

## CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

City Council Chambers - 100 Civic Center Drive

Wednesday, November 9, 2022 - 5:00 PM

Harbor Commission Members:
Steve Scully, Chair
Ira Beer, Vice Chair
Don Yahn, Secretary
Scott Cunningham, Commissioner
Marie Marston, Commissioner
Rudy Svrcek, Commissioner
Gary Williams, Commissioner

#### Staff Members:

Paul Blank, Harbormaster
Jennifer Biddle, Administrative Support Specialist

The Harbor Commission meeting is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Harbor Commission agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Harbor Commission. The Chair may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Paul Blank, Harbormaster, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 270-8158 or pblank@newportbeachca.gov.

Questions and comments may be submitted in writing for the Harbor Commission's consideration by sending them to harborfeedback@newportbeachca.gov. To give the Harbor Commission adequate time to review your questions and comments, please submit your written comments no later than 5 p.m. the day prior to the Harbor Commission meeting. All correspondence will be made part of the record.

#### NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the Harbor Department 24 hours prior to the scheduled meeting.

- 1) CALL MEETING TO ORDER
- 2) ROLL CALL
- 3) PLEDGE OF ALLEGIANCE

#### 4) PUBLIC COMMENTS

Public comments are invited on non-agenda items. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Harbor Commission has the discretion to extend or shorten the speakers' time limit on non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

Additional Material Received at Meeting Public Comment Womack 11-09-2022

#### 5) APPROVAL OF MINUTES

Draft Minutes of the October 12, 2022 Harbor Commission Regular Meeting

10-12-2022 Harbor Commission Draft Meeting Minutes

10-12-2022 Harbor Commission Draft Minutes Chair Scully Comments

10-12-2022 Harbor Commission Draft Minutes Vice Chair Beer Comments

#### 6) **CURRENT BUSINESS**

#### 1. Harbor and Beaches Master Plan Projects - Review

The Harbor Commission subcommittee has reviewed the Harbor and Beaches Master Plan ("PLAN") and is seeking input from the Harbor Commission. It is anticipated the subcommittee will return with a final draft for approval at the December meeting.

#### **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.

**Staff Report** 

Attachment A - 2022 Harbor and Beaches Master Plan Projects

### 2. Council Policy H-1: Review of Proposed Changes to Pier and Float Extensions Beyond the Pierhead Line

At the May 2022 meeting, the Harbor Commission formed a subcommittee to review Council Policy H-1 (H-1) which addresses the pier and float extensions beyond the pierhead line. The Committee requests the Harbor Commission's review of the proposed draft changes to H-1 so that staff may return later with a final proposed document for review and approval.

#### **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.

Staff Report

Attachment A - Council Policy H-1 - Proposed Redline

Attachment B - Council Policy H-1 - Current Version

#### Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and

documented his findings. He continues to put significant effort into a proposal which will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process and research. The Commission will be asked to approve recommendations related to optimizing utilization of the mooring fields and allowing mooring permittees to request a permit exchange to mooring of a different size. The recommendations are included in proposed draft ordinance amending City of Newport Municipal Code, Title 17.

#### **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) Review modify and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

#### **Staff Report**

Attachment A - Proposal for Mooring Field Reorganization 11.2.22

Attachment B - 17.25.020 strikeout 11.1.22

Attachment C - 17.60.040 strikeout 11.1.22

Attachment D - Feedback Received through 11.2.22

Additional Materials Received Item 6.3 Correspondence 11-09-2022

Additional Material Received at Meeting Item 6.3 Public Comment

Farley 11-09-2022

Additional Material Received at Meeting Item 6.3 Public Comment

Womack 11-09-2022

Additional Material Presented at Meeting Item 6.3 Mooring Field Objective 2.3

Presentation 11-09-2022

#### 4. Harbor Commission Draft 2023 Objectives Review

The Harbor Commission periodically conducts a review and updates their objectives. An ad hoc committee was appointed to conduct a review of the Commission's 2022 objectives and recommend modifications for 2023 to be reviewed by the entire Harbor Commission. At their October 12, 2022 meeting, the Harbor Commission approved formation of an ad hoc subcommittee to draft objectives for 2023. Eventually, the approved objectives will be forwarded to the City council for review and consideration.

#### **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, review and provide guidance for further refinement of the Commission's

2023 Objectives.

#### **Staff Report**

Additional Material Presented at Meeting 6.4 2023 Draft Goals 11-09-2022

#### 5. Ad Hoc Committee Updates

Several ad hoc committees have been established to address short term projects outside of the Harbor Commission objectives. This is the time 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Staff Report

#### 6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

#### **Staff Report**

Attachment A - Harbor Commission 2022 Objectives

Attachment B - Harbor Commission 2022 Objectives Tracking Sheet

#### 7. Harbormaster Update - October 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the municipal code, events permitting, safety and rescue operations, the Marina Park Guest Marina, marine sanitation pump out equipment and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

#### **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.

#### **Staff Report**

Attachment A - Harbor Department Statistics Infographic

Attachment B - Harbor Department Statistics by Month, Current Year

Attachment C - Harbor Department Statistics, Year over Year Comparison

Attachment D - Harbor Department Definitions

Additional Material Presented at Meeting Item 6.7 Harbormaster

Report 11-09-2022

#### 7) MOTION FOR RECONSIDERATION

A motion to reconsider the vote on any action taken by the Harbor Commission at either this meeting or the previous meeting may be made only by one of the Commission Members who voted with the prevailing side.

- 8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)
- 9) MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE
  AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)
- 10) DATE AND TIME FOR NEXT MEETING: Wednesday, December 14, 2022 at 5 p.m.
- 11) ADJOURNMENT

#### **Potential Projects:**



Restrooms (shoreside): Improve existing

Mooring Buyback: Potential \$1M per year for 30 years

Fire Safety Boat: \$2M



Please note that general proofreading of the Plan (general cleanup, date adjustments, etc.) will occur before the draft final plan will be reviewed by the Commission later.

#### **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).

#### **ATTACHMENTS**

Attachment A - 2022 Harbor and Beaches Master Plan Projects

# NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chambers – 100 Civic Center Drive Wednesday, October 12, 2022 5 p.m.

#### 1) CALL MEETING TO ORDER

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

#### 2) ROLL CALL

Commissioners: Steve Scully, Chair

Ira Beer, Vice Chair Don Yahn, Secretary

Scott Cunningham, Commissioner Marie Marston, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner

Excused: None

Staff Members: Paul Blank, Harbormaster

Jeremy Jung, Deputy City Attorney Michael Gomez, Deputy Finance Director

Shelby Burguan, Budget Manager

Jennifer Biddle, Administrative Support Specialist

Administrative Support Specialist Biddle announced Secretary Yahn would be leaving the meeting at 6:20 p.m.

#### 3) PLEDGE OF ALLEGIANCE – Commissioner Scully

Chair Scully announced the Harbor and Beaches Master Plan Projects review will be continued to a future meeting.

#### 4) PUBLIC COMMENTS

Hein Austin presented a flyer he distributed regarding the dire need for outhouses around the Harbor. He advised on a ride around the Harbor he noticed bright yellow outhouses that were registered to Robert's Waste and Recycling in Santa Ana. He noted they were visible from a long distance, well-ventilated, and portable. He reported the company quoted \$210 per month, per unit, for full service 5 times per week. He advised that 10 of these units on the public dock would be very helpful for all users of the Harbor. He recommended the City negotiate a contract with the company as it would be a fraction of the cost of the previously proposed floating restrooms.

Drew Lawler inquired if the potential to move moorings would be a discussion item on the agenda. Chair Scully confirmed it is an agenda item and Mr. Lawler could offer his comments when it is discussed.

#### 5) APPROVAL OF MINUTES

#### 1. Minutes of the September 14, 2022 Harbor Commission Regular Meeting

Chair Scully reported that written comments were submitted to staff by Commissioner Marston and himself.

Commissioner Marston noted she offered comments but was unsure what Water Quality Board was being referenced in the minutes and requested it is corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully and Commissioner Marston. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

Chair Scully opened public comments.

Jim Mosher, a Resident, requested typos on page 3 and page 4 of the minutes be corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully, Commissioner Marston, and Jim Mosher. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

#### 6) CURRENT BUSINESS

#### 1. Finance Presentation on Harbor Department Operations

The City of Newport Beach was granted sovereign tidelands and submerged lands in trust in 1919. This grant and its amendments were repealed in 1978 and a new grant was enacted tasking the City with stewardship over all of the sovereign tide and submerged lands located within the City's 1919 city limits. Are presentative of the granting authority, the California State Lands Commission will give a presentation related to the stewardship of those granted tidelands.

#### 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.

Deputy Finance Director Michael Gomez provided a brief overview of the City Department Operational Budget which is approximately \$275 million. He noted Fire, Police, Utilities, and Public Works often have the largest budgets with the largest staff. He reported the Harbor Department has 3 full-time employees (FTEs) and 9.39 part-time employees which would be translated to 9 FTEs annually.

Deputy Finance Director Gomez reported that the Harbor Department has been fiscally responsible since its inception. He noted Harbor Expenditures have never exceeded the Operating Budget. He advised the largest part of the Operating Budget is Salaries and Benefits and explained that Internal Service Charges are for services the City provides such as Information Technology and Human Resources services. He advised the other Maintenance & Operations Accounts are the core operations of the Harbor Department. He explained Capital Expenditures are those above the fixed asset threshold but are not necessarily Capital Projects.

Deputy Finance Director Gomez explained that the Harbor Department budget was similar to the Library budget and Recreation & Senior Services budget in that they are public-facing, provide services, and generate revenue. He noted the Harbor Department is the smallest of those expenditure budgets.

Deputy Finance Director Gomez reported the largest sources of revenue for the Harbor Department are Mooring Permits, Marina Park Slips, and All Other Revenue. He advised the Harbor Department has exceeded its annual budget in terms of revenue but is confined to Mooring Permits and Marina Park Slips. He provided a comparison of Harbor Revenue to Library Services and Recreation & Senior Services and noted the Harbor had a steady increase in its revenue across the pandemic which is directly related to the fact that the Harbor is an outdoor destination. He provided a comparison of Harbor staffing as compared to other departments. He noted Harbor Personnel has steadily increased over the last three years.

Deputy Finance Director Gomez provided a brief overview of Harbor Revenue as compared to its Operational Budget. He noted the Harbor is recouping a large part of its expenditures through revenue. He explained that some departments such as Recreation & Senior Services are subsidized by the General Fund to keep recreation classes and services fees low for residents.

