

**NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES**  
**City Council Chambers – 100 Civic Center Drive, Newport Beach, CA**  
**Wednesday, July 14, 2021**  
**5 p.m.**

**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 (excused absence)  
Marie Marston, Commissioner  
Steve Scully, Commissioner  
Gary Williams, Commissioner  
Don Yahn, Commissioner

Staff Members: Carol Jacobs, Assistant City Manager  
Paul Blank, Harbormaster  
Jeremy Jung, Deputy City Attorney  
Chris Miller, Public Works Administrative Manager  
Jennifer Biddle, Administrative Support Specialist

**3) PLEDGE OF ALLEGIANCE – Commissioner Marston**

**4) PUBLIC COMMENTS – None.**

**5) APPROVAL OF MINUTES**

**1. Draft Minutes of the June 9, 2021, Harbor Commission Regular Meeting**

Chair Kenney announced that Commissioner Marston and Commissioner Scully provided written comments regarding the minutes. On Page 4 in the first paragraph, the word “looked” should be changed to “look”. On Page 5 in the second full paragraph, line three, he recommended deleting the words “only in the areas where there is no pierhead line”. On Page 7 in Functional Area 4, line three, the word “identifying” should be changed to “identify” as well as in the last paragraph on Page 7, “septor” should be changed to “sector”. Lastly, on Page 8, in the second paragraph next to the last line, “Congressmen” should be changed to “Congresswoman”.

Commissioner Marston requested clarification regarding the comment made in the last sentence in the third paragraph at the top of Page 3. Harbormaster Paul Blank remarked that the comment relates to the command from other harbors mooring impounded vessels into the harbor to be destroyed. Commissioner Marston suggested that be clarified in the minutes.

Jim Mosher appreciated the thorough review the Commissioners do regarding the minutes. With respect to Commissioner Marston’s suggested change to the minutes regarding the Code Enforcement Department, he noted that Newport Beach technically does not have a Code Enforcement Department. Instead, the City has a code enforcement division. He shared that Mr. Luckey’s name is spelled wrong and should include an “e”.

Chair Kenney requested that Harbormaster Blank address the comment that Newport Beach does not have a Code Enforcement Department. Harbormaster Blank confirmed that code enforcement officers are part of the Harbor Department and the minutes should not be corrected to say Code Enforcement Department.

Commissioner Marston agreed to retract her comment regarding code enforcement.

Commissioner Williams moved to approve the draft Minutes of the June 9, 2021 meeting as amended. Commissioner Scully seconded the motion. The motion carried by the following vote:

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

**Nays:** None

**Abstaining:** None

**Absent:** Secretary Beer

## **6) ELECTION OF OFFICERS**

**The Harbor Commission will elect officers for the 2021-22 year.**

### **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) Elect Chair;
- 3) Elect Vice Chair; and
- 4) Elect Secretary.

Vice Chair Cunningham announced that the flow of the meetings has been working exceptionally well over the past 12-months. He nominated a slate to include William Kenney as Chair, Ira Beer as Vice Chair and Steve Scully as Secretary.

Commissioner Yahn, Commissioner Williams, Commissioner Scully and Commissioner Marston supported Vice Chair Cunningham's nominations.

Vice Chair Cunningham moved that the election of officers is not subject to CEQA and nominated William Kenney for Chair, Ira Beer for Vice Chair and Steve Scully for Secretary for the coming calendar year. Commissioner Yahn seconded the motion. The motion carried by the following vote:

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

**Nays:** None

**Abstaining:** Chair Kenney

**Absent:** Secretary Beer

The Harbor Commission moved to Agenda Item 8.3

## **7) PUBLIC HEARING**

### **1. Residential Dock Reconfiguration at 605 Via Lido Soud**

The applicant at 605 Via Lido Soud is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and U-shaped float with a similar dock system including a single-finger float. The proposed float extends beyond the pierhead line but less than the existing, permitted float. Because the applicant is proposing to position the float beyond the pierhead line, staff is unable to consider approving the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project. The applicant requests the Harbor Commission to approve the proposed dock configuration.

