirm if that's their practice. That's a good point. I would consider that graywater or at least I'd deal with it in another manner somewhere else in here. There is a section that deals with bait receivers. The same is true with the bait receiver. All that residue needs to be properly pumped out and disposed of correctly. It's not supposed to be dumped in the Bay. We have that clause in another area than the Title? I'm almost certain we do. We're going to get to it when we get to the bait receiver.	No additional changes to definition.
Houseboat definition		No recommended changes

<p>I saw something that was a pontoon boat with a spa on it and a big screen TV. What would you call that?</p>		
<p>The way this reads, somebody could purchase a Lake Powell style houseboat and live on it and that would be legal. According to this, why would it not be legal? That type of boat has an engine. It's capable of going around the Harbor. I don't think that's a good enough definition. Live-aboards are legal if they meet all the requirements. A houseboat as I described—I think you've got to define it right here. I'm talking about a legal live-aboard with a houseboat, a Lake Powell style houseboat, which I thought we wanted to try to not allow. I think you're opening the door to allow it with this definition. A live-aboard with a catamaran or a Sidewinder are getting bigger and bigger. If it's got a galley and a head and it's got a permit to live aboard, how could you distinguish between the type of hull? A sloop could be a place to live. It's got a bunk. It's got a galley. It's got a head. Everyone thinks of a houseboat as being a pontoon boat with everything short of a fireplace on it. There are houseboats that never move, like they have in Seattle and Sausalito. Then there are houseboats like they have on Lake Powell that move quite a bit. I guess those are going to be legal per this definition. Maybe that's okay. I'm not saying it isn't. I'm just pointing that out.</p>	<p>No. Because that's a definition. As Mr. Mosher correctly pointed out, in Section 17.60.050, houseboats, all houseboat activity is prohibited in the Harbor. This is just a definition. In another section of the Code, houseboats are not allowed in the Harbor. That's why the definition is there, so we can exclude them from the Harbor later on. A legal live-aboard would have a permit. We struggled with this. How would you change it?</p>	<p>No recommended changes.</p>
<p>The problem is those houseboats are not ocean-going vessels. Anything that's not an ocean-going vessel would be a houseboat. If it can operate, it can get to the demarcation line and back. That's not the point I was making, that all the boats have to be ocean-going. There are ocean-going houseboats that travel regularly on the ocean, that are ocean-going vessels. All of the</p>	<p>There's a way to deal with that, and that has to do with operable. Maybe we change the word operable to make sure that any vessel that is defined as operable must be ocean-going. I strongly disagree. Harbor 20s are by definition by the manufacturer non-ocean-going. If all of a sudden you throw a requirement in here that says in order to have a mooring permit, you have to be ocean-going,</p>	<p>No recommended changes</p>

lake houseboats are not ocean-going vessels. They're (inaudible) water vessels. They would not survive on the ocean for even moderate weather.	Harbor 20s will no longer be allowed to moor on a mooring.	
Maybe you can put in restricting the ones that are designed for lake usage.	I think we're treading on very thin ice here. We've come up with a definition that allows the most activity and opportunity for those who want to boat on Newport Harbor to do so. Any further definition will cause us to be looked at with great scrutiny by organizations that are encouraging us to provide public access. Low-cost public access to the water. We went around and around on this, trying to come up with a solution. We currently don't have any. If somebody were to come in with a houseboat, Mr. Borsting would maybe rent them a mooring for a day, but they certainly wouldn't be here permanently.	No recommended changes
Is there something that states a boat after a certain size needs to be ocean-going in the Code at all?	Nope. You could have a 65-foot Baycruiser.	No recommended changes
Maybe since there's already a restriction on the number of live-aboards that are allowed in the Harbor—maybe that's enough of a restriction as it is.		General comment
It would not restrict them because they would have so many days a month that they could stay on the boat even though it's a houseboat.	I'm very comfortable with this definition. If someone has a better idea, come up with some language.	No recommended changes
It has to be ocean-going. It can't be in the Harbor if it's not ocean-going. There are ocean-going houseboats. If people look at this and say it's okay to have a houseboat on the Harbor, houseboats will be showing up on the moorings for sure because a majority of the boats for now do not leave the moorings at all.	You'd get rid of a lot of boats out here. Do you want to specifically state that a houseboat needs to be ocean-going? We don't have that condition on any other boat that enjoys a mooring, live-aboard or not. If we restricted it or made it more restrictive, we will come under scrutiny we do not want.	No recommended changes
Is this added?	No. This has been here for decades. We just couldn't figure out how to manipulate it to provide the protections that we're looking for.	No recommended changes