Secretary Yahn inquired about the difference between the General Fund and the Tidelands Funds.

Deputy Finance Director Gomez explained the main difference between the two is that the General Fund's primary revenue is from Property Taxes, Sales Tax, and Transient Occupancy Tax (TOT). He explained the Tidelands Fund or any Non-General Fund is typically derived from providing services which would be Mooring Permits and Marina Boat Slips for the Harbor Department. He confirmed there is a subsidy that comes from the General Fund to the Tidelands Fund so all of its revenues will meet its expenditures.

Commissioner Marston requested a copy of the presentation for review as the color differentiation was difficult to see on the screen. She inquired how the steady increases in revenue factor into the Harbor Departments budget and staffing.

Deputy Finance Director Gomez reported from a budgetary perspective staff will push forward a budget for the City Manager and City Council's consideration that balances revenues and expenditures unless there is a purposeful decision to designate more money to a fund balance.

He further explained that staff will have ongoing discussions with the Harbor Department during the budget process to discuss the trajectory of revenue. He noted if it looks like there will be a consistent increase in revenue, the Harbor Department can then request that the City Manager and the City Council approve additional operating funds.

Commissioner Marston inquired about what is considered a Capital Expenditure for the Harbor Department versus the Public Works Department.

Deputy Finance Director Gomez explained a Capital Expenditure would be anything purchased over \$5,000 that the City may hold for a period which would then be registered in the City's financial statements. He clarified there are no Capital Improvement Projects in the Harbor Department.

Chair Scully inquired if the expenses related to slips at Marina Park for the Balboa Yacht Basin are included in these numbers. Deputy Finance Director Gomez confirmed they are included and noted that the cost of maintenance is as well.

Chair Scully inquired if building new slips or replacing slips would come under Capital Improvement Projects. Deputy Finance Director Gomez confirmed they would be included in the Capital Fund.

Chair Scully inquired if the part-time employees in the Fire Department were lifeguards. Deputy Finance Director Gomez confirmed those are the City's lifeguards.

Chair Scully opened public comments.

Hein Austin inquired if private pier permits are included in the Tideland Funds. Finance Director Gomez confirmed those are included. Mr. Austin advised under state statute the City is required to treat anyone who uses Tidelands equally.

He believes the main flaw in the revenue stream for the Harbor is the inequitable distribution of rates. He advised the focus has been on moorings which account for 1,200 boats but there are approximately 5,000 boats in the Harbor. He noted if the permits for the private piers and the moorings were charged \$1 per square foot for the amount of space they occupy under the tidelands statute, he believes all of the financial issues for the Harbor Department would be resolved. He encouraged the City to review the Tideland Fund statutes and consider charging equal rates.

Drew Lawler requested clarification from Mr. Austin if he was including off-shore mooring permittees with the same square footage as those who have dock space. He noted that off-shore mooring permittees should pay less because it is far more inconvenient.

Chair Scully closed public comments.

The item was received and filed.

#### 2. Harbor and Beaches Master Plan Projects – Review

The item was continued to a date uncertain.

## 3. Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal that will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process, and research. The Commission will be asked to approve recommendations related to optimizing the utilization of the mooring fields and allowing mooring permittees to request a permit exchange for a mooring of a different size. The recommendations are included in the proposed draft ordinance amending sections of the City of Newport Municipal Code, Title 17.

#### 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) Review, modify, and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

Harbormaster Paul Blank introduced the item.

Vice Chair Beer reported he has read and carefully considered every letter that was written to the Harbor Commission on this item. He advised a letter of concern was sent from the Newport Mooring Association (NMA) to its members, mooring permittees, the Harbor Commission, the Mayor of Newport Beach, and the City Council. He shared the facts related to the allegations set forth in the NMA letter which may the basis of public comments.

Vice Chair Beer addressed a few of the concerns from NMA. He reported the NMA letter states that the Harbor Commission is proposing to move boats across the Harbor and is proposing a radical change to Title 17 of the City Code. He advised the statement is false and misleading as there is nothing agendized that proposes to move any boats across the Harbor. He explained the City has always maintained the right to move any permittee's vessel temporarily or permanently as per Title 17, Section 17.60.040.

Vice Chair Beer reported the NMA letter also states Commission Objective 2.3 is a proposal to terminate transferability. He advised this statement is also false and misleading as there is nothing agendized suggesting to terminate the transferability of any existing mooring permits.

Vice Chair Beer reported the NMA letter states the proposed changes to Title 17 have been pushed forward under the guise of a potentially dangerous new mooring system that is a danger to life and limb and does not seem to be understood by the Harbor Commission. He advised the statements are false, misleading, without fact, and have no merit. He noted this statement is disrespectful to the Harbor Commissioners who have been carefully selected and approved by a vote of the Mayor and the City Council. He explained the proposed mooring reconfiguration has successfully been used in other harbors including San Diego Harbor for more than 40 years. He advised Newport Harbor is one of the most protected harbors along the coast and noted this efficient mooring design has been engineered and designed to withstand the natural elements that may exist in the Harbor and is not an obvious danger to life and limb.

Vice Chair Beer reported the NMA letter alleges that the Harbor Commission has not met with NMA regarding their concerns. He encouraged NMA board members to attend Harbor Commission meetings and read the agendas to have a better understanding of what is happening. He reported the Harbor Commission has met with the NMA and has actively engaged in dialogue over the past four years. He advised this item has been agendized for public comment at eight Harbor Commission meetings since 2018. He noted Commission Objective 2.3 has been discussed at each of the last 3 Harbor Commission meetings, has been defined in writing, adopted by the City Council, and posted on the City's website. He reported this item was properly noticed and agendized for the June 8, 2022 Harbor commission meeting where a full presentation was provided with members of the NMA Board and NMA permittees in attendance. Lastly, he advised the formal PowerPoint presentation shown at that meeting was provided to the NMA via email the following day.

Vice Chair Beer reported in June, the NMA requested information about the meeting that related to project economics and proposed mooring rate increases. He advised he responded via email, copying the Harbor Commission and City Council to explain the purpose of Objective 2.3, specifically noting economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective. He also advised in that email he noted he would be happy to meet with the NMA Board in person or virtually to discuss what was presented. He reported there was no response from the NMA to meet and discuss.

Vice Chair Beer reported on September 26, 2022, he sent an engineering study for the mooring field to the NMA Board via email in which he also offered to meet with the NMA board. He advised no response was received from the NMA. He reported on September 30, 2022, he sent via email the most recent updated version of the Mooring Anchor Calculations Report where he also offered to meet and discuss. He advised there was no response from NMA to meet and discuss.

Vice Chair Beer reported that despite an ongoing invitation to meet and discuss there have been no responses or requests from NMA to do so. He advised the recent letter received from the NMA indicates the Harbor Commission has not met with NMA regarding any of their concerns. He noted the statement is false and encouraged the recipients of the letter to take strong exception to its contents and allegations. He noted taking up valuable time at a public meeting to respond to false statements is not productive and does not benefit the boating community or the Harbor Commission's open water initiative for improvements to the mooring fields and navigation within the Harbor which all NMA members and mooring permittees benefit from.

Vice Chair Beer advised the NMA board members should be held accountable and responsible for any misinformation that has been disseminated on their behalf to the mooring permittees of Newport Harbor, the Harbor Commission, and the Mayor and City Council. He noted he was compelled to provide a detailed account of the truth so the public can base their individual opinions on the facts. He encouraged all intending to offer public comments to consider the facts presented and the information in the following presentation.

Vice Chair Beer provided a brief update on the Mooring Field Open Water Initiative Improved Utilization Report. He provided a brief history relating to mooring extensions and improved navigation. He reported the Newport Harbor Mooring Fields have been historically managed by the Orange County Sherriff's Department (OCSD) which approved mooring extensions on an adhoc basis without any official policy, guidelines, or best practices. He advised in 2017, the City ended its contract with OCSD for mooring administration and code enforcement. He noted in 2018, the City Council approved the Harbor Commission Objective to evaluate the current mooring fields and provide a recommendation for new guidelines. Lastly, he reported in 2019, the Harbor Commission adopted a temporary policy to conditionally approve certain mooring extension requests of up to 5 feet but was halted since it could adversely affect any design being developed for better utilization of the space in the mooring fields.

Vice Chair Beer reported that Newport Harbor is currently experiencing a mooring shortage and noted the City has no available moorings available for new long-term permittees. He advised the current cost of entry to acquire a mooring permit in Newport Harbor is typically \$1,000 per foot or more. He advised new City moorings will not require an acquisition fee and will allow for more affordable boating. He explained the history of granting mooring extensions to existing permit holders without proper policy has resulted in less-than-desirable outcomes to aesthetics, safety, and navigable water space. Lastly, he noted the current space within the mooring field footprint is not safely navigable nor suitable for public access.

Vice Chair Beer provided a brief overview of the benefits of new double rows versus a single-row mooring configuration. He reported benefits include improved utilization of water space, 50% wider fairways, increased spacing between moorings in the same row, more overall maneuvering room, safer navigation, the addition of much-needed additional long-term moorings, and reduced maintenance costs for mooring permittees if a helical type anchor is used.

Vice Chair Beer provided a brief overview of the benefits of the new sand line mooring configuration. He reported benefits include preventing mooring buoys from drifting into fairways, making it easier to tie up to a single bow morning line connected to the stern line, and the ability to attach a pick-up pole to the floating spreader line to make the pick-up simpler and not require hooking the line as is required with a 2-point mooring configuration. He advised the sand line provides a safe, proven, and simple way to approach and secure a vessel for all mariners. He noted double rows with sand lines will reduce the number of mooring balls in the Harbor by 50%. Lastly, he advised that currently, 50% of all fairways in all mooring fields are less wide than the adjacent boats are long which creates a navigation risk. He noted fairway widths will be increased by 50% to 100% of current conditions.

Vice Chair Beer reported helical anchors and conservation buoys have less impact on eelgrass and the marine ecosystem. He advised helical anchors may provide greater holding strength and provide a smaller footprint resulting in less scarring on the seafloor. He explained conversation buoys aid in keeping the chain off the sea floor to minimize the scarring of eelgrass.

Vice Chair Beer presented an initial Boring Log Location Map and noted the Harbor materials appear to be suitable for a helical-type anchor system. He reported the initial mooring field has been identified as the C Field. He provided examples of a mooring scar and advised mooring scarring destroys eel grass and disrupts the marine ecosystem. He noted the California Coastal Commission has imposed strict guidelines for eelgrass monitoring and mitigation. He advised the proposed sharing mooring configuration would result in only one buoy with a sand line.