### **Recommendation:**

- 1) Conduct a public hearing;

- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 605 Via Lido Soud by making specific findings to allow the dock to be reconfigured pursuant to the provisions in Council Policy H-1.

Public Works Administrative Manager Chris Miller reported that the applicant is requesting to replace the pier, pier platform and gangway u-shaped float with a similar dock system, including a single finger float. The dock will extend beyond the pierhead line and due to Council Policy H-1, staff has brought the item before the Commission for review and approval. Almost all neighboring docks currently extend beyond the pierhead line. To approve the project and allow the dock to extend beyond the pierhead line, the Commission must make all the findings listed in the staff report as required by Council Policy H-1. In 2012, staff approved dry rot framing and re-decking of the current configuration. He noted that there is an error in the staff report under the proposed project and that the width inside of the existing u-shape float is 12 feet, not 11 feet. The applicant has submitted an amendment to the original proposal to shift the dock system to the left by 1 to 2 feet, while still maintaining the 5-foot setback. The proposed float will extend 3 feet less towards the channel than the existing configuration. In terms of Finding #4, he clarified that because the existing float is u-shaped, the maximum distance a vessel can extend out into the harbor, at present time, is 12 feet beyond the end of the finger. In the proposed configuration, staff proposes that the 12-foot limitation be imposed in order to be consistent with Council Policy H-1.

In answer to Commissioner Yahn's question regarding whether the 12-foot limitation includes that the new float extends 3 feet less than the current float, Public Works Administrative Manager Miller clarified that the proposal is to allow a vessel to extend 12-feet beyond the end of the proposed float.

In response to Commissioner Williams's query why the project was shifted to the left, Public Works Administrative Manager Miller indicated that it is to maximize the view.

In reply to Secretary Scully's inquiry regarding how far past the project line is the proposed float, Public Works Administrative Manager Miller answered it is 5 feet beyond the project line.

In answer to Commissioner Marston's question regarding moving the pierhead line, Public Works Administrative Manager Miller remarked that the project, pierhead and bulkhead lines are Federal lines and would require congressional approval to be moved. In response to Commissioner Marston's query regarding is it the City's goal to keep structures from encroaching beyond the pierhead line, Public Works Administrative Manager Miller suggested that the Commission discuss that during Agenda Item 8.2.

In response to Chair Kenney's queries regarding if Title 17 restricts fixed piers and the cantilever deck, Public Works Administrative Manager Miller answered no, Title 17 does not restrict individual components of a dock. In terms of the cantilever deck, Public Works Administrative Manager Miller disclosed that the applicant is allowed to a cantilever deck. Chair Kenney noted that based on the existing and proposed drawing, the cantilever deck is being shown beyond the bulkhead line. Pete Swift, Swift Slip and representative of the applicant, mentioned that in prior years, the City has allowed floats to extend 20 feet past the pierhead line. In terms of the cantilever deck, he said that it has been removed and the drawing is misleading because the deck laid on the sand. He requested that the 12-foot limitation a vessel can extend beyond the finger be changed to 15-feet.

In answer to Secretary Scully's clarification that a vessel would extend 15-feet beyond regardless of the beam size, Mr. Swift explained that with the new float, a 15-foot extension past the dock results in a vessel falling in the same area a 12-foot vessel would fall if it were tied to the existing float.

Jim Mosher asked why the public noticing listed in the staff report references the Coastal Implementation Plan and not the hearing notice requirements in Title 17. He suggested the Harbor Commission investigate public noticing protocols. He noted that one public noticing requirement is that there be public noticing posted at the site and he wanted to know if that happened. He asked why

there is not a resolution for the Commission to consider. He suggested that the Commission review the existing permit listed in the staff report that says the dock is allowed to extend 10-feet beyond the pierhead line but it currently extends 16-feet.

