

**NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES**  
**City Council Chambers, 100 Civic Center Drive, Newport Beach, CA**  
**Wednesday, September 8, 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  
Ira Beer, Vice Chair (Participated Remotely)  
Steve Scully, Secretary  
Scott Cunningham, Commissioner  
Marie Marston, Commissioner  
Gary Williams, Commissioner  
Don Yahn, Commissioner

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

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

**4) PUBLIC COMMENTS – None.**

**5) APPROVAL OF MINUTES**

**1. Draft Minutes of July 14, 2021 Harbor Commission Regular Meeting**

Chair Kenney reported that Secretary Scully and Commissioner Marston provided written comments regarding the minutes.

Commissioner Marston moved to approve the draft Minutes of the July 14, 2021 with the comments of Commissioner Marston and Secretary Scully. Vice Chair Beer seconded the motion. The motion carried by the following roll call vote:

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

**Nays:** None

**Abstaining:** Vice Chair Beer

**Absent:** None

**2. Draft Minutes of the August 11, 2021 Harbor Commission Regular Meeting**

Chair Kenney disclosed that written comments were received from Commissioner Marston, Secretary Scully and himself.

Secretary Scully moved to approve the draft Minutes of the August 11, 2021 meeting with the written changes that were submitted by Commissioner Marston, Chair Kenney and himself. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

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

**Nays:** None

**Abstaining:** Commissioner Williams

**Absent:** None

**6) CURRENT BUSINESS**

**1. Public Works Update**

At the last Harbor Commission meeting the Commission requested that a representative from the Public Works Department update the Commission on various public works projects in and around 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) Receive and file

Public Works Administrative Manager Chris Miller reported that phase one of the dredging project has had several delays due to ocean swells and weather. Phase one of the project will be completed on September 11, 2021 and the project will have dredged 99 percent of the material that the project intended to dredge. The applications for phase two of the dredging project have been submitted to the California Coastal Commission (CCC), the Regional Water Quality Control Board (RWQCB) and the United States Army Corps of Engineers (USACE). The plans and specs are nearly complete for phase two and the USACE annual bathymetry (depth) survey is underway. The results of the survey will be available in approximately 8-weeks and the results will be used to finalize the plans for phase two.

In answer to Secretary Scully's query regarding where is the phase one dredged sediment being disposed of, Public Works Administrative Manager Miller answered that it is being disposed of in the nearshore beach zone. In response to Secretary Scully's question regarding if the beach will be extended out further into the ocean and if the Caulerpa quarantine area was dredged as originally planned, Public Works Administrative Manager Miller replied that the beach will not extend out further into the ocean and the quarantined zone in China Cove has been removed. He also explained that the *Caulerpa* area was not dredged but hoped that it will happen now in the near term in that the *Caulerpa* has been removed.

Public Works Administrative Manager Chris Miller shared that the Regional General Permit 54 (RGP-54) must be reauthorized every 5-years by the RWQCB, USACE and the CCC. The City was successful in receiving authorization from both the RWQCB and USACE in late December 2020, and the CCC will begin the process of reauthorizing its version of the RGP-54 in October 2021. The largest challenge is having all three agency permits having the same conditions, and often that does not happen. Another project that Public Works is handling is the American Legion Project. The original scope of the project was to replace the bulkhead cap, but the cost to replace the cap exceeded the City's budget. Thus, the newly revised concept is to install a steel I-beam on the exterior side of the bulkhead, below the cap, to provide structural stability. That concept is currently being designed and staff has applied for amendments to the project permits that have been received from the USACE, the RWQCB and the CCC.

In response to Vice Chair Beer's question regarding the height of the I-beam, Public Works Administrative Manager Chris Miller explained that the I-beam will be an exposed feature to the outside of the existing wall, and it will not be encapsulated.

In reply to Chair Kenney's query regarding the reason to replace the bulkhead cap, Public Works Administrative Manager Chris Miller shared that the American Legion leases the property from the City. When the American Legion lagoon was dredged, they discovered that the seawall was deteriorating. For this reason, the City has taken responsibility to repair the bulkhead accordingly.