You haven't had any houseboats yet, so I guess it's working.	Good point. It's been working. If it's not broken, don't fix it.	No recommended changes
Do we expect an onslaught of houseboats?	It only takes one, and then others could follow. All we're trying to do is be careful that the definition is correct.	General comment.
	<p>The differentiating word here is one that is not principally used for transportation. If we're talking about a lake houseboat, those are transportation vessels. They live aboard. You could have a place of habitation and a use for transportation. That, to me, would qualify a lake houseboat as opposed to a Seattle-style houseboat that doesn't move, that stays permanently in one place. Correct.</p> <p>We've talked about that particular definition. If we're not changing it, we're still leaving the door open for what we've just described.</p> <p>Right. We can't legislate aesthetics. Just because you don't want it here, just because you don't think it's attractive, doesn't mean it can't be here. This is a public amenity. It belongs to the people of the State of California. We cannot exclude a section of them because their boats are ugly.</p> <p>Does it help if you put that one word, ocean-going, in? Not used for ocean-going transportation.</p> <p>Then we're going to be subject to scrutiny on all the other boats that are not ocean-going that enjoy moorings.</p>	General comment.
(crosstalk) just going to make more ocean-going houseboats, and then we'll have the whole Harbor filled up with those. The idea is really the moorings are designed for live-aboards. That's a benefit for people that do have a permit. The thing is it's really recreational boating. Some people can't afford a house on the Bay with a dock. People from inland can have a mooring just as much as somebody that lives here and has a financially high-end.		General comment

You've got a big mix of people. You don't want everybody to have a live-aboard here. The way you've got it set is fine. It's worked well.		
The real intent is to keep the Seattle-style houseboats out, right? That addresses that specifically.	Right, stuff that doesn't move. Stuff that cannot be used for recreation. The Seattle and Sausalito-style houseboats have fixed connections to the bulkhead. That's the difference. The lake-style boats do not. We certainly can control through not only the Harbor Code but also through our Building Code the permanent, attached-type structures. We really don't have to worry about those. I recommend we keep the language as is.	General comment,
Pierhead Line definition		
It's consistent with a declaration I had to sign to get my dock permit, that the vessel will not overhang beyond the beam of the boat.		General comment
Seaworthy definition		
Good luck with that.		General comment
That's kind of a weird (crosstalk). I would say made with competent material.		General comment
I would delete "and generally free from dry rot." That was put in there when most boats were made of wood.	There are still boats that have wood decking that can be subject to dry rot and, therefore, a hazard for fire/life safety personnel that are coming on board.	No recommended change.
There are a number of wooden boats in the Harbor still.	Again, there are a lot of fiberglass hulls that have a wood deck or a wood superstructure. I'd like to leave that dry rot in there just because I've witnessed it. I would concur.	General comment
Vessel Length/Width definition		
Those are really the only two dimensions that are ever used, as far as I know. Width is the beam. That's standard.		General comment
I thought we had a pretty extensive discussion about LOD,	We're not defining it because that's not what we're going to use. It is the	No recommended change

length on deck. That's usually what's on the registration of your—it's not length overall; it's length on deck. Are you saying that there's no length on deck ... What's the max slip that we have here in Marina Park? If you've got a 40-foot sailboat with a bowsprit, you're usually let in at 40 feet, and that's okay, but the bowsprit is longer than that. That's still understood?	dimension most frequently used in documented length or registered length. Forty feet. The documented registered length we felt was the most objective. It's not arguable. For purposes of mooring permits, that's what should be used.	
There's no significance in the bowsprit on the mooring (crosstalk).		General comment
Basically, the documented registered length is normally the length on deck. It just doesn't say LOD.	Correct.	General comment
Section 17.05.065(E)		
This seems like something that would be decided by the City Council, not by anybody else. Did the City Council instruct you to do whatever they wish?	It would ultimately be decided by the City Council, absolutely. However, sometimes the City Council—why you have a Harbor Commission and why you have a Planning Commission is because they're the subject matter experts on those subjects, and they would provide a recommendation to the City Council from their perspective, whether that be Harbor or Planning. Hopefully they will take our recommendations into consideration and adopt them. If they're going to give us the credibility, then hopefully they'll stand behind us.	General comment
It says to advise them on what you're referred.		General comment
Section 17.20.020(A)		
There's a provision in the California Constitution that goes something like nobody owning, possessing or controlling access to any of the navigable waters of the State shall not impede access thereto. That'll be most liberally interpreted in favor of allowing access. I know the City was sued many years ago on that. There	These are the designated launching sites, if you will. Almost all of them are street ends. Obviously not every street end is designated as a launching site. This was adopted in 1971. We certainly want to take a fresh look at what this is.	For this conversation, the group agreed to let the language stand as is for now and ask the City Council if this is something they would like reviewed separately as this is a topic of its own.