Public Works Administrative Manager Miller disclosed that in order to maintain consistency for public noticing for all Boards, Commissions and City Council, ~~He~~ he mimics how the Planning Department does its public noticing process. He commented that if the Commission wants staff to change how public outreach is done, he will accommodate any suggestions. He confirmed that there is a public notice posted at the project site and resolutions will be included in future staff reports. In terms of the existing permit, the existing float has been in its present configuration since 2001 and has gone through two different approvals before coming to the Commission with the current proposal.

Commissioner Cunningham left the meeting at 5:53 p.m.

Deputy City Attorney Jeremy Jung announced that staff will prepare a resolution and have the Chair review and sign it for approval.

Chair Kenney noted that the plans that were approved in 2012 show the float extending 15-feet and the drawings presented to the Commission show an extension of 16.2-feet. Public Works Administrative Manager Miller restated that per the aerial photos, the float extends the same distance.

In answer to Secretary Scully's question regarding how many Commission approvals have a length restriction instead of a beam restriction, Public Works Administrative Manager Miller reported that the Commission has approved several projects that restrict vessel overhang. He remarked that staff does support the request made by the applicant to allow a vessel to extend past the float up to 15 feet.

Commissioner Marston noticed that in the aerial photos, only one neighboring dock extends beyond the project line. In answer to her question regarding how many docks have the right to extend beyond the project line, Public Works Administrative Manager Miller stated that there is no restriction on projecting past the project line. The project line is used as a dredging limit line by the United States Army Corps of Engineers.

Commissioner Yahn stated that that when applications are restricted to a certain length, there is no enforcement of that restriction. Chair Kenney felt that code enforcement staff will investigate if there is a complaint filed or they notice it.

Secretary Scully moved to approve the residential dock configuration for 605 Via Lido Soud with a 15-foot length, past the dock to bay ward restriction and the action is not subject to CEQA and in accordance with the updated proposed configuration; and adopt the findings but adjust Finding #4 from 12-feet to 15-feet. Commissioner Williams seconded the motion. The motion carried by the following vote:

**Ayes:** Chair Kenney, Commissioner Marston, Secretary Scully, Commissioner Williams, Commissioner Yahn

**Nays:** None

**Abstaining:** None.

**Absent:** Vice Chair Beer, Commissioner Cunningham

## **2. Residential Dock Reconfiguration at 633 Via Lido Soud**

The applicant at 633 Via Lido Soud is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and float with a similar dock system. The proposed float extends beyond the pierhead line the same distance as the existing permitted float. Because the applicant is proposing to position the float beyond the pierhead line, staff is unable to consider approving the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project. The applicant requests the Harbor Commission to approve the proposed dock configuration.

## **Recommendation:**

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 633 Via Lido Soud by making specific findings to allow the dock to be reconfigured pursuant to the provisions in Council Policy H-1.

Public Works Administrative Manager Miller reported that the project is to replace the existing pier, pier platform, gangway and float with a similar dock system. The Commission must make the findings listed in the staff report as required by Council Policy H-1. The surrounding docks have been previously allowed to extend 20 feet past the pierhead line. The last approval for the dock was recorded in 2005. The proposed dock will maintain the L-shape, will extend the same distance out past the pierhead line as the existing dock and will maintain the 5-foot setback. Staff followed the same noticing requirements normally used and will provide a resolution to the Chair to review and sign for approval after an action is taken by the Commission.

Commissioner Yahn disclosed that Policy H-1 states that an existing pier or float may not encroach further bay ward than what it already is encroaching. In answer to his question regarding if there is a compliance concern because the new float extends further than the existing float by 4-inches, Public Works Administrative Manager Miller mentioned that the pierhead line is not parallel to the shore and that poses a degree of error.