Vice Chair Beer presented a rendering of a single-row mooring field and noted without policies defining row and fairway sizes, a mooring field can become a safety concern and become a very inefficient use of valuable waterways. He presented a picture of America's Cup Harbor in San Diego with a double-row mooring configuration. He noted that 90% of the moorings are in 50% of the space and are much safer for mariners. He presented a rendering of the new double-row mooring design in C Field.

Vice Chair Beer presented a typical mooring design in Newport Harbor and presented a rendering of a shared center weighted mooring anchor, a shared center helix anchor system, and a typical sand line mooring. He advised a 2-point mooring configuration has higher costs than a shared helix mooring configuration.

Vice Chair Beer reported the City has Harbor Design Standards that require the fairways to be a minimum of 1.5 X the boat Length Overall (LOA). He noted the fairways between rows in a mooring field should be held to the same or stricter guidelines as a marina slip. He presented an example of a new mooring configuration of the B Field. He advised a configuration that complies with Harbor Design Standards will provide beachgoers and waterfront residents the ability to enjoy greatly improved Harbor views. He advised inefficiency at the J & H Fields also currently exists.

Vice Chair Beer reported there are currently 564 moorings and this initiative would allow the City to add 97 new moorings while increasing the space between the boats and the fairways. He advised the cost for Phase 1 is \$450,000 with more than half going to new moorings. He noted the City would recoup these costs because the new moorings would create new, incremental revenue. He provided a brief overview of the Summarization Outline of the Proposed Reconfiguration of Moorings, Future Requests for Extension, Suggested Guidelines for New Double Row Moorings, and outlined the net adjustments.

Chair Scully thanked Vice Chair Beer for the thorough presentation.

Commissioner Cunningham thanked Vice Chair Beer for his hard work.

Secretary Yahn applauded Vice Chair Beer's efforts for working tirelessly with the GIS staff to develop this plan. He believes the study does a good job of maximizing the space of the mooring fields along with being safe and having adequate maneuverability for all Harbor users and not just mooring permittees. He expressed his pleasure with the ad hoc committee for developing such a thoughtful methodology. He believes the bold new look of the mooring fields will provide a higher capacity of vessels and provide enhanced community access to the Harbor. He expressed support for the concept and once again, applauded Vice Chair Beer's efforts.

Commissioner Marston thanked Vice Chair Beer for his efforts.

Commissioner Williams commented that the City, the general public, and the boating community are incredibly lucky to have Vice Chair Beer leading this effort.

Secretary Yahn left the meeting at 6:14 p.m.

Commissioner Svrcek commented that the plan was very thorough and thanked Vice Chair Beer for his efforts.

Chair Scully thanked everyone in the room for their comments and hopes the air in the room is much clearer and there is a better understanding as to the direction that this objective has been going. He advised it is an opportunity to offer additional moorings as it is currently locked out.

Chair Scully opened public comments.

Wade Womack, a member of NMA, expressed confusion with the agenda item and noted it seems to revolve around a Harbor Commission vote on moving forward on a new mooring system that has not been vetted by the Commission or the public. He noted it also appears like the Commission is looking to revise Title 17 in anticipation of a new mooring plan that has not been agendized as a stand-alone item or fully discussed in public. He noted the only time the new shared anchor mooring plan was discussed was at the June 8, 2022 Harbor Commission meeting as a simple Harbor Commissioner update. He advised the proposed mooring plan was posted after the meeting so the public had no opportunity to review it for any thoughtful feedback at the June 8, 2022 meeting. He expressed concern that the mooring plan details are not attached to the agenda item and were not posted online for review. He expressed concern regarding the preliminary plans of the shared mooring anchor system that was in the conceptual phase on June 8, 2022 yet the details of the plans are not posted for review for this meeting. He inquired how the Harbor Commission can approve plans related to revisions to Title 17 when the plan is not posted for public review. He recommends the Harbor Commission take no action tonight and agendize the proposed mooring plan on a future agenda as a stand-alone item before making any revisions to Title 17. He expressed concern that new mooring permits will not be transferrable and believes the charges made against NMA tonight were unfair.

Hein Austin commented that applying this model in Newport Harbor will be a recipe for disaster, particularly in the C Field. He advised C Field has the highest current exposure in the Harbor. He provided detail on how the proposed mooring may be dangerous based on his personal experience. He noted what happens in C Field is vastly different from what is happening at America's Cup Harbor and believes this will make the Harbor unsafe.

John Fradkin advised he is an NMA Board member, a long-time mooring permittee, and a member of Balboa Yacht Club. He thought tonight was the night to make comments and apologized for not getting together with Vice Chair Beer previously but he did not get the invitation. He reported the NMA has not signed off on this and has not looked at it extensively until this week. He advised he is an expert on off-shore moorings and knows the Harbor very well. He noted Vice Chair Beer is not an experienced yachtsman and is not qualified to determine if the plan is solid. He noted America's Cup Harbor does not use helical anchors but uses weights. He believes there are pros and cons to this plan. He advised the double row system will not work well in the Harbor and is going to compromise safety. He noted Vice Chair Beer is missing how difficult it is to attach to the mooring given the current and the wind. He concurred there may not be deaths but there will certainly be hand-crushing injuries. He recommended making changes to the plan and disagrees that the plan, as is, is a good idea.

An unnamed speaker advised he has only had a mooring since 2004 but has been on the Harbor since 1979. He advised he was concerned with the mooring settings, transferability, and how permittees could be moved to a different field. He noted C Field has many anomalies that the other fields do not have and it takes some time to moor. He encouraged the Harbor Commission to reconsider the plan.

Clint Acoutin, a tugboat operator who works with Chevron and Foss Maritime, advised he is very familiar with mooring systems and operations. He requested that a better image of the helix screw be provided for public review. He expressed concern regarding the proposed mooring plan and outlined an example. He noted he has worked with the helix screw and it works well but a better diagram would help the public better understand.

Drew Lawler requested clarification of the mooring configuration and inquired if the bow and the stern would be attached through a sand line. Vice Chair Beer confirmed that is correct.

Mr. Lawler inquired if there were any plans to make changes in the D Field. Vice Chair Beer advised there would be plans to change all mooring fields because of the results of this plan.

Mr. Lawler expressed support for the plan to not move boat owners out of their existing mooring field.

Scott Carlin reported for 100 years through trial and error the current single mooring system works. He presented an example of approaching the mooring using the current system and using the hybrid system. He advised at the end of the day it is a roll of the dice and he does not want to roll the dice. He agrees it should be studied further but should not be voted on tonight.

Ken Hatch, a resident in J Field, reminded the Harbor Commission of the experiment with the sand line moorings from 4 years ago. He agreed with previous commenters that given the currents and the wind, the proposed plan will never work. He thanked the Harbor Commission for its efforts and believe the plan is close but needs additional work. He encouraged the Harbor Commission to come together will all interested parties to build a better plan.

Jessie Fleming, a resident of the Harbor since the early 1980s, advised she has had a mooring for the last 6 years. She expressed appreciation that the fairways will be made wider and increase the distance between vessels. She noted that mooring permittees are also part of a community and everyone is helping each other when there are high winds. She advised during high winds it is not necessarily the moorings that drag, it is that people do not tie their boats off properly and their lines snap. She expressed concern about the two boats meeting in the middle and inquired about the distance between the two boats sharing the mooring. She noted if one boat breaks loose in the front it will spin from the back and hit the boat behind it.

Vice Chair Beer clarified the distance between each buoy is 20 feet and there is a bridle off of that.

Jerry LaPlane, D Field mooring permittee, advised he is a power boat owner who has run boats for 35 years. He advised he uses a spreader line similar to what Mr. Austin described. He noted in the comparison to slips being relatively the same distance, a slip is like a spreader line with a dock on each side. He expressed concerns regarding the Title 17 changes and noted the red line regarding transferability is unclear and needs clarification.

An unnamed speaker reported he is a live-aboard in H Field and uses the public pier at 15th Street several times daily. He advised if 90 more moorings are added there will be no place for dinghies to park.

Bill Allen, F Field mooring permittee, advised he has been to every Harbor Commission meeting over the last 3 or 4 years and has never heard a discussion on a cutoff date for extending the mooring. He advised he recently submitted an application and was denied and is now only hearing that there was a cut-off date. He inquired how the Harbor Commission came up with the cutoff date and noted that it is not very fair since it was not published.

Keegan Heggarty reported he has been involved in collisions in the mooring fields due to a lack of line of sight between moorings and believes the increase in channel size will offer better visibility and vessels to be oriented correctly before approaching the mooring. He believes the plan will increase safety and navigability in the Harbor. He inquired if there is anything that prevents uses of the proposed mooring system from using a spreader line on the shared moorings.

Steven Turansky, J Field mooring permittee, reported he has been inquiring about the mooring extension for several years and the reply has always been that applications are not being taken, and is now hearing there was a cut-off date. He expressed concern that the cut-off date was not made public. He advised all different boats have different displacement versus windage and expressed concern that there could accidents if there is a shared mooring system.

Nigel Bailey, H Field mooring permittee, advised all boats on H and J Field face one direction because the wind is coming from another direction and mooring should take place into the wind. He noted the proposed shared mooring system will place vessels bow to bow and someone will have to approach the mooring with the wind behind them which will be very difficult.

George Hylkema, an NMA Board member, reported he approaches the mooring against the wind or the current and does not see how he can approach the mooring if he cannot compensate for tide and not have the boat press on past the buoy and hit the boat ahead of him. He noted there are many empty moorings in the C Field. He expressed appreciation for the efforts that have gone into the design but believes it needs additional review by experts.

Val, A Field mooring permittee, reported she has a 35-foot sailboat and advised she uses a spreader line when approaching the mooring and noted it can be very difficult. She expressed concern regarding the danger of trying to attach to a shared mooring on a windy day.

Stacy Kline, a C Field mooring permittee, would like to be fully informed about this process and wants to be involved with the process. She encouraged the Harbor Commission to include boat owners in the decision-making process and noted they want to be part of the solution.

Richard Gourd, a C Field mooring permittee, agreed with the comments of the experienced boaters that the shared mooring system would almost be impossible and there would not be a way to stop the boat. He requested clarification of the transferability of the mooring permit.

Vice Chair Beer clarified that existing permittees will be able to transfer mooring permits as long as it is permitted in Title 17.

Chair Scully closed public comments.