Public Works Administrative Manager Chris Miller mentioned that another project that Public Works is working on is the Lafayette walkway replacement. The walkway is located one building over from 28<sup>th</sup> Street. The walkway at 2806 Lafayette Avenue was previously replaced in 2020 and now the walkway in front of 2804 Lafayette Avenue is being replaced. The permits are in the final stage and a Request for Proposal (RFP) will be issued soon. One of the conditions made by the CCC is to mitigate for a section of walkway that once was located in front of 2806 Lafayette Avenue. Staff determined that condition is not a viable use

of funds and proposed to build a public pier at 29<sup>th</sup> Street instead. Staff will begin submitting permits with the USACE and the Regional Water Quality Control Board to build the pier soon. CCC has already approved the 29<sup>th</sup> Street public pier as part of the Lafayette project.

Chair Kenney noticed that 2804 and 2806 Lafayette Avenue are residences, and Public Works Administrative Manager Chris Miller confirmed that is correct. In reply to Chair Kenney's question regarding if the walkway that failed is part of the building that had below-grade parking, Public Works Administrative Manager Chris Miller answered yes. In answer to Chair Kenney's queries regarding if there is a walkway in front of 2806 Lafayette Avenue and is the intent to allow the public to walk in front of 2804 and 2806 Lafayette Avenue, Public Works Administrative Manager Chris Miller answered yes to both questions. Chair Kenney disclosed that the City is spending money on a walkway that residents know nothing about. Public Works Administrative Manager Chris Miller agreed but restated that it was a condition when the buildings were built in the late 1980s and it is the City's responsibility to maintain the walkways.

Concerning *Caulerpa*, Public Works Administrative Manager Chris Miller confirmed that the *Caulerpa* has been removed from China Cove, though this was a difficult task because the *Caulerpa* was heavily intertwined with eelgrass. Post-removal surveys have been underway to confirm removal and to identify (and remove) any newly discovered remaining fragments. *Caulerpa* signs will be posted to alert folks to report any sightings of *Caulerpa*. He concluded his presentation by reminding the Commission that there is a RWQCB meeting/workshop on Friday, September 17, 2021 at 9 a.m. regarding copper total maximum daily load (TMDL) and a hearing will be held in October 2021.

In answer to Secretary Scully's question regarding the origin of the *Caulerpa*, Public Works Administrative Manager Chris Miller answered that the origin is-continues to be unknown at this time.

In reply to Commissioner Yahn's query regarding should signs be posted explaining the dangers of *Caulerpa*, Public Works Administrative Manager Chris Miller clarified that simple signs are more effective. He noted that the California Department of Fish and Wildlife has a lot of information on *Caulerpa* on their website, and they do mention that fish tanks and algae in fish tanks should not be poured or introduced into the ocean. The *Caulerpa* Action Team will be exploring ways to close the gap in the legislature to prohibit the sale of all *Caulerpa* in the State of California.

Chair Kenney agreed with Commissioner Yahn's comment regarding information regarding *Caulerpa*. He suggested to include information about *Caulerpa* in the City Manager's Update and/or have an article posted in the Orange County Register and/or the LA Times. In answer to his question regarding if there will be any action taken at the September 2021 RWQCB workshop, Public Works Administrative Manager Chris Miller answered that there will be no action taken regarding copper TMDL. Chair Kenney advised a simple draft letter be shared with the community that highlights the key issues regarding copper TMDLs. Public Works Administrative Manager Chris Miller noted that the City's response letter is posted on the City's website.

Jim Mosher shared that the Lafayette Avenue walkway replacement project is part of a longstanding vision the City has in its Coastal Land Use Plan to develop a public waterfront walkway for the non-boating public.

## **2. Multiple Vessel Mooring System-Review and Approve Design Specification Program**

The Multiple Vessel Mooring System (MVMS) allows multiple vessels to be secured to a floating platform which is secured to a single anchor mooring system in Newport Harbor. The MVMS program has existed for many years, and the Harbor Commission subcommittee was directed to establish design standards and specifications to support the program. The subcommittee recommends the Harbor Commission review and approve the specifications, then recommend they be forwarded to the City Council for approval.