Chair Kenney agreed that the pierhead line, the bulkhead line and the project line do not appear to be parallel to the seawall. In answer to his questions regarding measuring from the bulkhead line versus the seawall and where is the project line on the plans from 1995, Public Works Administrative Manager Miller confirmed that per the 2005 plans, the float is within inches of the project line. He acknowledged that the 1995 plan in the staff report may not be drawn as accurately as the 2005 plans.

Pete Swift, Swift Slip and representative for the applicant, confirmed that the bulkhead line does run parallel to the pierhead line and project line. He shared that the applicant is in agreement with what is outlined in the staff report.

Jim Mosher commended the owner for not building the dock up to the pierhead line. He reminded the Commission that they are not approving the permit but issuing an approval in concept. The project still has to go to the Coastal Commission for approval. He asked what happens if the Coastal Commission approves something different than what the Commission approves and does the City update the files to reflect that change? He commented that the staff report states that noticing was done on January 1, 2021 and he suggested that the resolution reflect the correct date.

Chair Kenney understood that the Commission is approving a dock reconstruction that is subject to the provisions of Council Policy H-1.

Secretary Scully moved to approve the residential dock reconfiguration at 633 Via Lido, that the Commission finds project exempt from CEQA, and accepts the findings published by staff and the reconfiguration in accordance with the proposed drawings in the packet. Commissioner Williams seconded the motion. The motion carried by the following vote:

**Ayes:** Chair Kenney, Commissioner Marston, Secretary Scully, Commissioner Williams, Commissioner Yahn

**Nays:** None

**Abstaining:** None.

**Absent:** Vice Chair Beer, Commissioner Cunningham

## 8) CURRENT BUSINESS

### 1. **Caulerpa in Newport Harbor**

The invasive algae, *Caulerpa prolifera*, was recently found growing in the Entrance Channel area of Newport Harbor. Staff will provide an update to the Harbor Commission on the current efforts to remove and eradicate the algae.

**Recommendation:**

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Public Works Administrative Manager Miller shared that *Caulerpa* is related to *Caulerpa Taxifolia* and there were instances of *Caulerpa Taxifolia* being found at Huntington Beach in mid-2000. The Southern California Caulerpa Action Team has been meeting twice a week to discuss the matter. The team comprises of state regulatory and resource agencies. The team's job is to direct and approve all the surveys, approve the removal plan and seek funding to pay for the process. *Caulerpa* has been discovered outside of China Cove Beach and staff has outlined the infested area with swim lines. The team had Balboa Reach and the entrance channel surveyed for *Caulerpa*. It was determined that the area north of the allowable dredge area, towards China Cove, will not be dredged. The decision to not dredge that area is supported by the Southern California Caulerpa Action Team and the United States Army Corps of Engineers. He shared that removal efforts have been completed and were successful. Final surveys of the area will be conducted to make sure all the *Caulerpa* has been removed. The swim lines will be removed once the final surveys have come back negative. Surveys will continue on a 4-month schedule for several years to make sure that the *Caulerpa* does not reappear.

In answer to Secretary Scully's query of cost and testing of the storm drain, Public Works Administrative Manager Miller announced that the Water Board is funding the follow-up surveys. There has been no testing of the storm drain but because the plant species is a saltwater plant, it cannot survive in the freshwater coming from the storm drain.

Brent Mardian mentioned that his profession is to conduct *Caulerpa* surveys. He emphasized that if the plant is not controlled, there is a likelihood it will come back. To mitigate that, he suggested the City follow what San Diego has done and ban the sale of *Caulerpa*. He added that there are species of *Caulerpa* that can survive in freshwater.

In answer to Chair Kenney's inquiry regarding restricting the sale of *Caulerpa*, Public Works Administrative Manager Miller confirmed that it is sold online but there has been an ongoing effort to ban the sale for the entire State of California.

