

**NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES**  
**Zoom Virtual Meeting, Newport Beach, CA**  
**Wednesday, August 12, 2020**  
**5 PM**

**1) CALL MEETING TO ORDER**

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

**2) ROLL CALL**

Commissioners: William Kenney, Jr., Chair  
Scott Cunningham, Vice Chair  
Ira Beer, Secretary  
Marie Marston, Commissioner  
Steve Scully, Commissioner  
Gary Williams, Commissioner  
Don Yahn, Commissioner

Staff Members: Carol Jacobs, Assistant City Manager  
Kurt Borsting, Harbormaster  
Chris Miller, Public Works Administrative Manager  
Jennifer Biddle, Administrative Support Specialist

**3) PLEDGE OF ALLEGIANCE – Chair Kenney**

**4) PUBLIC COMMENTS**

Jim Mosher advised that Title 11 of the Municipal Code designates ten swimming areas in the City, several of which are located in the Harbor. However, none are shown on Harbor maps.

**5) APPROVAL OF MINUTES**

**1. Minutes of July 8, 2020, Regular Meeting**

Commissioner Marston corrected "Coast Commission" in the fifth paragraph on page 9 to "Coastal Commission."

Chair Kenney requested the incorporation of Mr. Mosher's proposed revisions into the minutes. Mr. Bose's comments on page 8 should refer to "pedal" boats. The first sentence on page 9 should read "Chair Kenney clarified that the Harbor Commission's discussion could lead to the creation of guidelines."

Commissioner Beer moved to approve the draft Minutes of the July 8, 2020 meeting as amended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Vice Chair Cunningham, Commissioner Beer, Commissioner Marston,  
Commissioner Scully, Commissioner Williams, Commissioner Yahn

**Nays:** None

**Abstaining:** None

**Absent:** None

**6) CURRENT BUSINESS**

**1. Review of Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential**

The Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential Facilities (Harbor Design Standards) have been updated. Staff requests

that the Harbor Commission review these standards, then return to the September 2020 meeting to consider forwarding to the City Council for approval.

**Recommendation:**

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment, directly or indirectly;
- 2) Receive and file the Harbor Design Standards. Return to the September 2020 Harbor Commission meeting to consider forwarding the Harbor Design Standards to the City Council for approval.

Public Works Administrative Manager Chris Miller reported staff has updated the Harbor Design Standards with consultation from the industry. He reviewed proposed revisions to Section I.A.3.d.(3), Figure No. 10A, and all Standard Drawings. Standard Drawing No. 616 for the West Newport area requires a minimum of 18 feet between the back edge of a float to the bulkhead, and staff proposes to eliminate the minimum distance. Staff proposes to simplify Standard Drawing Nos. 615—Sand Profile and 616—Datums.

In response to Vice Chair Cunningham's inquiries, Public Works Administrative Manager Miller indicated the Harbor Design Standards do not mention a multiple vessel mooring system. A multiple vessel mooring system generally utilizes a repurposed float; therefore, the float should probably comply with the requirements contained in the Harbor Design Standards. If an applicant proposes an alternate material or design that satisfies the intent of the Code and engineering requirements, a building official will review it and may allow it.

Commissioner Beer concurred with requiring an epoxy coating on rebar.

In reply to Commissioner Marston's query, Public Works Administrative Manager Miller advised that the Planning Department reviews all bulkhead projects and applies standards for sea level rise. Commissioner Marston suggested drawings with specific elevations be revised to replace the elevation with a note indicating the Planning Department will provide the specific elevation.

In answer to Commissioner Scully's question, Public Works Administrative Manager Miller would have to determine the number of applications that would be affected by removing the 18-foot minimum in Standard Drawing No. 616.

In response to Chair Kenney's inquiry, Public Works Administrative Manager Miller related that a homeowner will not have to raise the height of his bulkhead to repair or replace an existing dock. A project that rebuilds and raises the bulkhead cap could result in the need to alter the gangway, especially in a commercial marina.

Jim Mosher noted the tide gauge that provided the City with data has been out of service for many years. Consequently, the data shown on Standard Drawing No. 616—Datums is out of date. He inquired regarding the status of a new tide gauge on Lido Bridge.