<p>are all sorts of people on all the islands around here and the Peninsula who have dinghies and kayaks in their garages, and kids have to launch them. To sometimes have to go to a designated launching place that might be blocks and blocks away is a real problem for people who have historically ... I've got a couple of inflatables in the garage my grandkids use and a couple of kayaks.</p>		
<p>Number 6 is the Fernando Street dock? Look at Number 20. That's the area, right? In that area where Number 20 is, there are people on our mooring field who access their boats, who do not want to take up public space on the docks. They bring their paddleboards on the roof of their vehicles. Wherever they can find parking in that neighborhood, they're not going to carry that paddleboard blocks away. They go to the nearest place where there's water, they jump on that paddleboard, they paddle to their boat, and they use their boat. Consider those people as well in the decision-making.</p>	<p>No. Number 6 is 18th Street. Twenty is Coronado Street. Fernando is 27. We have not analyzed each and every one of these launching sites. I'm sure that somebody did at some point in time. That's the real purpose why we're here. Should it be every street end? Should we designate street ends and certain beaches? If so, should we go through an extensive analysis to determine if these are still the proper locations? I don't have the answers.</p>	
<p>I notice that my street, Ruby, is one of the launching ramps, so we're not breaking the law. I feel sympathy for people at some of the other streets who are blocked off and have to go blocks out of their way. There is overuse perhaps concentrated at the legal spots.</p>	<p>I have no way to confirm this, but I believe this was done in relation to shore moorings. Where there were some shore moorings, that street end was not designated as a launching site.</p>	
<p>Can you more clearly define where is 25? Is that E? The launching areas are keyed with the red circle? That's the street end that I live on. 17.20.020 says where permitted. There are two shore moorings, and there is a street sign or City sign that says no launching of any boats from this site. That's not permitted. It's a conflict because people all the time want to ... What's a vessel? Anything that floats? That's a paddleboard, a kayak. One kid on</p>	<p>E Street. Yes, the red circles. That's why we're here. We didn't go check every one of these. I can't tell what's at every street end.</p>	

the corner has his own Ski Doo. He hauls it down the sidewalk, pulls it over the seawall, and launches it, whatever the sign says. What I'm getting at is it looks like there needs to be a review of which is going to govern.		
The general public has no idea about this. People come down all the time, and they just walk out to the end of the street (crosstalk). Most of the signs don't say you can't launch. They're just blank.		
Could you perhaps exempt hand-carried vessels?		
The signs at the end of those streets say hand-carried vessels only.		
Maybe it's because of the two shore moorings there. They don't want to have a conflict of damaging the boats on the shore moorings.	<p>I'm certain that the signage and the location of the shore moorings have changed over time. Whomever within the City didn't know there were designated sites or didn't look at the designated sites and didn't realize they were creating conflict. I have a suggestion. Can we get the Harbor Department to do a survey and determine the concurrence between signage and this authorized map? I certainly wouldn't advocate for taking any of these away.</p> <p>This was done in '71 for whatever reason at that time. There are certainly a lot more spots that aren't showing here that are easily accessible like most of them are. I think there are more that should be added or there should be something considered more of a universal without any red dot seen at the end of a street. There should be availability unless there's something with that street end that makes it dangerous or non-navigable for launching a vessel. This map could be obsolete.</p> <p>I would recommend that this is a subject that needs study on its own outside of Title 17. This involves a lot of residents and a lot of folks. It's not just the people who are trying to get to their boats. It involves the</p>	