### **Recommendation:**

- 1) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 2) Approve the Multiple Vessel Mooring System (1) design specifications within the Harbor Design Criteria, (2) updates to the Newport Beach Municipal Code (NBMC) Sections

17.01.030(J)(11) and 17.60.040(B)(c), and (3) updates to the Offshore Mooring Specifications for the weights and chains, and recommend that they be forwarded to the City Council for review and approval.

Public Works Administrative Manager Miller acknowledged that Multiple Vessel Mooring Systems (MVMS) have been around since the mid-2000s and the program became a part of the City's Municipal Code after several trial periods. During those trials, standards were never drafted and so the Harbor Commission formed a subcommittee consisting of Commissioner Williams and Vice Chair Beer to help staff draft standards. Staff requested that the Harbor Commission review and recommend that the standards be forwarded to City Council for review and approval. The MVMS only addresses MVMS in single anchorage mooring areas located in Balboa Yacht Club (BYC) and the Newport Harbor Yacht Club (NHYC). Also, the MVMS is limited to single hulled vessels to minimize the overall footprint. Staff and the subcommittee used existing standards as well as new structural standards to draft the Harbor Design Criteria.

The subcommittee decided to have two potential lengths for floats (20-feet and 40-feet), but the float has to have a minimum width of 8-feet for stability. The maximum vessel length would be equal to or less than the length of the float, and vessels shall be tied at the bow and stern. Staff and the subcommittee believe that the maximum width of 25-feet is appropriate to avoid a scenario of having two 40-foot boats housed on an 8-foot-wide float. Also, they recommend that there be no extraneous equipment on the float except for two dock boxes. Included in the Harbor Design Criteria will be a diagram that shows what is acceptable for the bridle system, details on the interior brackets, and how to connect the bridle system to the mooring. The second task is to update the Municipal Code to reflect the proposed changes for consistency. The third task is to update the weights and chain specifications for moorings to include the MVMS. The specifications address the worst-case scenario compliance for each size MVMS. For example: With a 20-foot MVMS, the weights and chains should be equivalent to the 35-foot specifications. He reported that NHYC currently has approximately 11 MVMS that range from 17 feet to 57 feet long. Of those 11 MVMS, four of those will need an average of 1,300 pounds of added weight, and about three moorings need to upgrade the bottom chain. BYC has four floats ranging from 20 to 40 feet which will require only minimal weight increases and chain upgrades. He suggested the Harbor Commission discuss when compliance for the existing mooring fields should take effect.

In response to Secretary Scully's query regarding if ~~folks-mooring permittees~~ can build a MVMS float wider than 8-feet, Public Works Administrative Manager Miller reported that ~~folks-they~~ may build a wider float if desired. Secretary Scully pointed out that if a 40-foot boat is tied to a MVMS, due to the 25-foot width restrictions ~~(inclusive of the float)~~, the system can only house one boat, ~~and-which would defeat the purpose of now the system is not an~~ MVMS. Public Works Administrative Manager Miller confirmed that is correct. In answer to Secretary Scully's inquiry regarding why the standards are limited to single-point moorings, Public Works Administrative Manager Miller explained that the existing single-point mooring fields have many MVMS already. The double-point mooring fields can be explored in the future. In reply to Secretary Scully's question regarding how many people with moorings outside of the yacht clubs have requested a MVMS, Public Works Administrative Manager Miller believed there might have been approximately two permittees who have requested these in the past. Vice Chair Beer explained that the MVMS standards apply only to single-point mooring fields because when the beam is increased on a single point mooring to 25-feet, it doesn't affect the other vessels around it. A MVMS on a double point mooring would result in no space between vessels and potentially eliminate navigation space between vessels.

Chair Kenney noted that single-point mooring fields are controlled by one entity which allows flexibility. Also, mooring permittees are only allowed to have one vessel on their mooring. The standards are trying to avoid a situation where a mooring permittee sub-leases the other side of their mooring if an MVMS is installed.

In answer to Commissioner Marston's inquiry if the standards allow any mooring located in the yacht clubs to convert to an MVMS and if there is a specification for spacing, Vice Chair Beer answered yes, the moorings can convert if they meet the specifications. The yacht clubs will be responsible for making sure there is adequate spacing between the MVMS. Commissioner Marston pointed out that based

on the photo, the boats are not all swinging the same way, and she suggested that should be explored further. She shared that in the Harbor Design Criteria under paragraph three, the language discussing the original intent of the MVMS implies that the original intent is changing. She advised that language be changed to present tense.