Public Works Administrative Manager Miller clarified that the drawing is not a tide gauge, but a visual representation of datums, and the data on the exhibit is not out of date. An electronic tide gauge has been installed at the Balboa Yacht Basin. He would determine whether data from the gauge is available to the public.

**2. Harbor Commission 2020 Objectives**

Each ad hoc committee studying their respective Functional Area, within the Commission's 2020 Objectives, will provide a progress update.

**Recommendation:**

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Functional Area 1: Chair Kenney reported work continues on Section 17.10. The City Attorney's Office has reviewed the proposed revisions and has proposed additional modifications. The ad hoc committee does not agree with the modifications and will meet with staff and the City Attorney's Office on August 18 to resolve issues. The ad hoc committee expects to present its recommendation to the Harbor Commission in September. The ad hoc committee and staff have drafted the four types of Marina Activities Permit (MAP) and provided them to the City Attorney's Office for review and comment. The ad hoc committee continues to compile information regarding Objective 1.4 and will focus first on onshore moorings.

Functional Area 2: Commissioner Beer advised that discussions and outreach continue regarding Policy H-3. Harbormaster Borsting has audited permitted moorings and GIS information and identified a few discrepancies, which GIS staff has corrected. Commissioner Beer will review the Policy H-3 chart of moorings and resolve any issues with key stakeholders. The U.S. Coast Guard has commented regarding the footprint of the proposed West Anchorage, and Public Works Administrative Manager Miller has redrawn the footprint. With respect to Objective 2.5, the ad hoc committee is arranging discussions for a plan.

Vice Chair Cunningham suggested Commissioner Beer consider day moorings within the Harbor under Objective 2.5.

Functional Area 3: Vice Chair Cunningham indicated the RGP-54 public notice comment period extends from August 7, 2020 to September 6, 2020. Public comments, if any, will be reviewed, and hopefully permits will be written soon after that. If a carve-out for beaches can be attained, Objective 3.2 may change for 2021. Regarding Objective 3.3, the City's modified request for \$10 million was well received. Public Works Administrative Manager Miller will propose new designs for floats at public docks at an upcoming meeting.

Functional Area 4: Commissioner Scully related that work on Objective 4.1 has been delayed due to the revision of Harbor maps, and Objectives 4.2 and 4.3 are on hold due to COVID. Work on Objective 4.4 is slow because of businesses not responding to written requests for information. Based on current information, more than 5 million people use the Harbor.

Functional Area 5: Commissioner Yahn advised that the ad hoc committee is exploring areas where marine-related activities and businesses can be preserved and exploring a relationship with the Planning Department to learn of projects that affect the Harbor. The ad hoc committee is interested in continuing a dialog and initiating meetings with the Parks, Beaches and Recreation Commission regarding Lower Castaways.

Vice Chair Cunningham inquired whether the Harbor Commission should form a subcommittee to make recommendations on revising the Objectives for 2021 or propose and discuss revisions during a Harbor Commission meeting.

Commissioner Beer requested to attend Vice Chair Cunningham's meeting with Public Works Administrative Manager Miller to discuss float design. Vice Chair Cunningham invited both Commissioner Beer and Chair Kenney.

Chair Kenney remarked that engineering criteria for anchoring multiple vessel mooring systems will be needed prior to their being incorporated into the Harbor Design Standards.

In reply to Commissioner Marston's inquiries, Commissioner Scully indicated the ad hoc committee for Objective 4.1 will work on MAPs when the new Harbor maps are available. Commissioner Cunningham indicated the discussion of a new float design will pertain to size and shape of the floats in an effort to optimize space and usage, and revisions to the Harbor Design Standards for the new float will not be needed.

In response to Chair Kenney's queries, Commissioner Beer reported the revised West Anchorage can accommodate about 13 vessels of various sizes. An area outside the West Anchorage can accommodate larger vessels that require a permit to anchor in the Harbor.

Chair Kenney concurred with Vice Chair Cunningham's proposal regarding day moorings.

**3. Harbormaster Update – July 2020 Activities**

The Harbormaster is responsible for the management of the City's mooring fields, the Marina Park Guest Marina, and Harbor on-water code enforcement activities. This report will update the Commission on the Harbor Department's activities for March through May 2020.