	<p>residents. I would recommend we leave the language as it is because right now it says if it's authorized, you can do it, but the Harbor Commission at some point direct staff to do an overall brand new analysis, actually go out and get some hard data about this, so that we can make an informed decision about where things should be.</p> <p>I would like to suggest that we do a three-part overlay, existing, include the moorings, include the signage. I know there are street ends where it's sometimes dangerous to launch. I'm sure one of the reasons that some of them are not designated or that there is signage prohibiting is it may be somewhat of a dangerous situation. I like Carol's idea. I'm going to suggest we leave this alone, but we advise the Council that with respect to this provision we'll do a separate analysis and come back to them at a later date.</p> <p>The general tone of this group is we're looking for ways to make more spots available, not reduce the number of spots.</p>	
<p>On the 19th Street pier, according to this, you can't launch a vessel. 19th Street, there's a dock, there's a parking area, and you can't launch there? A vessel on a cart would not be permitted?</p>	<p>At 18th Street you can. You have to go through the bollards and over the sand at 18th Street.</p> <p>No, you can. You can go down on the float and throw your paddleboard in the water from the float or carry your (inaudible) down and throw it off the float.</p> <p>Manual push. It can't be mechanically aided.</p>	
<p>Can you launch at Marina Park? If I had a boat on a trailer and I'm coming from Riverside? Since we have parking and elbow room and space, why aren't we making this the center of access? If we could recommend overriding that, it just makes sense. This is a better center to launch than having people go through the neighborhoods and find their way to park and lug their boats down to the street ends if you were visiting. I'm surprised it isn't. Any vessel. You have a davit here; you have a crane. You have the facility, parking. You have temporary</p>	<p>No.</p> <p>I think that's a Public Works and public safety matter because the lifeguard boats use here and we have safety personnel here. I remember the discussion from when Marina Park was in design.</p> <p>You're suggesting a trailer boat?</p> <p>You don't have parking for trailers.</p> <p>Public use of that crane is a liability for the City that it doesn't want to take on. If you cartopped your kayak here, I don't see a reason why you shouldn't be able to throw it in the water off the float.</p>	

access. You can pull up alongside and get your boat in the water much more easily than around the neighborhoods.		
This came up last time. The parking of the cars with the trailers was a big concern.	One of our goals is to try to find a second launch ramp. We've scoured the Harbor trying to find a location. It's difficult because it's not just a place to drop a boat. It'd be great if we could have a crane.	
When that was thought of, there was no Uber. You could pull up a trailer here. You have a time-limited space and you could off-load your boat, and then you can take it to another location and Uber back here. I'm not suggesting that we park here. I'm suggesting that we launch here because this is a marina park, and it does promote access.	One of the issues we face in Newport Beach is parking. You'd have to have a special area to be able to park a trailer. I don't believe you can park a car and trailer on the street in the metered parking.	
I'm speaking as a resident and not in my official capacity. Just looking at this map, it seems like they're all concentrated in one area on the Peninsula and Balboa. I don't know if it's possible to put some on Lido or on the PCH side of the Bay, but that might help alleviate some traffic issues during summer. I don't know if it's possible.		
How does Lido get away with having one?	Their street ends are all owned by the community association. Those are private property.	
The same thing on the mainland and on the islands.		
Section 17.20.040		
Is there another place in the Code about trespassing or is this the only place? Do you have a slide of where the pierhead line, the bulkhead line is on any given dock? Bulkhead line is my northern property line. It cuts right through one of the floats of my dock. Everything on the private property side is essentially an area that's private property. When somebody comes around and	It's certainly in the Penal Code. It's the GIS map. There's a way to configure the GIS with those filters. What's your specific concern over trespass between the project and pierhead? We're not going to write liability into the Code for one homeowner or even a small group of homeowners. This is a broad definition that applies universally through the Harbor.	No recommended changes