Commissioner Williams noted it has become apparent to him that there is a mooring problem and there is a relationship problem. He advised the Harbor Commission is comprised of volunteers who have the best intentions for Newport Harbor. He advised the Commission does not hear from the NMA until the evening before a Commission meeting and that the emails that are being received are unprofessional. He noted if he was an NMA member, he would be questioning the NMA leadership and advised they are doing a disservice to its members, the public, and the boaters in the Harbor. He encouraged all parties to do better, to collaborate, to stop spreading disinformation, and to fix the relationship.

Commissioner Cunningham advised there are a lot of issues with moorings. He agrees that the Harbor Commission is not getting many ideas from NMA for improvement to the mooring system and the experience for mooring permittees. He explained the Harbor Commission has been thinking about the mooring system for the long term and not just for today.

Vice Chair Beer reported he has been a boater in Newport Harbor for 20 years, has captained a 58-foot Viking for the last 14 years, and has attached to the mooring by himself in rough conditions. He noted he has taken a lot of consideration of the conditions and can see how using the spreader line can be easier. He can also recognize that this is a mooring field and not slips and requires experience. He reported the vast majority of permittees do not use spreader lines. He explained the Harbor Commission has to look to the next decade and beyond on how to accommodate most of the people in the mooring fields. He advised there may be many empty moorings in C Field but they are not for sale and have almost created a monopoly for moorings. He recalled a situation where a mooring sold for \$165,000 and noted that is not affordable boating and is not fair to the public because they cannot get onto the Harbor and tidelands to use and enjoy. He reported the space is there to provide additional moorings safely. He believes there is only one issue which is the sand line. He believes boaters should be able to operate their vessel and not run into another boat.

Vice Chair Beer reported America's Cup Harbor is a harbor that experiences a lot of wind and there is the main entrance channel that feeds into the harbor. He noted the use of spreader lines to slow the vessel is very low.

Chair Scully advised he disagreed with public commenters that this item has not been addressed at the Harbor Commission. He noted change is hard and will be difficult here. He expressed support for picking a field, working on it, and perfecting the design of the mooring field in the harbor.

Commissioner Cunningham expressed support for selecting 1 field and piloting a shared mooring field. He advised he is not opposed to obtaining additional feedback, more dialogue, and rolling it out slowly.

Commissioner Svrcek expressed support for selecting 1 field and piloting a shared mooring program.

Commissioner Williams echoed Commissioner Cunningham's comments and noted the Harbor Commission wants to work together with NMA and the public positively and constructively.

Commissioner Marston noted she would like to see more constructive input from the community rather than barraging emails. She encourages the public to provide alternative approaches and

plans to the Harbor Commission in writing. She expressed support for implementing a phased approach. She noted Vice Chair Beer took the time to go through his records to confirm he contacted NMA multiple times and received no response which is unacceptable.

Vice Chair Beer noted heads were shaking when Commissioner Marston advised he contact NMA multiple times via email. He confirmed he has the emails that were sent and encouraged NMA to find them but would like to put that behind them. He clarified the plan that was introduced is to identify one mooring field initially and conduct a pilot within that mooring field. He agreed that a test will need to be conducted to confirm Noble Engineering's findings.

Vice Chair Beer does not see how anyone can disagree that this is not a benefit to the stakeholders. He believes there is an alternative that can satisfy all parties and looks forward to the dialogue.

Chair Scully inquired if Vice Chair Beer would be agreeable to continuing the item to continue dialogue with mooring permittees and NMA to come up with additional feedback and come back to the Harbor Commission. Vice Chair Beer agreed but noted it needs to be a short timeline.

Chair Scully continued the item to the November 9, 2022 meeting of the Harbor Commission.

### 4. Establish Ad Hoc Committee to Review and Suggest Harbor Commission Objectives for 2023

The Harbor Commission establishes annual Objectives to focus the Commission on issues that are important to the City Council, the Harbor Commission, and the community. At the Harbor Commission meeting of September 14, 2022, the Commission requested to set up an Ad Hoc Committee to review and suggest Objectives for 2023.

#### 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 to develop a list of Harbor Commission Objectives for 2023.

Harbormaster Blank reported a staff report was presented to the Harbor Commission as part of the agenda packet.

Chair Scully, Commissioner Cunningham, and Commissioner Williams volunteered to be a part of the Ad Hoc Committee.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion.

Chair Scully opened public comments. There being no speakers, public comments were closed.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

#### 5. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

#### Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Chair Scully advised Harbor Resource Manager Chris Miller will be needed for the Review of City Council Policy H-1 – Pier and float extensions beyond the pierhead line. He hopes to have something to review at the next meeting.

Commissioner Marston reported the Ad Hoc Committee to review piers and ports was convened a year and a half ago under the impression that there were many issues in the Harbor. She advised she and Secretary Yahn conducted extensive field reviews and only found a few issues in the Harbor. She reported they presented at a Harbor Commission meeting in July 2021 and at the stakeholders meeting in February 2022. She advised she and Secretary Yahn recommend that the Ad Hoc Committee on this item be closed and the few issues identified are being addressed and it was determined no policy needed to change.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and ports, seconded by Commissioner Williams.

Chair Scully opened public comments.

Eric Peterson inquired if the Ad Hoc Committee is closed and the original problems return will the Committee be reinstated. Commissioner Marston advised the previous problem should not return as it is regulated under the current policy.

Chair Scully closed public comments.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and floats. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

Commissioner Cunningham reported the Ad Hoc Committee on the Review of the Harbor and Beach Master Plan met with Harbor Resources Manager Miller last month and will be brought back to the Commission in November for discussion.

Chair Scully opened public comments. There being no speakers, public comments were closed.

The item was received and filed.

#### 6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a project update.

#### Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

<u>Functional Area 1:</u> Secretary Yahn was absent from the meeting and unable to provide any updates.

<u>Functional Area 2:</u> Vice Chair Beer noted his time has been spent on Objective 2.3 and had no comments at this time on any of the other objectives in Functional Area 2.

<u>Functional Area 3:</u> Commissioner Cunningham advised the CIP Ad Hoc Committee did discuss CIP vessels but will push comments to the next meeting.

<u>Functional Area 4:</u> Chair Scully reported that for Objective 4.1, the Trash Wheel obtained all of the necessary permits and staff is now working on grant funding for the project. He reported he and Commissioner Marston continue to talk about Lower Castaways. Commissioner Marston advised that Harbormaster Blank recommended putting Lower Castaways on hold due to what was going on with the City Council. She inquired if they should continue to review that objective. Harbormaster Blank advised he will take action to obtain additional information and report back at the next meeting of the Harbor Commission. Chair Scully reported that on Objective 4.3, he and Commissioner Williams continue to work on the Newport Harbor Safety Committee. He

reported it is going very well with the first meeting will be held on October 18th and anticipates between 15 and 20 operators participating.

Chair Scully opened public comments.

Mr. Mosher inquired about Objective 4.2 - Lower Castaways and noted the sub-committee seems to know more than the public. He noted the minutes indicate it may have something to do with the YMCA and referenced a Closed Session of the City Council about property acquisition somehow related to the YMCA with no explanation but the notice for that meeting gave an address of the Upper Castaways. He commented that the last meeting's minutes for Functional Area 4.3 reference the Newport Harbor Safety Committee and asked for additional details on the Committee.

Chair Scully advised as part of Objective 4.3, he and Commissioner Williams worked to develop a Safety Committee comprised of harbor operators, both non-profit and commercial, to discuss any safety issues that have occurred, discuss best practices, and try to get the community to work together for public safety and navigating in the water properly. He clarified the first meeting of the Newport Harbor Safety Committee will be on October 18th.

Chair Scully closed public comments.

The item was received and filed.

#### 7. Harbormaster Update – September 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

#### **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 reported in regards to keeping the Harbor clean, Harbor Service Workers (HSW) assisted the City Park Patrol in removing a couch that had been thrown off the bluff below Galaxy Park in Upper Newport Bay. He advised most of the pumps-out hydrants at Marina Park have been replaced. He thanked marine sanitation guru Noel Platchak for coordinating and supervising the work and noted Mr. Platchak sent two nice notes regarding the work of HSWs in that effort. He reported a sub-contractor pressure washed all of the public piers in addition to the monthly maintenance they provide.

Harbormaster Blank reported in regard to keeping the Harbor safe, all equipment was removed from all 3 patrol boats, identified, and only equipment that supports patrol activities was returned to the boats. He advised training sessions on performing basic engine maintenance and the cooling systems of the boats were conducted. He reported a post-Summer Harbor Summit was held on September 27th with the audience consisting of Marine Activity Permit holders and sailing programs. He advised it was well-attended.

Harbormaster Blank reported in regard to keeping the Harbor well-enjoyed, he advised they take a proactive stance on any usage limits and anchorages and noted there have been some challenges enforcing them. He advised no one has overstayed their anchorage and problem vessels have left the Harbor. He noted HSWs also consistently enforce noise limits and noted a recent call from a well-known waterfront resident to report a charter vessel that was out of compliance with noise limits and a Notice of Violation was issued. He reported there was a collaborative effort with OCSD to assist a disabled vessel in the Classic Yacht fleet when the commercial/tow assist vessel that was assisting them also became disabled in Marina Park.

Harbormaster Blank reported a suggestion was made during the Harbor Summit that the City reconsider competing with private enterprise rental of small vessels. He noted the City offers instructional classes in small boat sailing and racing, kayaking, and paddle boarding. He explained qualified customers can rent from the City-owned fleet of kayaks, paddleboards, RS Quests, and J-22s. He advised the Harbor Department is undergoing an operational review conducted by an outside consultant that is reviewed but never published so he is unable to share it with the Harbor Commission. He reported he will provide a published report based on that information during the next couple of months. He recalled an incident where a resident reported inappropriate behavior on one of the patrol boats but when questioned on the specifics became defensive. He reported the caller escalated the issue to the City Manager who also experienced the same behavior from the caller. Lastly, he presented an image of the sea star that was finally captured at Marina Park and is a sign of good health in the Harbor. Lastly, he announced that a fundraiser will take place at the Lido Marina Village on October 13th at 6:00 p.m. in support of the Navy Seals Foundation.

Harbormaster Blank provided a brief overview of revenue statistics and noted the Harbor Department continues to exceed its prior year's revenue. He advised last month's noise statistics were inaccurate due to switching to the new system but noted this month's statistics are correct. He reported that 907 of the 929 mooring permits have been fully executed.

Commissioner Williams thanked Harbormaster Blank for everything he does.

