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NEWPORT BEACH

Harbor Commission Staff Report

June 9, 2021
Agenda Item No. 6.1

TO: HARBOR COMMISSION

FROM: Matt Cosylion, Code Enforcement Supervisor,
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TITLE: Harbor Department Code Enforcement Program

ABSTRACT:

The Harbor Department is responsible for many of the harbor-related programs and services in the City of Newport Beach (City). A robust code enforcement program is needed to protect and maintain the health, safety, and charm of Newport Harbor through the enforcement of Title 17 regulations and applicable State and Federal laws. This report will update the Harbor Commission on enforcement activities since March 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.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

BACKGROUND:

Due to the COVID-19 pandemic and the subsequent Stay Home Order issued by the State of California, the City experienced an influx of visitors and recreational boaters to Newport Harbor resulting in one of the busiest boating seasons on record.

The surge in local and transient boaters, increased use of harbor amenities such as public docks, and new charter and small boat rental businesses led to a heightened demand for the delivery of

effective code enforcement services to the boating public and daily patrols of the anchorage and mooring fields to encourage their safe use.

DISCUSSION:

Code Enforcement Staffing

In addition to the full time Code Enforcement Supervisor, three part-time staffers were hired to assist with the enforcement of Title 17 and other City ordinances through increased on-water patrol time and a transition from verbal warnings (education model) to encouraging compliance through frequent use of warning notices and administrative citations.

Additionally, these employees have been directed to take timely and aggressive enforcement actions to ensure the success of harbor related services and programs and make sure permittees adhere to the conditions of approval for various permits.

Marine Activities Permit Program (MAP)

Code Enforcement staff are responsible for identifying businesses that are operating in Newport Harbor without a Marine Activities Permit (MAP). These companies must obtain zoning clearance from the City's Planning Division, pass a thorough safety inspection of their vessels, and provide proof of registration and insurance prior to being issued a MAP.

There are now 47 companies that have a MAP with another 12 businesses in various stages of the application process. Code Enforcement officers monitor and actively communicate with these operators to ensure compliance with their MAPs.

Small Harbor Operator's Registration (SHOR)

A recent update to Chapter 17.10 of the Newport Beach Municipal Code removed the MAP exemption for certain operations, including 6 passenger charter vessels and sportfishing companies. Those businesses in operation prior to the update in January 2021 were allowed to continue operating without a MAP as long as they register with the City, and they do not make any substantial changes to their business such as adding more vessels or passengers.

Code Enforcement staff are tasked with registering these "grandfathered" companies and ensuring they comply with the terms of their registration. Staff have registered 15 companies, with 3 more businesses in various stages of registration process.

Dye Tab Program

To help improve water quality in Newport Harbor, the Harbor Department implemented a dye tab program in which code enforcement staff inspect the plumbing and holding tank of any vessel staying overnight in the anchorage or on a rented City mooring. Staff ensures that waste from the installed head (toilet) goes into the holding tank rather than into the Harbor. Vessel owners may be issued a \$1,000 administrative citation, and they will be required to immediately leave the Harbor if a leak is discovered.

Bridge Jumping Enforcement

Starting on June 6, Code Enforcement staff will be issuing administrative citations to any person observed jumping off a bridge into the Harbor. Not only do persons jumping off bridges risk injury to themselves, they also pose a significant danger to unsuspecting boaters who may be passing underneath the bridge. Staff will be assigned to patrol bridges on a daily basis until after Labor Day.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission 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.

NOTICING:

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