<p>wants to fish or have fun, I'm not chasing them away. It is a liability that I'm assuming is covered by my homeowners policy if somebody trips and falls, they trip over the groin, which is on my property. It's differentiated from state lands. Where does the trespassing occur? I'm not suggesting it would be on the state land side. It would appear to me that the trespassing is on the private property side. Where does the liability come and go? Is it going to be in the Code? Harbor-wide is what I'm talking about, about trespassing. Who would be the City individual I'd go to, to give my comments? There are no trespassing signs all over, but they're disregarded like the launching signs. I just wondered for the purposes of this discussion and Title 17 if we're going to talk at all about the definition of trespassing on land or just vessels. My dock is half on state lands. Where would I find the trespassing statement here?</p>	<p>This definition applies only to the state lands. It does not apply to private property. I'm sure there is another portion of the Municipal Code that would deal with trespassing on private property, but it wouldn't be in Title 17.</p> <p>You can certainly go to the Police Department. It's also part of the California Penal Code because that's where trespass is truly defined. The City of Newport Beach Police Department is responsible for enforcing that section of the California Penal Code that deals with trespass. We are way outside the scope of this meeting. It would be my advice to mark the property line clearly and post a no trespass. Posting that sign limits your liability. Nope, we're dealing with the Harbor and state tidelands.</p> <p>This deals with anything over the state tidelands. If the pier or dock is on the state tidelands, it's covered here.</p> <p>Anything that's on state lands. The half that's on state lands is covered right here. The half that's on private property is covered somewhere else.</p>	
<p>Section 17.25.010(C)</p>		
<p>I get what you're saying about 15th Street, but what about 19th Street? We have a different problem at 19th Street. Is there going to be any recommendations about that because it's a problem now? It's completely inaccessible. Are those 3-hour zones still going to be at risk of impound until this gets sorted out? That's an expensive way to experiment. What about tomorrow? People are worried now. They don't know what to do. For places where there are a lot of boaters that have been using that dock for years or decades over that. There are some pretty simple solutions we could do to make everybody get along and be happy. That's change those 3-hour zones to 12-hour zones for people who have stickers for boats connected to a</p>	<p>The approach we're taking is to see if it works at the 15th Street trial. If we have success ...</p> <p>The problem I have observed is that the tidal conditions at 19th Street are one of the contributors to the problem there. We've marked a lot of area for 72 hours that are subject to tidal conditions.</p> <p>It becomes inaccessible, exactly. We're going to handle that at a different time. That needs to be dealt with as well.</p> <p>We've been educating folks about the time limits and doing enforcement. We did some enforcement in that area that led to some impounds.</p> <p>That needs to be researched. I don't disagree with you. The current configuration of the hours on that dock needs to be revisited. I'm just</p>	<p>Harbor Department to review separately. Added 24 hour time limit to 15th St. dock at Harbor Commission meeting of 5/9/19.</p>

mooring. There are people that need to tie up there still.	not bringing that tomorrow to the meeting.	
The simplest thing to do is follow the rules, then you don't have a problem, which has never been done in the past.		General comment
The issue is not only the time but also the length of the vessel. There is a lot of space for the 9-foot vessel. I'm speaking as a live-aboard. Most of the live-aboards I know need larger boats than 9 feet. We all stack up at the 3-hour, and many of us have to go to work or doctors' appointments. Because of the 9-foot limit, it's a big issue for us. I'd like to propose that—it's a beautiful dock out here—it can be used for 20 minutes without any harm to the public as a 20-minute short stay, and you can convert the 20-minute stay that's only 15 minutes or the 3 or 12 hour. That will complete maybe the problem.		Harbor Department to review.
The outside dock with the 20-minute, the dock is almost free all the time just for a couple of boats. If you've got a 40-foot boat, it takes up most of that dock. In the summer time, people are using that dock to come and go, just to take people on and off. All of us need that slip. Marina Park is rarely separate (inaudible). It's only about 10 or 12 years ago maybe that they actually expanded the 15th Street three (inaudible). It used to be just the front dock and a little bit on the side.	For the purposes of the Code, we're going to leave it as it is. I understand you're a live-aboard. There's a dilemma here. On the one hand, we want to accommodate as many people as we can. That's the purpose for the 9-foot limit. Live-aboards have the ability to tie two dinghies to their boat as opposed to one. Use the 9-foot dinghy when you're going to be for any length of time. The public docks also need to be available not just to the mooring permittees but also to the general public. We have to balance the needs of both.	Harbor Department to review.
Just an observation. When you guys mark 15th Street, there are a couple of large inflatables there. Two days later, they're at Fernando Street taking space there. They're going to move around as long as you have motors. The 24-hour thing you have here, I come down here for three days. If I have to move it for 24 hours, where do I put it? Mine's a rowboat. I don't have a motor		Harbor Department to review.