Commissioner Marston expressed excitement at seeing the image of the sea star. Harbormaster Blank reported it is visible at low tide although it moves.

Vice Chair Beer thanked Harbormaster Blank for his efforts and noted the improved water quality in the Harbor is a direct result of the work of pumping waste out of the Harbor and the dredging that has been conducted.

Chair Scully inquired about the polypropylene line that was removed. Harbormaster Blank reported approximately 2,000 feet of polypropylene line was removed from the Harbor and was probably from a fishing vessel.

Chair Scully inquired if any additional information was available on the fatality that occurred in the anchorage. Harbormaster Blanks reported he had no additional information.

Chair Scully opened public comments.

Len Bose applauded Harbormaster Blanks on the Harbor Summit and noted he looks forward to attending the Safety Committee meeting. He encouraged the Harbor Commission to consider restarting the group meetings regarding the ferry boats.

Richard Dorn reported there has been a problem at the Fernando Street public docks with boats being left for a month at a time without being put away overnight. He advised there have been reports of the Code Enforcement officer not enforcing impounding the vessel.

Harbormaster Blanks advised there is an extensive effort that goes into public dock enforcement every day. He advised there are reasons boats are not impounded on occasion because there is not sufficient evidence to support the impound.

Hein Austin thanked Harbormaster Blank for being such an excellent communicator and noted it is a pleasure working with the Harbor Department. He reported the walkways on the public dock at D Field have not been painted for quite some time along with some nails sticking out of the dock and requested an update.

The item was received and filed.

#### 7) MOTION FOR RECONSIDERATION

None

#### 8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Chair Scully reported attendance at the Water Quality/Coastal Tidelands Committee meeting where the Lower Newport Bay Dredging Project update was provided by Harbor Resources Manager Miller along with a report on bay and ocean water quality which resulted in A ratings across the board.

#### 9) <u>MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE</u> AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)

None

#### 10) DATE AND TIME FOR NEXT MEETING: Wednesday, November 9, 2022 at 5 p.m.

#### 11) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:44 p.m.

# NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chambers – 100 Civic Center Drive Wednesday, October 12, 2022 5 p.m.

#### 1) CALL MEETING TO ORDER

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

#### 2) ROLL CALL

Commissioners: Steve Scully, Chair

Ira Beer, Vice Chair Don Yahn, Secretary

Scott Cunningham, Commissioner Marie Marston, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner

Excused: None

Staff Members: Paul Blank, Harbormaster

Jeremy Jung, Deputy City Attorney Michael Gomez, Deputy Finance Director

Shelby Burguan, Budget Manager

Jennifer Biddle, Administrative Support Specialist

Administrative Support Specialist Biddle announced Secretary Yahn would be leaving the meeting at 6:20 p.m.

#### 3) PLEDGE OF ALLEGIANCE – Commissioner Scully

Chair Scully announced the Harbor and Beaches Master Plan Projects review will be continued to a future meeting.

#### 4) PUBLIC COMMENTS

Hein Austin presented a flyer he distributed regarding the dire need for outhouses around the Harbor. He advised on a ride around the Harbor he noticed bright yellow outhouses that were registered to Robert's Waste and Recycling in Santa Ana. He noted they were visible from a long distance, well-ventilated, and portable. He reported the company quoted \$210 per month, per unit, for full service 5 times per week. He advised that 10 of these units on the public dock would be very helpful for all users of the Harbor. He recommended the City negotiate a contract with the company as it would be a fraction of the cost of the previously proposed floating restrooms.

Drew Lawler inquired if the potential to move moorings would be a discussion item on the agenda. Chair Scully confirmed it is an agenda item and Mr. Lawler could offer his comments when it is discussed.

#### 5) APPROVAL OF MINUTES

#### 1. Minutes of the September 14, 2022 Harbor Commission Regular Meeting

Chair Scully reported that written comments were submitted to staff by Commissioner Marston and himself.

Commissioner Marston noted she offered comments but was unsure what Water Quality Board was being referenced in the minutes and requested it is corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully and Commissioner Marston. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

Chair Scully opened the floor for public comments.

Jim Mosher, a Resident, requested typos on page 3 and page 4 of the minutes be corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully, Commissioner Marston, and Jim Mosher. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

#### 6) CURRENT BUSINESS

#### 1. Finance Presentation on Harbor Department Operations

The City of Newport Beach was granted sovereign tidelands and submerged lands in trust in 1919. This grant and its amendments were repealed in 1978 and a new grant was enacted tasking the City with stewardship over all of the sovereign tide and submerged lands located within the City's 1919 city limits. Are presentative of the granting authority, the California State Lands Commission will give a presentation related to the stewardship of those granted tidelands.

#### 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.

Deputy Finance Director Michael Gomez provided a brief overview of the City Department Operational Budget which is approximately \$275 million. He noted Fire, Police, Utilities, and Public Works often have the largest budgets with the largest staff. He reported the Harbor Department has 3 full-time employees (FTEs) and 9.39 part-time employees which would be translated to 9 FTEs annually.

Deputy Finance Director Gomez reported that the Harbor Department has been fiscally responsible since its inception. He noted Harbor Expenditures have never exceeded the Operating Budget. He advised the largest part of the Operating Budget is Salaries and Benefits and explained that Internal Service Charges are for services the City provides such as Information Technology and Human Resources services. He advised the other Maintenance & Operations Accounts are the core operations of the Harbor Department. He explained Capital Expenditures are those above the fixed asset threshold but are not necessarily Capital Projects.

Deputy Finance Director Gomez explained that the Harbor Department budget was similar to the Library budget and Recreation & Senior Services budget in that they are public-facing, provide services, and generate revenue. He noted the Harbor Department is the smallest of those expenditure budgets.

Deputy Finance Director Gomez reported the largest sources of revenue for the Harbor Department are Mooring Permits, Marina Park Slips, and All Other Revenue. He advised the Harbor Department has exceeded its annual budget in terms of revenue but is confined to Mooring Permits and Marina Park Slips. He provided a comparison of Harbor Revenue to Library Services and Recreation & Senior Services and noted the Harbor had a steady increase in its revenue across the pandemic which is directly related to the fact that the Harbor is an outdoor destination. He provided a comparison of Harbor staffing as compared to other departments. He noted Harbor Personnel has steadily increased over the last three years.

Deputy Finance Director Gomez provided a brief overview of Harbor Revenue as compared to its Operational Budget. He noted the Harbor is recouping a large part of its expenditures through revenue. He explained that some departments such as Recreation & Senior Services are subsidized by the General Fund to keep recreation classes and services fees low for residents.

Secretary Yahn inquired about the difference between the General Fund and the Tidelands Funds.

Deputy Finance Director Gomez explained the main difference between the two is that the General Fund's primary revenue is from Property Taxes, Sales Tax, and Transient Occupancy Tax (TOT). He explained the Tidelands Fund or any Non-General Fund is typically derived from providing services which would be Mooring Permits and Marina Boat Slips for the Harbor Department. He confirmed there is a subsidy that comes from the General Fund to the Tidelands Fund so all of its revenues will meet its expenditures.

Commissioner Marston requested a copy of the presentation for review as the color differentiation was difficult to see on the screen. She inquired how the steady increases in revenue factor into the Harbor Departments budget and staffing.

Deputy Finance Director Gomez reported from a budgetary perspective staff will push forward a budget for the City Manager and City Council's consideration that balances revenues and expenditures unless there is a purposeful decision to designate more money to a fund balance.

He further explained that staff will have ongoing discussions with the Harbor Department during the budget process to discuss the trajectory of revenue. He noted if it looks like there will be a consistent increase in revenue, the Harbor Department can then request that the City Manager and the City Council approve additional operating funds.

Commissioner Marston inquired about what is considered a Capital Expenditure for the Harbor Department versus the Public Works Department.

Deputy Finance Director Gomez explained a Capital Expenditure would be anything purchased over \$5,000 that the City may hold for a period which would then be registered in the City's financial statements. He clarified there are no Capital Improvement Projects in the Harbor Department.

Chair Scully inquired if the expenses related to slips at Marina Park for the Balboa Yacht Basin are included in these numbers. Deputy Finance Director Gomez confirmed they are included and noted that the cost of maintenance is as well.

Chair Scully inquired if building new slips or replacing slips would come under Capital Improvement Projects. Deputy Finance Director Gomez confirmed they would be included in the Capital Fund.

Chair Scully inquired if the part-time employees in the Fire Department were lifeguards. Deputy Finance Director Gomez confirmed those are the City's lifeguards.

Chair Scully opened the floor for public comments.

Hein Austin inquired if private pier permits are included in the Tideland Funds. Finance Director Gomez confirmed those are included. Mr. Austin advised under state statute the City is required to treat anyone who uses Tidelands equally.

He believes the main flaw in the revenue stream for the Harbor is the inequitable distribution of rates. He advised the focus has been on moorings which account for 1,200 boats but there are approximately 5,000 boats in the Harbor. He noted if the permits for the private piers and the moorings were charged \$1 per square foot for the amount of space they occupy under the tidelands statute, he believes all of the financial issues for the Harbor Department would be resolved. He encouraged the City to review the Tideland Fund statutes and consider charging equal rates.

Drew Lawler requested clarification from Mr. Austin if he was including off-shore mooring permittees with the same square footage as those who have dock space. He noted that off-shore mooring permittees should pay less because it is far more inconvenient.

Chair Scully closed public comments.

The item was received and filed.

#### 2. Harbor and Beaches Master Plan Projects – Review

The item was continued to a date uncertain.

## 3. Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal that will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process, and research. The Commission will be asked to approve recommendations related to optimizing the utilization of the mooring fields and allowing mooring permittees to request a permit exchange for a mooring of a different size. The recommendations are included in the proposed draft ordinance amending sections of the City of Newport Municipal Code, Title 17.

#### Recommendation:

- 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) Review, modify, and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

Harbormaster Paul Blank introduced the item.

Vice Chair Beer reported he has read and carefully considered every letter that was written to the Harbor Commission on this item. He advised a letter of concern was sent from the Newport Mooring Association (NMA) to its members, mooring permittees, the Harbor Commission, the Mayor of Newport Beach, and the City Council. He shared the facts related to the allegations set forth in the NMA letter which may the basis of public comments.

Vice Chair Beer addressed a few of the concerns from NMA. He reported the NMA letter states that the Harbor Commission is proposing to move boats across the Harbor and is proposing a radical change to Title 17 of the City Code. He advised the statement is false and misleading as there is nothing agendized that proposes to move any boats across the Harbor. He explained the City has always maintained the right to move any permittee's vessel temporarily or permanently as per Title 17, Section 17.60.040.