Commissioner Yahn shared that his philosophy is to minimize the footprint of the mooring areas to create more navigable areas between vessels. In reply to his question regarding if there is a relationship between the length of the floats and the width, Public Works Administrative Manager Miller restated that the recommendation is to limit the floats to 8-feet all around. In response to Commissioner Yahn's queries regarding limits to the number of MVMSs that can be in the mooring fields and grandfathering the existing MVMS, Public Works Administrative Manager Miller agreed that a limited number is not part of the standards at this time. He suggested that the Commission discuss grandfathering the existing MVMSs. Vice Chair Beer confirmed that the subcommittee had discussed grandfathering and they recommend that the existing MVMS come into compliance with the new standards. The timing for that would be if the weight and chain is within 90 percent of compliance. The mooring would have to be brought up to specification by the next time their mooring is inspected. If the mooring is not at least 90 percent compliant, then the mooring must be brought up to specification within 90 days due to safety concerns. Concerning the existing 55-foot MVMS, the mooring must be brought up to specification for a 75-foot mooring (to be calculated by the engineer later).

In answer to Chair Kenney's query regarding if a beam width limitation of 8-feet can accommodate an 18-foot whaler and 20-foot Grady White boat, Public Works Administrative Manager Miller restated that the recommendation is a maximum width of 25-feet but that recommendation is up for discussion. In response to Chair Kenney's inquiry regarding solar panels, Vice Chair Beer reported that the subcommittee is concerned about how solar panels are attached, their weight and other considerations that may affect the MVMS system.

Jim Mosher found the proposed diagram not to be very specific. He mentioned that there is no vertical picture of the float, no specifications on how tall it can be, no explanation regarding the pontoons, and he questioned whether there should be a reference to how floats should be built. He agreed with the comments that there should be a maximum width to the float and he questioned if a new MVMS needs a Development Permit from the CCC.

Public Works Administrative Manager Miller indicated that the notes on the exhibit one through five are taken verbatim from other standard drawings in the Harbor Design Criteria. Number six is intended to be a catch-all and refers the reader to the Harbor Design Criteria. If the Commission feels it is appropriate, staff can insert information regarding specific spacing for the bridle system. With respect to the maximum width of a float, he noted that if the float is wider, then that means smaller beamed boats could be accommodated in order to comply with the overall system width restriction.

Keith Duarte disclosed he has a mooring at the BYC and is an officer at the BYC. As an officer, he is responsible for overseeing all the moorings at the BYC, the marina, the docks, and the boat storage facilities. After attending the site tour with City staff, he agreed that the recommendation regarding the minimum width of the dock be 8-feet. He explained that the proposed concept is not a true MVMS, but a single-point Harbor 20 mooring system. He argued that the single-point moorings can be expanded and made wider and should be expanded to accommodate a 35-foot beam. He acknowledged that BYC has a lot of demand to moor 18- to 20-foot boats and the additional extra 10 feet in the beam restriction would make the system work perfectly.

Len Bose shared there is a mooring system in place for the Harbor 20 fleet but being able to update those moorings to an MVMS would allow for more boats. He encouraged the Commission to consider double point mooring systems. He disagreed with the comment that on single-point moorings, all boats move at the same time and he believed that the double point mooring systems have less change in the sway of the boats.

Vice Chair Beer agreed that boats on a single point mooring may swing at different times and that is the reason why the beam is restricted to 25-feet. With respect to the double-point moorings, he assured Mr. Bose that those will be explored in the future. The goal with the proposed MVMS



recommendations is to make the existing MVMS safe, manageable and allow the flexibility to add more boats. He concluded that the overall plan of the Open Water Initiative will be greatly affected by where the MVMS are installed.

In reply to Secretary Scully's question regarding ~~the cost~~ how much the revenue charged by the City to the yacht club(s) would change for installing a MVMS, Vice Chair Beer ~~felt~~ commented that should be discussed with the full Harbor Commission. He acknowledged that currently the Municipal Code only allows one vessel to be on a mooring. If a mooring can house multiple vessels, the next reasonable step is to increase the mooring fees to reflect that.