like those guys that can go to the (inaudible) or the other dock. It limits my ability to get to my mooring.		
Section 17.25.020(I)(4)		
Just got the survey today. I have some preliminary results. Sixty-six votes cast; 55 were in favor of the Harbor Department doing something active, so 55 to 11. Personally, I'd like to hear more about what are we talking about billing. If the Harbor workers are just scaring the sea lions off with a hose or something, is that a non-billable event? Are they installing devices? What are we talking about, what kind of deterrents?	The discussion at our last meeting was installing the seal stop. I don't know that we would install. I thought that was what we discussed, putting the seal stop device on the boat temporarily. We're not going to make any permanent modifications to a boat. There are a couple of things. First of all, we cannot charge you for anything unless we have a fee for it. I don't think we have a fee for this. Right now, we don't have a fee for it. We'll probably have to have one. We can only charge you what we estimate it to cost, the cost of service. We cannot make money off you. We do a fee for service survey, and that's how we come up with our fees. As we move forward with this and if we want to establish a fee for this, we would take recommendations from the Harbor Department and the Harbor Commission that says if we have a sea lion problem, these are the steps we take. Calling you is free. Squirting them down is free if we happen to be out there. If we have to put buckets or netting or something like that on your boat, that is the cost, and it's \$100 or \$125.50. You'll know what that fee will be in advance of this going out and being implemented by anyone.	No additional changes recommended.
Just speaking for myself, the Harbor workers are on the Harbor all the time. They're seeing what's going on. If they have devices onboard to place on the vessel after the sea lions were scared away, that'd be great. I can't imagine too many people being against that. Installing seal stops at a giant expense ...	Don't mistake what I said. Whatever we would do would be on a temporary basis. We're not going to start drilling holes on your boat.	General comment
Are we talking about the first day we see the seals on there or within that seven-day period that we	The intent for this is when the clock runs out and you haven't responded, the City can take action.	General comment

have to take action? Am I going to get a call on Tuesday morning and I come down at 5:00 Tuesday evening after work, and you guys have taken action, and I get a bill?	The good news is when we start that multi-day clock, most people are very responsive. They're out there right away to address it. This rule is going to address the exception. If you're out of town, you don't have to wait the seven days. If you're on a phone call, you can just take care of that work right up front.	
Section 17.30.30(E)		
The term is non-domesticated sea life.	I would include the white sea bass pen to make sure they have the same obligation to dispose. They could think they don't have the obligation because they're not specifically called out. I agree. It should be any facility for fostering the growth of live animals under the surface of the water.	Added language to the definition of Life Bait to include other sea life.
It might be included because it calls it out that they have an obligation to maintain it.		General comment
Section 17.30.010		
The landing of aircraft, is that meant on the waters of the Harbor? If they're landing on a vessel, it doesn't affect it?	Yes. Are we going to allow somebody to land their helicopter on the helipad of their large yacht? It's over the Harbor, so it would be the subject of this Code. You are not allowed to land your helicopter on your helipad on your large yacht while your large yacht is on Newport Harbor. You've got to go out half a mile. That's not true. It says you could with a permit. If you get a special events permit, you can do it. There's no guarantee you're going to get the permit.	General comment
The verbiage about not creating a public hazard to life or property is pretty good, or nuisance or public hazard. Maybe that could go into that hand-launching thing. That would cover a lot of the issue.		General comment

Commissioner Kenney advised that the next opportunity for public comment on the proposed changes could be the June Harbor Commission meeting, depending on the attorney's review of the proposed changes. A public meeting for review of proposed revisions to the second half of Title 17, starting with Section 17.40, is scheduled for Monday, May 13, at 6 p.m.

In response to a question from the public, Assistant City Manager Jacobs indicated the proposed revisions for the May 13 meeting will be posted online on May 7.

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

	<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 to have live-aboards directly adjacent.</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. My thought is not to give them carte blanche, an unlimited</p>	<p>See comments above</p>

<p>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>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.</p> <p>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 Harbor with respect to the Harbormaster and our relationship with the Sheriff's Department. You're talking about putting live-</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>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-</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>

<p>aboard 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>aboard 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 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,</p>		<p>See comments above</p>

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.		
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.	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.	The Building Department is responsible for building codes in marinas to ensure life and safety of those in the marina.
The land-based Fire Department responds to all marina fires and also to mooring fires.	That's correct. How do they respond to mooring fires? The Sheriff can pick them up and take them out there.	The Newport Beach Fire Department responds to all fires on the land and waters of Newport Harbor with the assistance of the Sheriff.
They run the truck down to the Sheriff's Department, jump on the boat, and go all the way to the other end of the Harbor to get it.		No comment
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 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	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 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	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.

<p>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>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. Can it enforce its own laws?</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 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. There is litigation in process. Wild Wave is claiming that the</p>	<p>This case is still in the courts. We are following the directions of the judge in the case.</p>

	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.	
That litigation is ongoing? 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. Maybe the Harbormaster can speak to that. It goes back to my issue about Code enforcement being decoupled from these proceedings.	That's correct. My understanding is it's still in court. Not the topic for this evening. I would like an answer, yes or no, if you guys know what the status is. No, the litigation is completed. We are working to take the appropriate action, but I cannot say anymore than that.	Litigation is on-going.
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.		No comment
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 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.		No comment
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. What was the genesis of that? I have one other question.	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	There are no recommended changes to the number of nights a mooring permittee may stay on their vessel.