Vice Chair Beer reported the NMA letter also states Commission Objective 2.3 is a proposal to terminate transferability. He advised this statement is also false and misleading as there is nothing agendized suggesting to terminate the transferability of any existing mooring permits.

Vice Chair Beer reported the NMA letter states the proposed changes to Title 17 have been pushed forward under the guise of a potentially dangerous new mooring system that is a danger to life and limb and does not seem to be understood by the Harbor Commission. He advised the statements are false, misleading, without fact, and have no merit. He noted this statement is disrespectful to the Harbor Commissioners who have been carefully selected and approved by a vote of the Mayor and the City Council. He explained the proposed mooring reconfiguration has successfully been used in other harbors including San Diego Harbor for more than 40 years. He advised Newport Harbor is one of the most protected harbors along the coast and noted this efficient mooring design has been engineered and designed to withstand the natural elements that may exist in the Harbor and is not an obvious danger to life and limb.

Vice Chair Beer reported the NMA letter alleges that the Harbor Commission has not met with NMA regarding their concerns. He encouraged NMA board members to attend Harbor Commission meetings and read the agendas to have a better understanding of what is happening. He reported the Harbor Commission has met with the NMA and has actively engaged in dialogue over the past four years. He advised this item has been agendized for public comment at eight Harbor Commission meetings since 2018. He noted Commission Objective 2.3 has been discussed at each of the last 3 Harbor Commission meetings, has been defined in writing, adopted by the City Council, and posted on the City's website. He reported this item was properly noticed and agendized for the June 8, 2022 Harbor commission meeting where a full presentation was provided with members of the NMA Board and NMA permittees in attendance. Lastly, he advised the formal PowerPoint presentation shown at that meeting was provided to the NMA via email the following day.

Vice Chair Beer reported in June, the NMA requested information about the meeting that related to project economics and proposed mooring rate increases. He advised he responded via email, copying the Harbor Commission and City Council to explain the purpose of Objective 2.3, specifically noting economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective. He also advised in that email he noted he would be happy to meet with the NMA Board in person or virtually to discuss what was presented. He reported there was no response from the NMA to meet and discuss.

Vice Chair Beer reported on September 26, 2022, he sent an engineering study for the mooring field to the NMA Board via email in which he also offered to meet with the NMA board. He advised no response was received from the NMA. He reported on September 30, 2022, he sent via email the most recent updated version of the Mooring Anchor Calculations Report where he also offered to meet and discuss. He advised there was no response from NMA to meet and discuss.

Vice Chair Beer reported that despite an ongoing invitation to meet and discuss there have been no responses or requests from NMA to do so. He advised the recent letter received from the NMA indicates the Harbor Commission has not met with NMA regarding any of their concerns. He noted the statement is false and encouraged the recipients of the letter to take strong exception to its contents and allegations. He noted taking up valuable time at a public meeting to respond to false statements is not productive and does not benefit the boating community or the Harbor Commission's open water initiative for improvements to the mooring fields and navigation within the Harbor which all NMA members and mooring permittees benefit from.

Vice Chair Beer advised the NMA board members should be held accountable and responsible for any misinformation that has been disseminated on their behalf to the mooring permittees of Newport Harbor, the Harbor Commission, and the Mayor and City Council. He noted he was compelled to provide a detailed account of the truth so the public can base their individual opinions on the facts. He encouraged all intending to offer public comments to consider the facts presented and the information in the following presentation.

Vice Chair Beer provided a brief update on the Mooring Field Open Water Initiative Improved Utilization Report. He provided a brief history relating to mooring extensions and improved navigation. He reported the Newport Harbor Mooring Fields have been historically managed by the Orange County Sherriff's Department (OCSD) which approved mooring extensions on an adhoc basis without any official policy, guidelines, or best practices. He advised in 2017, the City ended its contract with OCSD for mooring administration and code enforcement. He noted in 2018, the City Council approved the Harbor Commission Objective to evaluate the current mooring fields and provide a recommendation for new guidelines. Lastly, he reported in 2019, the Harbor Commission adopted a temporary policy to conditionally approve certain mooring extension requests of up to 5 feet but was halted since it could adversely affect any design being developed for better utilization of the space in the mooring fields.

Vice Chair Beer reported that Newport Harbor is currently experiencing a mooring shortage and noted the City has no available moorings available for new long-term permittees. He advised the current cost of entry to acquire a mooring permit in Newport Harbor is typically \$1,000 per foot or more. He advised new City moorings will not require an acquisition fee and will allow for more affordable boating. He explained the history of granting mooring extensions to existing permit holders without proper policy has resulted in less-than-desirable outcomes to aesthetics, safety, and navigable water space. Lastly, he noted the current space within the mooring field footprint is not safely navigable nor suitable for public access.

Vice Chair Beer provided a brief overview of the benefits of new double rows versus a single-row mooring configuration. He reported benefits include improved utilization of water space, 50% wider fairways, increased spacing between moorings in the same row, more overall maneuvering room, safer navigation, the addition of much-needed additional long-term moorings, and reduced maintenance costs for mooring permittees if a helical type anchor is used.

Vice Chair Beer provided a brief overview of the benefits of the new sand line mooring configuration. He reported benefits include preventing mooring buoys from drifting into fairways, making it easier to tie up to a single bow morning line connected to the stern line, and the ability to attach a pick-up pole to the floating spreader line to make the pick-up simpler and not require hooking the line as is required with a 2-point mooring configuration. He advised the sand line provides a safe, proven, and simple way to approach and secure a vessel for all mariners. He noted double rows with sand lines will reduce the number of mooring balls in the Harbor by 50%. Lastly, he advised that currently, 50% of all fairways in all mooring fields are less wide than the adjacent boats are long which creates a navigation risk. He noted fairway widths will be increased by 50% to 100% of current conditions.

Vice Chair Beer reported helical anchors and conservation buoys have less impact on eelgrass and the marine ecosystem. He advised helical anchors may provide greater holding strength and provide a smaller footprint resulting in less scarring on the seafloor. He explained conversation buoys aid in keeping the chain off the sea floor to minimize the scarring of eelgrass.

Vice Chair Beer presented an initial Boring Log Location Map and noted the Harbor materials appear to be suitable for a helical-type anchor system. He reported the initial mooring field has been identified as the C Field. He provided examples of a mooring scar and advised mooring scarring destroys eel grass and disrupts the marine ecosystem. He noted the California Coastal Commission has imposed strict guidelines for eelgrass monitoring and mitigation. He advised the proposed sharing mooring configuration would result in only one buoy with a sand line.

Vice Chair Beer presented a rendering of a single-row mooring field and noted without policies defining row and fairway sizes, a mooring field can become a safety concern and become a very inefficient use of valuable waterways. He presented a picture of America's Cup Harbor in San Diego with a double-row mooring configuration. He noted that 90% of the moorings are in 50% of the space and are much safer for mariners. He presented a rendering of the new double-row mooring design in C Field.

Vice Chair Beer presented a typical mooring design in Newport Harbor and presented a rendering of a shared center weighted mooring anchor, a shared center helix anchor system, and a typical sand line mooring. He advised a 2-point mooring configuration has higher costs than a shared helix mooring configuration.

Vice Chair Beer reported the City has Harbor Design Standards that require the fairways to be a minimum of 1.5 X the boat Length Overall (LOA). He noted the fairways between rows in a mooring field should be held to the same or stricter guidelines as a marina slip. He presented an example of a new mooring configuration of the B Field. He advised a configuration that complies with Harbor Design Standards will provide beachgoers and waterfront residents the ability to enjoy greatly improved Harbor views. He advised inefficiency at the J & H Fields also currently exists.

Vice Chair Beer reported there are currently 564 moorings and this initiative would allow the City to add 97 new moorings while increasing the space between the boats and the fairways. He advised the cost for Phase 1 is \$450,000 with more than half going to new moorings. He noted the City would recoup these costs because the new moorings would create new, incremental revenue. He provided a brief overview of the Summarization Outline of the Proposed Reconfiguration of Moorings, Future Requests for Extension, Suggested Guidelines for New Double Row Moorings, and outlined the net adjustments.

Chair Scully thanked Vice Chair Beer for the thorough presentation.

Commissioner Cunningham thanked Vice Chair Beer for his hard work.

Secretary Yahn applauded Vice Chair Beer's efforts for working tirelessly with the GIS staff to develop this plan. He believes the study does a good job of maximizing the space of the mooring fields along with being safe and having adequate maneuverability for all Harbor users and not just mooring permittees. He expressed his pleasure with the ad hoc committee for developing such a thoughtful methodology. He believes the bold new look of the mooring fields will provide a higher capacity of vessels and provide enhanced community access to the Harbor. He expressed support for the concept and once again, applauded Vice Chair Beer's efforts.

Commissioner Marston thanked Vice Chair Beer for his efforts.

Commissioner Williams commented that the City, the general public, and the boating community are incredibly lucky to have Vice Chair Beer leading this effort.

Secretary Yahn left the meeting at 6:14 p.m.

Commissioner Svrcek commented that the plan was very thorough and thanked Vice Chair Beer for his efforts.

Chair Scully thanked everyone in the room for their comments and <a href="https://hoped.that.com/hoped-hoped-that">hoped-hoped that</a> the air in the room is much was clearer and that there is a better understanding as to the direction that this objective has been <a href="mailto:goingdeveloping">goingdeveloping</a>. He <a href="mailto:advised-commented-that-this Objective it-is an opportunity to <a href="mailto:also:also:also:also:also:advised-commented-that-this Objective it-is an opportunity to:also:advised-commented-that-this Objective it-is an opportunity to:also:advised-commented-that-this Objective it-is an opportunity to:also:advised-commented-that-this Objective it-is an opportunity locked out.

Chair Scully opened the floor to public comments.

Wade Womack, a member of NMA, expressed confusion with the agenda item and noted it seems to revolve around a Harbor Commission vote on moving forward on a new mooring system that has not been vetted by the Commission or the public. He noted it also appears like the Commission is looking to revise Title 17 in anticipation of a new mooring plan that has not been agendized as a stand-alone item or fully discussed in public. He noted the only time the new shared anchor mooring plan was discussed was at the June 8, 2022 Harbor Commission meeting as a simple Harbor Commissioner update. He advised the proposed mooring plan was posted after the meeting so the public had no opportunity to review it for any thoughtful feedback at the June 8, 2022 meeting. He expressed concern that the mooring plan details are not attached to the agenda item and were not posted online for review. He expressed concern regarding the preliminary plans of the shared mooring anchor system that was in the conceptual phase on June 8, 2022 yet the details of the plans are not posted for review for this meeting. He inquired how the Harbor Commission can approve plans related to revisions to Title 17 when the plan is not posted for public review. He recommends the Harbor Commission take no action tonight and agendize the proposed mooring plan on a future agenda as a stand-alone item before making any revisions to Title 17. He expressed concern that new mooring permits will not be transferrable and believes the charges made against NMA tonight were unfair.