**2. Council Policy H-1- Harbor Commission Review of Proposed Changes**

As a result of recent applications for dock extensions and reconfigurations brought before the City Council, the City Council raised a concern regarding the inability of the Harbor Commission to resolve applications. The City Council requested the Harbor Commission review the policy and recommend changes that may allow them to approve dock permit applications that cannot otherwise be approved by staff. The Harbor Commission established a subcommittee at the February 10, 2021 Harbor Commission meeting, to review City Council Policy H-1, Harbor Permit Policy, to clarify the Policy's intent and process in order to assist staff and the Harbor Commission when considering future applications. The City Council also directed the Harbor Commission to review the recent changes adopted in 2020 and to make recommendations to the City Council regarding any proposed revisions thereto.

**Recommendation:**

- 1) Determine that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly; and
- 2) Review, modify and/or approve changes proposed by the Harbor Commission subcommittee to Council Policy H-1 and forward the recommendations to the City Council for consideration.

Deputy City Attorney Jung disclosed that the subcommittee's recommendations, along with the proposed changes suggested by the Commission, have been incorporated into Policy H-1. The title has been changed to reflect that the policy addresses piers and floats extending beyond the pierhead line. He clarified that Part A contains the main part of the policy that deals with where the pierhead line is objectively impacting pier and float structures. Part B addresses specific parts of the harbor where the pierhead line does not exist or it is unclear how specific piers and floats are governed. Included in Part A, new discretionary criteria are included that discusses aesthetics, what the approval process is for piers and floats that do not fall clearly within the parameters and language changes to discretionary criteria 5B and 5C.

Commissioner Yahn acknowledged that the subcommittee's discussion is reflected well in the changes that Deputy City Attorney Jung has put forward.

Secretary Scully remarked that the changes help the policy flow better.

In answer to Commissioner Marston's query regarding if City-issued permits mean existing or future permits, Deputy City Attorney Jung answered that it means existing. In response to Commissioner Marston's request regarding if that needs further clarification, Deputy City Attorney Jung suggested that the word "existing" be included in Part A-2 and Part B.

Chair Kenney announced his main concern is with Part A-2. In reply to his question regarding if Part A-2 gives the Commission flexibility to decide whether or not an application is or isn't in substantial conformance, Deputy City Attorney Jung answered yes and that it is up to the Commission to determine what substantial conformance is.

Jim Mosher asked why the word "approved" has been deleted from the first paragraph under background. At the beginning of Part B, he believes the language should be "construction or reconstruction". In the paragraph where it discusses areas with no pierhead line, the language it is not explicit who will be reviewing application and it does not explain what other provisions of Title 17 the reviewee will be referencing.

Deputy City Attorney Jung reported that if the Commission approves, staff will reinsert the word "approved". With respect to Part B and reconstruction, Deputy City Attorney Jung mentioned that the existing policy only refers to reconstruction. Chair Kenney noted that the intent of Policy H-1 is to address reconstruction only. Public Works Administrative Manager Miller stated that is not true and that there are still homes that do not have docks. For that reason, it is not always reconstruction and there may be applications for new construction. Assistant City Manager Carol Jacobs disclosed that if an application is submitted for new construction, that application would have to comply with the existing policies. For that reason, language about new construction is not needed.

With respect to the last sentence in Part B, Deputy City Attorney Jung explained that the provision most likely to be cited from Title 17 is the provision regarding Harbor Development Permits. Those will be approved by staff and/or the Harbor Commission.

Commissioner Yahn moved that the action is exempt from CEQA and to approve the provisions as shown in Exhibit 1 of the packet be approved by the Harbor Commission. Seconded by Commissioner Marston. The motion carried by the following vote:

**Ayes:** Chair Kenney, Commissioner Marston, Secretary Scully, Commissioner Williams, Commissioner Yahn  
**Nays:** None  
**Abstaining:** None  
**Absent:** Vice Chair Beer, Commissioner Cunningham

[The Harbor Commission moved to Agenda Item 8.4]

### **3. Affordable Access Project - Creation of Subcommittee**



As part of the Harbor Commission's review of harbor activities, Chairman William Kenney has requested the Harbor Commission's consideration of creating a subcommittee to consider affordable access to the harbor.