Do any of the Harbor Commissioners that are on this ad hoc committee actually own their own mooring? Were you involved in that decision or that discussion to add the number of days from three to 12? Having that expansion from three to 12 days is (inaudible) to your permit.	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. I do. I participated in all the discussions and did participate in the formulation of the recommendations.	
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		
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? 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. I don't see where part 2 adds anything.	Yes. 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. 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. 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 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.	Recommend dye tabs may be dropped in a vessels holding tank at any time regardless of whether or not you are a live aboard.
There are two words in here that bother me. It says board the vessel any time. Any time? 24/7? If	If there's reason to believe that there is illegal dumping, absolutely.	Recommended anytime 24/7

somebody knocks on the door in the middle of the night? It has to do with suspicion of illegal ...	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.	
Why isn't everybody subject to that, even if they're here for two nights?	That's where we're headed. They will be.	It is recommended that everyone be subject to the dye tab rules.
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?		Recommend dye tabs can be dropped at any time.
How would it get there?		Harbor Department staff would place the dye tablet in the tank
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?	Until the tank is evacuated.	Proposed pump out regulations are at a minimum of twice a month.
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? Do you need to have a certain amount of slips to be able to do that?	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.
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. 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%."	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. 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	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. The Harbormaster did conduct a survey and the number of live-aboards is very small in each marina. Recommend that the marinas continue to manage their live-aboard clients and the City conduct audits per the lease

	<p>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 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>	agreement to ensure compliance.
<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>	No comment.
<p>Last year, I was looking for a slip. Not (crosstalk) allow live-aboards</p>	<p>I'm going to pose a question. Does it make sense to entertain</p>	See comments above regarding proposed limits on commercial marinas.

<p>(crosstalk) I could not find a place to put my boat (inaudible).</p>	<p>a change to prohibit live-aboards in commercial marinas? 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. 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>Section 17.40.070</p>		
<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. Illegal live-aboard. 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</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? 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. Is Aurora that you mentioned a legal or illegal live-aboard? We're talking about things we want to do to tighten up the live-aboards that are legal. It's an enforcement question about</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>

that much more work for our understaffed Harbor Department to manage?	those that are illegal. We're only as good as our enforcement is capable in that situation. 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.	
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.		No comment.
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.		Added provision to require commercial pumpouts and provide proof of service upon request.
Section 17.45		
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	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	No changes recommended

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?	plumbing was installed and permitted. You already have plumbing.	
It's really dealing with the back-flow device.		No changes recommended
<p>If it is the back flow ...</p> <p>Do you read this as no problem for a private dock replacement, repair, or new?</p> <p>Do you have to have sanitation facilities?</p> <p>It makes it clearer.</p>	<p>It's not the back-flow device. It's actually the plumbing itself. It's whole plumbing.</p> <p>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.</p> <p>Or you can get a dock permit; that's correct.</p> <p>Would it make the crowd feel better if we inserted the word "upland" before "dwelling unit" in that section of Code so as to 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>	No changes recommended
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</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>	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>another layer of laws. The Harbormaster can board, but certainly the Coast Guard can board. There's something very complicated about this.</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. What he said.</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 Department becomes a law enforcement agency, they will automatically be authorized by the Coast Guard under the Coast Guard's authority.</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 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>See comment above regarding proposed changes.</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</p>	<p>See comments above regarding proposed changes.</p>

	<p>not stated. We're leaving it open.</p> <p>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>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-aboards, 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. Is there a stipulation where you can bring two personnel to a boarding so there are some checks and balances in that regard?</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?</p> <p>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>
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).</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</p>	<p>No changes, the City does not have authority over other governmental agencies that have responsibility in the Harbor.</p>

<p>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? If I submit that to you, you'll take it under consideration?</p>	<p>Board or the Coastal Commission. There could be. We're just not smart enough to figure it out, so we're going to have to rely on you. Absolutely.</p>	
Section 17.50.030.B.2		
	<p>Insert "where applicable" because I don't think it is in every case. We don't want to make it mandatory.</p>	Added language "as Required"
<p>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?</p>	<p>The Water Board's not in here. We'd be happy to put it in if you'd like.</p>	No recommended change to add the Water Board.
Section 17.50.050		
<p>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.</p>	<p>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</p>	No changes proposed

	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.	
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, 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.	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."
Section 17.60.040.B.2.c		
	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. 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.	Added language as a condition of being a permittee the vessel can be boarded at any time regarding the sanitation device.
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.	There are other provisions in the Code that allow the Harbor Department to inspect and note violations. 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	Only for the sanitation device.