**Recommendation:**

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Kurt Borsting reported the Public Works Department is purchasing and installing an oil recycling station at Veterans Memorial Park. This will be the second Harbor location for such a facility. The Harbor Department will lock and unlock the facility daily, promote its use, and host occasional programmatic efforts. A State grant funds the collection and recycling of oil deposited at the station. Staff has updated onshore and offshore mooring permit forms to reflect recent revisions to Title 17, to require additional contact information, and to educate permit holders about rules and regulations. Gus Cortez and Michael Hawley have been hired as Harbor Service Worker Lead and Harbor Service Worker respectively. Interviews of candidates for two part-time Code Enforcement Officer positions are underway. Comparing July 2019 to July 2020, reservations for Marina Park slips increased about 6 percent, and the number of nights increased almost 50 percent. Reservations for sand lines increased, but the number of nights decreased. Reservations for mooring sub-permits were essentially flat, but the number of nights decreased.

In answer to Vice Chair Cunningham's inquiry, Assistant City Manager Carol Jacobs advised that the Revenue Division will review Harbor fees in the next few months. If the Harbor Commission would like to propose changes to fees, it should do so. If the Harbor Commission wishes, the Revenue Division could present information regarding the structure and calculation of fees. Harbormaster Borsting added that he would like the Harbor Commission to consider seasonal rates and some additional fees.

In response to Commissioner Beer's question, Harbormaster Borsting believed marketing to prior Harbor visitors could improve. A marketing strategy would be beneficial.

In reply to Commissioner Yahn's queries, Harbormaster Borsting indicated the new permit forms will be unveiled first with existing and new permittees for onshore moorings and then for offshore moorings. Permittees have to acknowledge dye tablet regulations and the ability of staff to board vessels. The new forms are much longer than the current forms, and staff will have to work with permittees to complete all information. Assistant City Manager Jacobs explained that previously a consultant conducted a study to aid the Harbor Commission in setting permittee rents. The upcoming review of fees will not include permittee rents. Commissioner Yahn appreciated the requirement for permittees to acknowledge the new regulations and staff's efforts to promote the new recycling station.

In answer to Commissioner Scully's inquiries, Harbormaster Borsting stated bilge pads can be deposited at the recycling station, and he would determine the station's ability to accept 5-gallon pails.

Chair Kenney noted the recycling station at the Balboa Yacht Basin accepts 5-gallon pails and bilge pads.

In response to Commissioner Williams' question, Harbormaster Borsting explained that the welcome packet for Marina Park slip users includes a customer satisfaction survey. An online survey could improve the response rate. There is not a survey for offshore mooring and short-term onshore mooring users. Commissioner Williams suggested implementing a text survey of users and sending it to users while they are in the Harbor.

Jim Mosher explained that the Revenue Division updates fees by department on a three to five-year cycle.

**7) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)**

None

**8) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR-RELATED ISSUES**

In reply to Commissioner Beer's inquiries, Harbormaster Borsting did not recall limiting the pedal boat business to a maximum of six persons; however, he would review the permit for occupancy and whether persons had to pedal. The City's Noise Ordinance applies to vessels on the water, but enforcing it may be a challenge. Assistant City Manager Jacobs added that additional Code Enforcement staff will increase enforcement on the water. Chair Kenney noted Harbor Department staff would need a meter to measure noise. Harbormaster Borsting indicated the Harbor Department has the equipment.

Chair Kenney requested staff determine whether the boat rental app Get My Boat and boat owners renting their boats through the app need a MAP.

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

Vice Chair Cunningham requested agenda items for Harbor Commission review of Objectives for 2021 and a presentation by the Revenue Division. Assistant City Manager Jacobs suggested a study session for discussion of 2021 Objectives. Commissioners agreed with scheduling a study session. Vice Chair Cunningham requested the revenue presentation include budgeting of fee revenues. Assistant City Manager Jacobs indicated the presentation will be similar to a Harbor Finances 101 class.

Chair Kenney requested an action item for Title 17.10.

**10) DATE AND TIME FOR NEXT MEETING: Wednesday, September 9, 2020 at 5:00 p.m.**

Chair Kenney proposed the Harbor Commission hold a study session to discuss Objectives at 4 p.m. with the regular meeting beginning at 5 p.m., with which Commissioners concurred.

**11) ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 6:50 p.m.