Commissioner Marston pointed out that there are several moorings at BYC that berth four vessels on a 40-foot float and Harbor Design Criteria 3c limits the number of vessels to two. In answer to her question regarding if four 20-foot vessels can be berthed on an MVMS, Public Works Administrative Manager Miller clarified that criteria 3c is addressing a single side of a float. Commissioner Marston mentioned that is not clear in the way the language is written. She suggested that the Commission discuss if the floats that have CF numbers, and if they are being used as vessels, can be housed on an MVMS. Public Works Administrative Manager Miller explained that the Harbor Design Criteria only allows two dock boxes and nothing else. Those criteria preclude the float vessels. Also, the Harbor Design Criteria only discusses floats and docks, not boats.

Commissioner Yahn appreciated the comment that there are mooring fields that can accommodate a larger maximum width than 25 feet. His concern is that the navigational waterways will be reduced, but acknowledged that there is an argument that a larger maximum width can create more opportunities for the clubs. In answer to his question regarding limiting the MVMS to 20- and 40-feet, Public Works Administrative Manager Miller shared that the two sizes allow uniformity for the applicants and staff approving the systems. Vice Chair Beer added that the intent is to create and allow more storage for smaller vessels.

Commissioner Cunningham stated that the Commission is very sensitive to small boat storage in the Harbor and the proposed recommendations are a starting point. He agreed with the comments that at the BYC there should be flexibility, but the recommendations are a starting point and larger MVMSs can be explored in the future. He encouraged the subcommittee to investigate the business side of the mooring agreements and come up with an agreement with the yacht clubs that allows flexibility.

Chair Kenney echoed Commissioner Cunningham's comment regarding small boat storage. In reply to his question regarding where the offshore mooring specifications are located, Public Works Administrative Manager Miller clarified that the Harbormaster is in charge of those moorings. Chair Kenney appreciated the work that has been done regarding the Harbor Design Criteria. He echoed the comment that the yacht clubs control the mooring fields and that the clubs would never allow a structure that could cause conflicts with other mooring permittees. He agreed with Commissioner Yahn that it may be appropriate to allow a greater maximum width for the clubs. He supported the recommendation of maintaining 20- to 40-foot lengths only.

Public Works Administrative Manager Miller requested that the Commission provide guidance on how to handle the existing fleet and bringing them up to compliance. Commissioner Williams agreed with the recommendation that the existing fleet shall have 3-months to come into compliance.

In answer to Chair Kenney's question regarding is 3-months enough time to come into compliance, Vice Chair Beer clarified that it will be 3-months after Council adoption. Chuck South stated that 6-months is plenty of time to bring the moorings into compliance. He asked how many moorings have to be updated and Public Works Administrative Manager Miller answered eight moorings.

Chair Kenney announced that there is consensus among the Commission to require the existing moorings to come into compliance 3-months after final approval.

Chair Kenney inquired if any of the Commissioners want to make changes to the Waterfront Project Guidelines. Vice Chair Beer recommended incorporating Commissioner Marston's suggestion to clarify the language for Harbor Design Guideline 3C. He requested that Public Works Administrative

Manager Miller investigate specifications that can be added to the drawing with respect to the attachment of hardware and spacing between the hooks that attach to the float. He also suggested that the 8-foot minimum become the designated width and incorporate into the document that the existing MVMS have 3-months to come into compliance. With respect to the existing 57-foot float, he requested that Public Works Administrative Manager Miller discuss with Noble Consultants the specifications for that float per the guidelines.

Secretary Scully suggested removing the words “single anchor” from Municipal Code 17.60.040(B)(c). Vice Chair Beer clarified that the language allows the Harbor Department to approve an MVMS in single anchorage mooring areas in the Harbor. Chair Kenney shared that the Municipal Code currently allows an MVMS in the double point mooring fields and so the recommendation is to remove that flexibility to reduce confusion.