<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>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>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.</p> <p>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.</p> <p>No, it's not. I don't believe it's written into this document.</p>	<p>It is a requirement.</p> <p>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"?</p> <p>This section is to mooring permittees, correct? Not live-aboard permittees (crosstalk).</p> <p>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.</p> <p>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</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>

	<p>to allow the City to drop a dye tablet anytime.</p> <p>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.</p> <p>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>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.</p> <p>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</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.</p> <p>That's required by the State Lands Commission.</p>	

calling them sub-permittees. They should be a tenant because they have nothing to do with the mooring. The permit fee went away, and it's been changed to (crosstalk).	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. I'm not qualified to answer that.	
There was this language about fair market value. What's that based on again? Are they comparing our moorings to our slips or our moorings to moorings in Morro Bay and San Diego and whatnot? Seems like ours is about 300% or 400% higher.	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 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.	
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).		
Section 17.60.040.C		
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? I would have to guess. It probably went from a 45-foot boat to a 60-foot boat.	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. What size vessel was in front of your house that went up so dramatically? Not sure how that could happen.	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>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 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>See proposed mooring extension policy. All requests over 5 feet would have to have Harbor Commission approval.</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</p>	<p>We would respectfully disagree with you. Staff has done an analysis off all moorings and how they're situated throughout</p>	<p>The new proposed mooring extension standards identify the maximum lengths of vessels</p>

<p>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>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 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>per row within each mooring field.</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. 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</p>	<p>No comment.</p>

	mooring, they need to read the Code and be sure they can comply with the Code before they start purchasing the mooring.	
Your comment was for a situation where you're transferring a boat and a mooring at the same time? That wasn't clear.	It says if a transferee intends to purchase an assigned vessel and doesn't have title to the vessel owned by the mooring 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.	The City does not allow a boat not registered to the mooring permittee on a mooring. If there is a transfer, the City will allow time to transfer ownership of the vessel.
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?	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.	This is correct.
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.	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?	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.
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?	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.	We would not stop a transfer if no boat is on the mooring. The City would have the right to rent the mooring.

	It's not going to stop the transfer. It's only intended to protect what boat eventually gets assigned.	
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 he's building a boat that will fit the mooring. He's had a 25-foot boat on it for the last ten years.		No comment
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 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.	This section is for visiting mariners. If they are causing a problem we simply revoke the sub-permit.
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.	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?	Yes, visitors are subject to the same rules as mooring permittees.
Yeah. They have to come to the dock anyway.		No comment.
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.	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?	This is an operational issue, staff will sort out.
Yes.	Our staff goes out there every single day and looks at every single boat. To perform the equivalent of a live-aboard inspection would	No comment.

	necessitate them to come to the dock. I think that's overkill.	
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.

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. They would be charged the same rate as a sub-permittee.	This is proposed to be changed. Permittee's can no longer loan their moorings.

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 fabrication, machining, welding, (inaudible), dumping. It's all happening on the F mooring field. There's slag being dumped in	That's all happening outside the Harbor. Didn't you hear the testimony? There are provisions in the Code. It's not allowed.	Harbor Department staff will address as part of code enforcement.

the Bay. There are all kinds of issues.		
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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.

**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
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.		No comment.
You own the expensive stuff.		No comment
Section 17.40.100		
<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>	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
<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>	We're talking about live-aboards only now.	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
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	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	Added language to allow the Harbormaster to make alternative arrangements if

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		
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?	It's all now referencing 17.05.115. Yes, it is.	No comment.
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>	This is defined in the definitions in section 17.01
My question is what is the threshold for requiring a permit. Is it the percentage of value you talked about or square footage?	<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>	See Maintenance definition in Section 17.01

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 permit holder 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
The person who would be issued the permit always has to own the abutting land.	Commercial permits in some cases—I wish I knew the answer to this—are subject to leases with the City.	
It sounds like you need a whole new section for commercial piers.	<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>	No comment, commercial piers have leases under the public trust lands, Section 17.60.60
<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>	This is the effective date of Ordinance 2017-7, which added language to the NBMC that revised section 17.60.030.
Some tidelands adjustment in '17 at the Coastal Commission?	<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>	See comment above

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
could do that and give them the mooring? Maybe they might feel like giving you some money.	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>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>
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	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.	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.

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>
Section 17.60.60		
	<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>	
Section 17.65.40(F)		
	<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.