Hein Austin commented that applying this model in Newport Harbor will be a recipe for disaster, particularly in the C Field. He advised C Field has the highest current exposure in the Harbor. He provided detail on how the proposed mooring may be dangerous based on his personal experience. He noted what happens in C Field is vastly different from what is happening at America's Cup Harbor and believes this will make the Harbor unsafe.

John Fradkin advised he is an NMA Board member, a long-time mooring permittee, and a member of Balboa Yacht Club. He thought tonight was the night to make comments and apologized for not getting together with Vice Chair Beer previously but he did not get the invitation. He reported the NMA has not signed off on this and has not looked at it extensively until this week. He advised he is an expert on off-shore moorings and knows the Harbor very well. He noted Vice Chair Beer is not an experienced yachtsman and is not qualified to determine if the plan is solid. He noted America's Cup Harbor does not use helical anchors but uses weights. He believes there are pros and cons to this plan. He advised the double row system will not work well in the Harbor and is going to compromise safety. He noted Vice Chair Beer is missing how difficult it is to attach to the mooring given the current and the wind. He concurred there may not be deaths but there will

certainly be hand-crushing injuries. He recommended making changes to the plan and disagrees that the plan, as is, is a good idea.

An unnamed speaker advised he has only had a mooring since 2004 but has been on the Harbor since 1979. He advised he was concerned with the mooring settings, transferability, and how permittees could be moved to a different field. He noted C Field has many anomalies that the other fields do not have and it takes some time to moor. He encouraged the Harbor Commission to reconsider the plan.

Clint Acoutin, a tugboat operator who works with Chevron and Foss Maritime, advised he is very familiar with mooring systems and operations. He requested that a better image of the helix screw be provided for public review. He expressed concern regarding the proposed mooring plan and outlined an example. He noted he has worked with the helix screw and it works well but a better diagram would help the public better understand.

Drew Lawler requested clarification of the mooring configuration and inquired if the bow and the stern would be attached through a sand line. Vice Chair Beer confirmed that is correct.

Mr. Lawler inquired if there were any plans to make changes in the D Field. Vice Chair Beer advised there would be plans to change all mooring fields because of the results of this plan.

Mr. Lawler expressed support for the plan to not move boat owners out of their existing mooring field.

Scott Carlin reported for 100 years through trial and error the current single mooring system works. He presented an example of approaching the mooring using the current system and using the hybrid system. He advised at the end of the day it is a roll of the dice and he does not want to roll the dice. He agrees it should be studied further but should not be voted on tonight.

Ken Hatch, a resident in J Field, reminded the Harbor Commission of the experiment with the sand line moorings from 4 years ago. He agreed with previous commenters that given the currents and the wind, the proposed plan will never work. He thanked the Harbor Commission for its efforts and believe the plan is close but needs additional work. He encouraged the Harbor Commission to come together will all interested parties to build a better plan.

Jessie Fleming, a resident of the Harbor since the early 1980s, advised she has had a mooring for the last 6 years. She expressed appreciation that the fairways will be made wider and increase the distance between vessels. She noted that mooring permittees are also part of a community and everyone is helping each other when there are high winds. She advised during high winds it is not necessarily the moorings that drag, it is that people do not tie their boats off properly and their lines snap. She expressed concern about the two boats meeting in the middle and inquired about the distance between the two boats sharing the mooring. She noted if one boat breaks loose in the front it will spin from the back and hit the boat behind it.

Vice Chair Beer clarified the distance between each buoy is 20 feet and there is a bridle off of that.

Jerry LaPlane, D Field mooring permittee, advised he is a power boat owner who has run boats for 35 years. He advised he uses a spreader line similar to what Mr. Austin described. He noted in the comparison to slips being relatively the same distance, a slip is like a spreader line with a

dock on each side. He expressed concerns regarding the Title 17 changes and noted the red line regarding transferability is unclear and needs clarification.

An unnamed speaker reported he is a live-aboard in H Field and uses the public pier at 15th Street several times daily. He advised if 90 more moorings are added there will be no place for dinghies to park.

Bill Allen, F Field mooring permittee, advised he has been to every Harbor Commission meeting over the last 3 or 4 years and has never heard a discussion on a cutoff date for extending the mooring. He advised he recently submitted an application and was denied and is now only hearing that there was a cut-off date. He inquired how the Harbor Commission came up with the cutoff date and noted that it is not very fair since it was not published.

Keegan Heggarty reported he has been involved in collisions in the mooring fields due to a lack of line of sight between moorings and believes the increase in channel size will offer better visibility and vessels to be oriented correctly before approaching the mooring. He believes the plan will increase safety and navigability in the Harbor. He inquired if there is anything that prevents uses of the proposed mooring system from using a spreader line on the shared moorings.

Steven Turansky, J Field mooring permittee, reported he has been inquiring about the mooring extension for several years and the reply has always been that applications are not being taken, and is now hearing there was a cut-off date. He expressed concern that the cut-off date was not made public. He advised all different boats have different displacement versus windage and expressed concern that there could accidents if there is a shared mooring system.

Nigel Bailey, H Field mooring permittee, advised all boats on H and J Field face one direction because the wind is coming from another direction and mooring should take place into the wind. He noted the proposed shared mooring system will place vessels bow to bow and someone will have to approach the mooring with the wind behind them which will be very difficult.

George Hylkema, an NMA Board member, reported he approaches the mooring against the wind or the current and does not see how he can approach the mooring if he cannot compensate for tide and not have the boat press on past the buoy and hit the boat ahead of him. He noted there are many empty moorings in the C Field. He expressed appreciation for the efforts that have gone into the design but believes it needs additional review by experts.

Val, A Field mooring permittee, reported she has a 35-foot sailboat and advised she uses a spreader line when approaching the mooring and noted it can be very difficult. She expressed concern regarding the danger of trying to attach to a shared mooring on a windy day.

Stacy Kline, a C Field mooring permittee, would like to be fully informed about this process and wants to be involved with the process. She encouraged the Harbor Commission to include boat owners in the decision-making process and noted they want to be part of the solution.

Richard Gourd, a C Field mooring permittee, agreed with the comments of the experienced boaters that the shared mooring system would almost be impossible and there would not be a way to stop the boat. He requested clarification of the transferability of the mooring permit.

Vice Chair Beer clarified that existing permittees will be able to transfer mooring permits as long as it is permitted in Title 17.

Chair Scully closed public comments.

Commissioner Williams noted it has become apparent to him that there is a mooring problem and there is a relationship problem. He advised the Harbor Commission is comprised of volunteers who have the best intentions for Newport Harbor. He advised the Commission does not hear from the NMA until the evening before a Commission meeting and that the emails that are being received are unprofessional. He noted if he was an NMA member, he would be questioning the NMA leadership and advised they are doing a disservice to its members, the public, and the boaters in the Harbor. He encouraged all parties to do better, to collaborate, to stop spreading disinformation, and to fix the relationship.

Commissioner Cunningham advised there are a lot of issues with moorings. He agrees that the Harbor Commission is not getting many ideas from NMA for improvement to the mooring system and the experience for mooring permittees. He explained the Harbor Commission has been thinking about the mooring system for the long term and not just for today.

Vice Chair Beer reported he has been a boater in Newport Harbor for 20 years, has captained a 58-foot Viking for the last 14 years, and has attached to the mooring by himself in rough conditions. He noted he has taken a lot of consideration of the conditions and can see how using the spreader line can be easier. He can also recognize that this is a mooring field and not slips and requires experience. He reported the vast majority of permittees do not use spreader lines. He explained the Harbor Commission has to look to the next decade and beyond on how to accommodate most of the people in the mooring fields. He advised there may be many empty moorings in C Field but they are not for sale and have almost created a monopoly for moorings. He recalled a situation where a mooring sold for \$165,000 and noted that is not affordable boating and is not fair to the public because they cannot get onto the Harbor and tidelands to use and enjoy. He reported the space is there to provide additional moorings safely. He believes there is only one issue which is the sand line. He believes boaters should be able to operate their vessel and not run into another boat.

Vice Chair Beer reported America's Cup Harbor is a harbor that experiences a lot of wind and there is the main entrance channel that feeds into the harbor. He noted the use of spreader lines to slow the vessel is very low.

Chair Scully advised he disagreed with public commenters that this item has not been addressed at the Harbor Commission. He noted change is hard and will be difficult here. He expressed support for picking a field, working on it, and proving out and perfecting the re-design of the mooring fields with in the harbor.

Commissioner Cunningham expressed support for selecting 1 field and piloting a shared mooring field. He advised he is not opposed to obtaining additional feedback, more dialogue, and rolling it out slowly.

Commissioner Svrcek expressed support for selecting 1 field and piloting a shared mooring program.

Commissioner Williams echoed Commissioner Cunningham's comments and noted the Harbor Commission wants to work together with NMA and the public positively and constructively.

Commissioner Marston noted she would like to see more constructive input from the community rather than barraging emails. She encourages the public to provide alternative approaches and plans to the Harbor Commission in writing. She expressed support for implementing a phased approach. She noted Vice Chair Beer took the time to go through his records to confirm he contacted NMA multiple times and received no response which is unacceptable.

Vice Chair Beer noted heads were shaking when Commissioner Marston advised he contact NMA multiple times via email. He confirmed he has the emails that were sent and encouraged NMA to find them but would like to put that behind them. He clarified the plan that was introduced is to identify one mooring field initially and conduct a pilot within that mooring field. He agreed that a test will need to be conducted to confirm Noble Engineering's findings.

Vice Chair Beer does not see how anyone can disagree that this is not a benefit to the stakeholders. He believes there is an alternative that can satisfy all parties and looks forward to the dialogue.

Chair Scully inquired if Vice Chair Beer would be agreeable to continuing the this Objective item to continue provide for additional dialogue with mooring permittees and the NMA to come up with additional support additional public feedback and then come back to the Harbor Commission in the November meeting. Vice Chair Beer agreed but noted it needs to be a short timeline.