Commissioner Yahn wanted to see the 25-foot maximum width to be increased. He noted that one consequence is that there may be a bigger stress load on the structure. Public Works Administrative Manager Miller confirmed that staff could revisit the calculations. Thomas Fischetti, Noble Consultants, expressed that a 35-foot maximum width would be a significant change to the calculations, but a 30-foot maximum width would not be so drastic.

In reply to Public Works Administrative Manager Miller’s question regarding if a 30-foot width maximum would require a float wider than 8 feet, Mr. Richelle predicted it would stay the same.

Chair Kenney reiterated that he supported the maximum for a float being 8-feet wide. In answer to his inquiry requiring if 30-feet gave enough flexibility for the yacht clubs, Mr. Duarte restated their preference is 35- to 36- feet because the average 40-foot boat has a 14-foot beam.

Vice Chair Beer agreed that a maximum width of 35- to 36- feet is a huge footprint. Based on the comments from the engineer, he supported a maximum width of 30-feet.

Secretary Scully, Commissioner Marston and Commissioner Yahn supported 30-feet for the maximum width for an MVMS.

Commissioner Williams requested that the limit be set at 25-feet and then revisited in the future.

Commissioner Cunningham found it a reasonable request to explore a maximum width of 36-feet for an MVMS.

Chair Kenney supported a wider footprint but acknowledged that there is flexibility in the guidelines to explore that in the near future.

Vice Chair Beer noted that staff and the subcommittee have researched other MVMSs and normally only double point MVMSs are the ones that house large vessels.

Vice Chair Beer moved that the project is exempted from CEQA and to approve the Harbor Design Criteria, the Mooring Specifications and the changes to the Newport Beach Municipal Code as outlined in the recommendations to Title 17 in the staff report, and incorporate the following adjustments; change the word “was” to the word “is” in paragraph three, provide clarification on 3C, make the 8-foot minimum beam width on the float also the maximum, and any modifications and specifications with respect to a 30-foot beam needs to be made from Noble Consultants and reviewed by Public Works Administrative Manager Miller; and once approved by Council that any existing MVMS that are not in compliance with the specifications bring themselves to compliance within 90-days. Commissioner Yahn seconded the motion. The motion carried by the following roll call vote:

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

**Nays:** None

**Abstaining:** None

**Absent:** None

**3. Establish Ad Hoc Committee to Develop Process for Updating Harbor Commission Objectives**

The Harbor Commission establishes annual Objectives to focus the Commission on issues that are important to the City Council, the Harbor Commission and community. At the Harbor Commission meeting of August 11, 2021, the Commission requested to set up an Ad Hoc Committee to review how the objectives are established.

**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) Appoint Harbor Commission Members to the Ad Hoc Committee on Harbor Objectives.

Chair Kenney asked Secretary Scully if he is willing to Chair the ad hoc committee and Secretary Scully agreed.

Chair Kenney asked Commissioner Yahn and Vice Chair Beer to serve on the ad hoc committee. Commissioner Yahn and Vice Chair Beer agreed.

In answer to Commissioner Cunningham's query regarding timing, Assistant City Manager Carol Jacobs suggested that the ad hoc committee bring back objectives to the November 2021 Harbor Commission meeting and discuss them. Then present them to City Council in the beginning of 2022.

In reply to Chair Kenney's query regarding if any Commissioners have modifications or changes with respect to current Functional Areas or Objectives, Secretary Scully suggested that Functional Area 4 become more measurable and definable. Chair Kenney and Commissioner Marston agreed with Secretary Scully. Commissioner Yahn wanted to see timeframes included in Functional Area 4. Commissioner Cunningham suggested that each Commissioner provide feedback on the Functional Areas and then the ad hoc committee charged with updating the Commission's objectives can review the comments.

Secretary Scully supported Commissioner Cunningham's suggestion to acquire feedback from the other Commissioners.

Ms. Jacobs recommended that Commissioners send their suggestions to Harbormaster Blank.

Secretary Scully moved to start the ad hoc committee on the 2022 Objectives with Vice Chair Beer, Commissioner Yahn and Secretary Scully as Chair of the working group. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

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

**Nays:** None

**Abstaining:** None

**Absent:** None

**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.



Chair Kenney explained that in addition to the Harbor Commission's Objectives, four special ad hoc committees are studying various Harbor-related issues.