**Recommendation:**

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Determine if there is interest in creating a subcommittee and if so, who will be on the committee.

Chair Kenney reported that there have been discussions about creating an Ad Hoc Committee to address how the City of Newport Beach and the Harbor Department can create a program to provide affordable access to boating to folks who have lower incomes.

Commissioner Cunningham acknowledged that boating is very popular in the harbor, but it is very difficult to buy or rent a boat. To rent a 50-foot slip from Bayside Marina, it costs \$3,975 a month, for Newport Dunes it costs \$2,950 a month to rent a 50-foot slip, for Lido Yacht Anchorage it costs \$3,050 to rent a 50-foot slip for a month. The Balboa Yacht Basin bases its rates upon an average of five different marinas and their rate is \$2,341 to rent a 50-foot slip for a month. He mentioned that during a discussion with Balboa Yacht Basin, there are 171 slips located in the basin, there are 140 people on the waiting list and since March of 2021 only two people have left the basin. He noted that it is alarming that the wait time to receive a spot at Balboa Yacht Basin is close to 7 to 10 years. With these alarming prices, he requested that the Commission form a subcommittee to explore ways to make boating more affordable and he requested to lead it.

Commissioner Yahn supported the idea.

Secretary Scully requested to be on the subcommittee.

Commissioner Marston echoed that it is a good idea. She noted that the other aspect of it that would need further exploration is who would be eligible and what are the requirements to do be on the affordability list. She requested to be on the subcommittee as well.

Chair Kenney acknowledged that the Commission did receive written correspondence from the Newport Mooring Association who supported the idea.

The Harbor Commission moved to Item 7.1

**4. Ad Hoc Committee Updates**

Several ad hoc committees have been established to address short term projects outside of the 2021 Harbor Commission objectives. The ad hoc committees will provide an update on their projects.

**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.

Commissioner Marston announced that Commissioner Yahn, Chair Kenney and herself are part of the Ad Hoc Committee investigating floats and piers in the harbor. The Ad Hoc Committee categorized their findings into three categories, floats attached to docks, floats attached to moorings and floats that are being used as vessels. She said that Group 1 photos show common floats and hoists used in the harbor which



~~appear to pose no issues, and~~ Group 2 contains photos of floats and hoists that the Ad Hoc Committee suggests the Harbormaster investigate and Group 3 contains photos of potential concerns. In terms of moorings, Group 5 contains photos of common practices and Group 6 and 7 contains photos of more concerning mooring issues. ~~The last g~~Group 8ef photos shows floats that are being used as vessels. The Ad Hoc Committee provided comments and considerations for the Commission regarding floats and moorings.

Commissioner Yahn added that there are instances where folks have increased the square footage of their dock without a permit but it is not a huge problem in the harbor. The Ad Hoc Committee will continue exploring the more concerning scenarios they have discovered. He suggested the Commission explore drafting a policy to address the issues that the Ad Hoc Committee has found.

Chair Kenney acknowledged that many of the Commission's objectives are intertwined with each other and that another Ad Hoc Committee is exploring onshore moorings.

Secretary Scully confirmed that many of the findings from the Ad Hoc Committee will be discussed among the committee who is tasked with Objective 2.4.

Commissioner Williams mentioned that one of the photos contained a dock that he was a part of approving at one of his first Commission meetings. The applicant had emphasized that the extension of the dock will be removed and it has not been removed. He requested that be explored further by the Harbor Department. With respect to Group 8 that contains floating docks being used as vessels, he noted there is a similar dock near the Cannery Restaurant and it is located in an area that can cause a safety concern to boaters using the channel. He advised that the Ad Hoc Committee and the Commission discuss where these types of floats are allowed to be parked.

Jim Mosher stated that Title 17 defines a vessel as a watercraft used for transportation on the water for moving people or property. From the provided photos he indicated that the floats are not vessels but structures. Under the current rules, all structures must have permits. If the Commission drafts a policy addressing these concerns, he requested there be harmony between the policy and the Coastal Implementation Plan and that all structures have permits.