Commissioner Marston reported that the ad hoc committee investigating floats attached to docks and piers met with staff. The ad hoc committee presented recommendations to staff who is working on finalizing them.

In answer to Chair Kenney's query regarding when the recommendations will be finalized, Harbormaster Blank answered that the recommendations will be presented to the City Attorney's Office by the end of the month. He added that action has been taken in the areas where there are major concerns.

Chair Kenney reported that Policy H-1 was presented to City Council on August 24, 2021, but an error was discovered in the proposed language that was attached to the staff report. The item was pulled from the agenda, the error has been corrected and the item will be before Council at their September 14, 2021 meeting.

Vice Chair Beer shared an update regarding the ad hoc committee investigating alternative methods for the Contained Aquatic Disposal (CAD) site. Mr. Luckey and his team requested an extension to their 90-day timeline to present an alternative disposal site to City Council. City Council informally granted an extension of 60-days. Mr. Luckey and his team provided to the ad hoc committee three alternatives to the CAD which the ad hoc committee discussed with staff. Staff provided written responses back to Mr. Luckey regarding his proposals. One of the three alternatives proposed by Mr. Luckey and his team was believed to be inadequate in size and the other two alternatives require hydraulic dredging of the unsuitable material. Staff had previously explored hydraulic dredging but dismissed it as a viable option. After receiving the alternatives from Mr. Luckey, staff reached out to the Environmental Protection Agency (EPA) who confirmed that hydraulic dredging could be allowed but there are strict conditions related to the facility, construction, permitting and return water. The EPA mentioned that no project in the State of California in the last 20-years has met the strict requirements for hydraulic dredging. Due to this discovery, the ad hoc committee has requested that Mr. Luckey and his team provide their feedback to the EPA's comments and provide different alternatives for consideration.

In answer to Chair Kenney's query regarding the City's original CAD proposal, Ms. Jacobs confirmed that the City continues to move forward on the project.

Commissioner Cunningham reported on the activities of the ad hoc committee tasked with affordable boat storage access. The ad hoc committee acknowledges that the mooring rates in the Harbor are very competitive and has begun researching other marinas in Southern California to see how they handle moorings and affordability.

**5. Harbor Commission 2021 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 with respect to Objective 1.1, the ad hoc committee will be meeting before the next Harbor Commission to discuss whether to make further changes to Title 17. With respect to Objective 1.2, the ad hoc committee requests a meeting with Harbor Department staff to conduct

the annual review. With respect to Objective 1.3, staff will be providing an update later in the meeting. He suggested that Commissioner Cunningham, Vice Chair Beer and himself meet with staff after the distribution of the permits is complete. With respect to Objective 1.4, the objective has been delayed until Vice Chair Beer has recovered from his surgery. With respect to Objective 1.5, the appraisal is underway and should be completed within the next few weeks.

Functional Area 2: Vice Chair Beer announced with respect to Objective 2.2, the temporary west anchorage is proving to be useful. With respect to Objective 2.3, there have been delays due to the geographic information system (GIS) maps not matching up with City records. An audit was conducted by Harbormaster Blank and Ms. Jacobs but more errors became known. The next step is to do a physical audit which requires going out into the Harbor and filling in a blank map and then comparing that to City records. With respect to Objective 2.4, Commissioner Cunningham reported that the ad hoc committee has established 8 feet as the recommended vessel beam specification for shore moorings. He noted that Objective 2.4 now includes Objective 3.2 and mentioned that the remaining work for Objective 2.4 is very complicated. He requested that the ad hoc committee charged with reviewing the 2022 Objectives review Objective 2.4 and determine whether the timing of the remaining work makes sense for 2022 or does the objective need to be broken down into sub-objectives. Objective 2.5 was discussed earlier in the meeting. With respect to Objective 2.7, Vice Chair Beer requested that Commissioner Marston evaluate if it would be useful to use Lower Castaways as a dry dock and a public launch.

Functional Area 3: Commissioner Cunningham shared that Objective 3.1 was discussed during the meeting. Objective 3.2 has been incorporated into Objective 2.4. With respect to Objective 3.3, the ad hoc committee continues to explore funding mechanisms.