Chair Kenney pointed out that folks who use the floats will argue that the float is being used as a vessel and follows all the regulations and rules pertaining to vessels. He suggested that both Ad Hoc Committees explore adding language to Title 17 that further defines the type of vessel that is allowed or not allowed to operate in the harbor.

Commissioner Yahn reported that the Ad Hoc Committee exploring alternative methods of disposal of dredged materials not suitable for LA-3 or beach replenishment has been providing Palmer Environmental with extensive information regarding the survey of the dredge. That team is analyzing the data and will be providing recommendations to the Commission.

Brent Mardian, Palmer Environmental, confirmed that his team has been working with Vice Chair Beer and Commissioner Yahn on the matter. The engineers have finished their initial evaluation and have come up with a solution that does not require a Confined Aquatic Disposal (CAD) and can contain the contaminants with little cost. He mentioned that the park near Castaways is in dire need of infrastructure development and it may be an area where the contaminated sediments can be used. He requested that the Commission agendaize the topics for the next meeting.

## **5. Harbor Commission Objectives**

Each ad hoc committee studying their respective Functional Area within the Commission's 2021 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 announced that Objective 1.1 will be addressed later in the year. He expected there will be a collaboration with Ad Hoc Committee working on floats and that the two groups will be bringing forward proposed changes to Title 17. With respect to Objective 1.2, the Harbor Department continues to bring commercial users into compliance. With respect to Objective 1.3, staff will be providing an update on the status of the distribution of the new Mooring Permits later in the meeting. With respect to Objective 1.4, the objective has been delayed as a result of Vice Chair Beer's health. With respect to Objective 1.5, staff will be providing a status update later in the meeting.

Functional Area 2: Secretary Scully reported that with respect to Objective 2.1, staff is working on the water wheel that is to be installed at the San Diego Creek to remove debris coming into the back bay. The design for the project is 75 percent complete. Permits for the project will be submitted within the next month or two and the wheel will be installed in the spring of 2023. With respect to Objective 2.4, there have been discussions with the Balboa Island Improvement Association (BIIA) regarding shore mooring tackle and floats on residential piers and moorings. The discussion will continue with the BIIA about beam spacing, opening the beaches for public use and water safety for swimmers and boats. With respect to Objective 2.2, Harbormaster Blank reported that written notification from the Commander of the Long Beach/Los Angeles's Sector has been received. They have indicated that they are not interested in permitting the anchorage and they suggested that staff work with the United States Army Corps of Engineers. Staff will not be seeking approval from the United States Coast Guard for the anchorage in the west turning basin but will be reaching out to the United States Army Corps of Engineers for approval. The Local Notice to Mariners will be extended through the end of the year and into the new year. The permit for the buoys will be kept up to date and staff believes that the temporary anchorage will remain in place. With respect to Objective 2.5 and Objective 2.6, Commissioner Scully confirmed he will have an update at the September 2021 and October 2021 meetings.

Functional Area 3: Public Works Administrative Manager Miller disclosed that the dredging project is 90 percent complete. There has been several weather delays to the project as well as the material in the entrance channel is more compact than in the other areas. The project will be completed in the first two weeks of August of 2021. The repairs to the east jetty will be completed in the next two weeks.

In answer to Chair Kenney's questions regarding dredging in the rest of the harbor and the cost, Public Works Administrative Manager Miller announced that staff has begun the permitting process and will be follow-up on funding from the federal government. Currently, the City has received \$8 million from the federal government and there has been an earmark request of \$5 million. The total cost for the project is \$20 million and the City has pledged to fund \$10 million of the cost.

Functional Area 4: Commissioner Scully reported that code enforcement has been doing a great job when it comes to Objective 4.1. With respect to Objective 4.2, the subcommittee will be defining a plan and will be working on developing a living database listing all the businesses in the harbor. With respect to Objective 4.3, Commissioner Williams and himself have been making calls to operators within the harbor to receive feedback on various topics.

#### **6. Harbormaster Update – June 2021 Activities**

The Harbormaster is responsible for the management of the City's mooring fields, the Marina Park Guest Marina, a variety of Harbor activities and Harbor on-the-water City code enforcement. This report will update the Commission on the Harbor Department's activities for May 2021.

#### **Recommendation:**

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

2) Receive and file.

Harbormaster Blank updated the Commission on the temporary West Lido Anchorage, noting that it is there and is being enjoyed. There has been good utilization, not great for the month of June. Signage has been placed on the buoys marking the Anchorage and some additional signage placed on the Lido Isle Bridge. The signage on the Anchorage indicates how to get a hold of the Harbor Department and the Lido Isle Bridge signage provides directional information on human powered craft versus motorized craft. The Patrol vessels now have better identification and branding marking them as part of the Harbor Department. All vessels now carry ensigns that are brought in at the end of each shift. Harbor staff was tasked with a graffiti removal project during June and removed and cleaned up graffiti on the Lido Isle Bridge. There have been several requests for large vessel anchorages, one being a performance event in collaboration with Lido Marina Village. The group is planning several other events going forward. Bridge jumping deterrent efforts continue, working with lifeguards to provide extra patrols. Citations were issued by Code Enforcement staff. Positive feedback from the residents of the Balboa Coves area has been received about the increased patrol presence.

Harbormaster Blank provided a brief summary of the Harbor stats for the month of June. Highlighting MAPs and SHORs and noting that they continue to close the gap on those businesses that are operating without a permit. Notices of violation have been sent to those that continue to operate without the proper permit. He also noted that onshore mooring sub-permittee data is not included in the stats and has become very popular this summer.

Commissioner Yahn appreciated Harbormaster Blank and the Harbor Department's work.

Harbormaster Blank gave a sneak peek into the July 4<sup>th</sup> holiday update and noted they were well prepared and expected it to be much busier and less well-behaved than it was.

In reply to Secretary Scully's inquiry regarding the west anchorage and large vessels, Harbormaster Blank noted that yes, they would be moored in the anchorage. Secretary Scully acknowledged that the anchorage is big but is concerned that the vessels will not fit. Harbormaster Blank provided the location information to the Commission.

Commissioner Marston disclosed that during the touring of the floats and moorings, there were a number of bridge jumpers. Also, there is a kayak and stand-up paddleboard rental shop that stores their equipment on the beach on the Balboa Peninsula. Harbormaster Blank announced that the Harbor Department will provide additional patrol and will investigate the kayak and stand-up paddleboard rental shop.

Chair Kenney observed bridge jumpers off the Balboa Island Bridge and he reported them to the Harbor Department who sent out patrols.

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

Commissioner Yahn disclosed that the Transpacific Yacht Race is celebrating its 100th anniversary.

Chair Kenney announced he used the temporary mooring. He encountered some glitches in the system but overall it was a pleasant experience.

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

Ms. Jacobs announced that 364 Mooring Permits are in process and waiting for further review. Staff has completed 316 Mooring Permits and they will be incorporated into the system. Staff continues to process permits as quickly as possible. Staff will also be issuing permits for the Balboa Yacht Club (BYC).

With respect to the appraisal process, Ms. Jacobs indicated that staff has received several proposals. Those proposals were reviewed by a technical committee and a vendor has been selected. Commissioner Cunningham will be involved in the discussions with the vendor regarding the scope of work.

With respect to the hydro hoist at 940 Vio Lido Soud, Harbormaster Blank announced that the investigation continues.

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

Chair Kenney suggested an update regarding on a pump-out facility for grey water and an additional hazardous material facility.

12) **DATE AND TIME FOR NEXT MEETING: Wednesday, August 11, 2021 at 5 p.m.**

13) **ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:56 p.m.

DRAFT