Functional Area 4: Secretary Scully reported with respect to Objective 4.1 that the objective is nearing completion thanks to the code enforcement team. With respect to Objective 4.2, ~~the ad hoc committee~~ Commissioners Marston and Scully have the database to reach will be reaching out to the commercial users in the harbor but the residential and recreational users will be harder to communicate with directly. The next steps are to determine what needs to be accomplished in 2022 and narrow down the scope. With respect to Objective 4.3, Commissioner Williams reported that conversations with commercial vessels and charter fleets in the Harbor is ongoing. Positive feedback has been expressed regarding the new Marine Activities Permits (MAP).

Chair Kenney was happy to hear that the new MAPs are working well for commercial and charter fleet vessels.

#### **6. Harbormaster Update – August 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 August 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 shared that in August 2021 the Harbor Department hired three new team members but lost two team members. He shared that it takes 30-hours of the Harbormaster's time to hire one harbor services worker. The entire Harbor Department received recertification and first aid training. In preparation for Labor Day weekend, the Harbor Department wrote four permits for raft-ups in the east anchorage and one large vessel permit in the west anchorage. The reason the Harbor Department writes permits for raft-ups is because of the Fire Code. With respect to adding lights and relocating buoys, he continues to work on the applications. With respect to the identification of public facilities, there has been collaboration with City Water Quality, GIS, and information technology (IT) to draft a new Harbor layer in the GIS maps that identifies where the public restrooms are located as well as the pump-outs, public docks and fuel docks. This information will be accessible by a quick response (QR) code that is being distributed to the rental

operators in the Harbor. Code enforcement continues to identify unpermitted charter operators and unpermitted charter operations within the Harbor. With respect to the mooring shuttle program with Newport Mooring Association (NMA), the mooring permittees in C field have begun their program for a shared shuttle to ease congestion at the Fernando Street dock. They also are seeking a similar program for the H and J fields to ease congestions at the 15<sup>th</sup> and 19<sup>th</sup> Street public pier. The Harbor Department has granted a 60-day trial period for the program with the option for two additional 60-day permits for a shuttle depot at Marina Park.

In answer to Secretary Scully's query regarding law enforcement officers supporting Harbor staff, Harbormaster Blank confirmed that two officers recently helped Harbor staff address unpermitted activities in the east anchorage. There is continuing action related to the unpermitted activities and staff will have a report regarding the situation at the October 2021 Harbor Commissions meeting.

In response to Vice Chair Beer's question regarding penalties for operators who do not have a MAP, Harbormaster Blank explained that the first step is a Notice of Violation is sent out. If that is ignored, the next Notice of Violation comes with a \$100 penalty fee, then \$200, then \$500, then \$1,000 penalty fee. The \$1,000 penalty can apply to every vessel the operator continues to operate each day. The City of Newport Beach does have the authority to impound vessels under the right circumstances and right conditions. In answer to Vice Chair Beer's inquiry regarding if the consequences should be more meaningful, Harbormaster Blank clarified that the City has had only one incident where an operator continues to occur \$1,000 fines per day. Because the incident is still underway, Harbormaster Blank reported that the case will be going to the City's Attorney's Office. Once the case has been closed, staff will provide recommendations regarding updating the consequences. Vice Chair Beer requested a list of all the MAPs that have been issued in the past 2-years. Harbormaster Blank confirmed that staff can provide a list of current active MAPs.

Commissioner Cunningham commended the Harbormaster for his performance during the incident that happened during Labor Day weekend.

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

None.

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

The Commissioners expressed their gratitude to Ms. Jacobs for her work with the City and her guidance.

Ms. Jacobs reported that 273 mooring permits are still processing, 440 have been completed and entered into the system, 60 have been signed by the permittee but still need further documentation, and staff continues to collect documents for the remaining permits. She expressed her gratitude to the Commissioners for their help and guidance through her career with the City.

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

In answer to Chair Kenney's question regarding changing Title 17 to limit the beam on an onshore mooring to 8 feet, Commissioner Cunningham wanted to dovetail the change with something more substantial.

**10) DATE AND TIME FOR NEXT MEETING: Wednesday, October 13, 2021 at 5 p.m.**

**11) ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:06 p.m.