Chair Scully continued the item to the November 9, 2022 meeting of the Harbor Commission.

## 4. Establish Ad Hoc Committee to Review and Suggest Harbor Commission Objectives for 2023

The Harbor Commission establishes annual Objectives to focus the Commission on issues that are important to the City Council, the Harbor Commission, and the community. At the Harbor Commission meeting of September 14, 2022, the Commission requested to set up an Ad Hoc Committee to review and suggest Objectives for 2023.

#### 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 to develop a list of Harbor Commission Objectives for 2023.

Harbormaster Blank reported a staff report was presented to the Harbor Commission as part of the agenda packet.

Chair Scully, Commissioner Cunningham, and Commissioner Williams volunteered to be a part of the Ad Hoc Committee.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion.

Chair Scully opened the floor for public comments. There being no speakers, public comments were closed.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

#### 5. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

#### **Recommendation:**

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Chair Scully advised that a revised draft of City Council Policy H-1 is currently being reviewed by Harbor Resource Manager Chris Miller. Mr. Miller's schedule has been full and Commissioner Marston and Chair Scully are planning on bringing H-1 to the Harbor Commission in the November meeting. will be needed for the Review of City Council Policy H-1 – Pier and float extensions beyond the pierhead line. He hopes to have something to review at the next meeting.

Commissioner Marston reported the Ad Hoc Committee to review piers and ports was convened a year and a half ago under the impression that there were many issues in the Harbor. She advised she and Secretary Yahn conducted extensive field reviews and only found a few issues in the Harbor. She reported they presented at a Harbor Commission meeting in July 2021 and at the stakeholders meeting in February 2022. She advised she and Secretary Yahn recommend that the Ad Hoc Committee on this item be closed and the few issues identified are being addressed and it was determined no policy needed to change.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and ports, seconded by Commissioner Williams.

Chair Scully opened the floor for public comments.

Eric Peterson inquired if the Ad Hoc Committee is closed and the original problems return will the Committee be reinstated. Commissioner Marston advised the previous problem should not return as it is regulated under the current policy.

Chair Scully closed public comments.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and floats. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

Commissioner Cunningham reported the Ad Hoc Committee on the Review of the Harbor and Beach Master Plan met with Harbor Resources Manager Miller last month and will be brought back to the Commission in November for discussion.

Chair Scully opened the floor for public comments. There being no speakers, public comments were closed.

The item was received and filed.

#### 6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a project update.

#### Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

<u>Functional Area 1:</u> Secretary Yahn was absent from the meeting and unable to provide any updates.

<u>Functional Area 2:</u> Vice Chair Beer noted his time has been spent on Objective 2.3 and had no comments at this time on any of the other objectives in Functional Area 2.

<u>Functional Area 3:</u> Commissioner Cunningham advised the CIP Ad Hoc Committee did discuss CIP vessels but will push comments to the next meeting.

<u>Functional Area 4:</u> Chair Scully reported that for Objective 4.1, the Trash Wheel obtained all of the necessary permits and staff is now working on grant funding for the project. Additionally, Hhe

reported he and Commissioner Marston continue to talk about Lower Castaways. Commissioner Marston advised that Harbormaster Blank recommended putting Lower Castaways on hold due to what was going on with the City Council. She inquired if they should continue to review that objective. Harbormaster Blank advised he will take action to obtain additional information and report back at the next meeting of the Harbor Commission. Chair Scully reported that on Objective 4.3, he and Commissioner Williams continue to work on the agenda for the Newport Harbor Safety Committee. He reported it isthat multiple operators on the harbor and fire and safety are planning on attending going very well with the first meeting which will be held on October 18<sup>th</sup>. Currently we are anticipating and anticipates between 15 and 20 operators companies participating.

Chair Scully opened the floor public comments.

Mr. Mosher inquired about Objective 4.2 - Lower Castaways and noted the sub-committee seems to know more than the public. He noted the minutes indicate it may have something to do with the YMCA and referenced a Closed Session of the City Council about property acquisition somehow related to the YMCA with no explanation but the notice for that meeting gave an address of the Upper Castaways. He commented that the last meeting's minutes for Functional Area 4.3 reference the Newport Harbor Safety Committee and asked for additional details on the Committee.

Chair Scully advised as part of Objective 4.3, he and Commissioner Williams worked to develop a Safety Committee comprised of harbor operators, both non-profit and commercial, to discuss any safety issues that have occurred, discuss best practices, and try to get the community to work together for public safety and navigating in the water properly. He clarified the first meeting of the Newport Harbor Safety Committee will be on October 18th.

Chair Scully closed public comments.

The item was received and filed.

#### 7. Harbormaster Update - September 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

#### 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 reported in regards to keeping the Harbor clean, Harbor Service Workers (HSW) assisted the City Park Patrol in removing a couch that had been thrown off the bluff below Galaxy Park in Upper Newport Bay. He advised most of the pumps-out hydrants at Marina Park have been replaced. He thanked marine sanitation guru Noel Platchak for coordinating and supervising the work and noted Mr. Platchak sent two nice notes regarding the work of HSWs in that effort. He reported a sub-contractor pressure washed all of the public piers in addition to the monthly maintenance they provide.

Harbormaster Blank reported in regard to keeping the Harbor safe, all equipment was removed from all 3 patrol boats, identified, and only equipment that supports patrol activities was returned to the boats. He advised training sessions on performing basic engine maintenance and the cooling systems of the boats were conducted. He reported a post-Summer Harbor Summit was held on September 27th with the audience consisting of Marine Activity Permit holders and sailing programs. He advised it was well-attended.

Harbormaster Blank reported in regard to keeping the Harbor well-enjoyed, he advised they take a proactive stance on any usage limits and anchorages and noted there have been some challenges enforcing them. He advised no one has overstayed their anchorage and problem vessels have left the Harbor. He noted HSWs also consistently enforce noise limits and noted a recent call from a well-known waterfront resident to report a charter vessel that was out of compliance with noise limits and a Notice of Violation was issued. He reported there was a collaborative effort with OCSD to assist a disabled vessel in the Classic Yacht fleet when the commercial/tow assist vessel that was assisting them also became disabled in Marina Park.

Harbormaster Blank reported a suggestion was made during the Harbor Summit that the City reconsider competing with private enterprise rental of small vessels. He noted the City offers instructional classes in small boat sailing and racing, kayaking, and paddle boarding. He explained qualified customers can rent from the City-owned fleet of kayaks, paddleboards, RS Quests, and J-22s. He advised the Harbor Department is undergoing an operational review conducted by an outside consultant that is reviewed but never published so he is unable to share it with the Harbor Commission. He reported he will provide a published report based on that information during the next couple of months. He recalled an incident where a resident reported inappropriate behavior on one of the patrol boats but when questioned on the specifics became defensive. He reported the caller escalated the issue to the City Manager who also experienced the same behavior from the caller. Lastly, he presented an image of the sea star that was finally captured at Marina Park and is a sign of good health in the Harbor. Lastly, he announced that a fundraiser will take place at the Lido Marina Village on October 13th at 6:00 p.m. in support of the Navy Seals Foundation.

Harbormaster Blank provided a brief overview of revenue statistics and noted the Harbor Department continues to exceed its prior year's revenue. He advised last month's noise statistics were inaccurate due to switching to the new system but noted this month's statistics are correct. He reported that 907 of the 929 mooring permits have been fully executed.

Commissioner Williams thanked Harbormaster Blank for everything he does.

Commissioner Marston expressed excitement at seeing the image of the sea star. Harbormaster Blank reported it is visible at low tide although it moves.

Vice Chair Beer thanked Harbormaster Blank for his efforts and noted the improved water quality in the Harbor is a direct result of the work of pumping waste out of the Harbor and the dredging that has been conducted.

Chair Scully inquired about the polypropylene line that was removed. Harbormaster Blank reported approximately 2,000 feet of polypropylene line was removed from the Harbor and was probably from a fishing vessel.

Chair Scully inquired if any additional information was available on the fatality that occurred in the main anchorage on Labor Day. Harbormaster Blanks reported he had no additional information.

Chair Scully opened the floor for public comments.

Len Bose applauded Harbormaster Blanks on the Harbor Summit and noted he looks forward to attending the Safety Committee meeting. He encouraged the Harbor Commission to consider restarting the group meetings regarding the ferry boats.

Richard Dorn reported there has been a problem at the Fernando Street public docks with boats being left for a month at a time without being put away overnight. He advised there have been reports of the Code Enforcement officer not enforcing impounding the vessel.

Harbormaster Blanks advised there is an extensive effort that goes into public dock enforcement every day. He advised there are reasons boats are not impounded on occasion because there is not sufficient evidence to support the impound.

Hein Austin thanked Harbormaster Blank for being such an excellent communicator and noted it is a pleasure working with the Harbor Department. He reported the walkways on the public dock at D Field have not been painted for quite some time along with some nails sticking out of the dock and requested an update.

The item was received and filed.

#### 7) MOTION FOR RECONSIDERATION

None

#### 8) <u>COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)</u>

Chair Scully reported attendance atthat he attended the October the Water Quality/Coastal Tidelands Committee meeting where the Lower Newport Bay Dredging Project update was provided by Harbor Resources Manager Miller along with a report on bay and ocean water quality which resulted in A ratings across the board.

### 9) <u>MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE</u> AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)

None

#### 10) DATE AND TIME FOR NEXT MEETING: Wednesday, November 9, 2022 at 5 p.m.

#### 11) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at  $7:44\ p.m.$ 



# NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chambers – 100 Civic Center Drive Wednesday, October 12, 2022 5 p.m.

#### 1) CALL MEETING TO ORDER

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

#### 2) ROLL CALL

Commissioners: Steve Scully, Chair

Ira Beer, Vice Chair Don Yahn, Secretary

Scott Cunningham, Commissioner Marie Marston, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner

Excused: None

Staff Members: Paul Blank, Harbormaster

Jeremy Jung, Deputy City Attorney Michael Gomez, Deputy Finance Director

Shelby Burguan, Budget Manager

Jennifer Biddle, Administrative Support Specialist

Administrative Support Specialist Biddle announced Secretary Yahn would be leaving the meeting at 6:20 p.m.

#### 3) PLEDGE OF ALLEGIANCE – Commissioner Scully

Chair Scully announced the Harbor and Beaches Master Plan Projects review will be continued to a future meeting.

#### 4) PUBLIC COMMENTS

Hein Austin presented a flyer he distributed regarding the dire need for outhouses around the Harbor. He advised on a ride around the Harbor he noticed bright yellow outhouses that were registered to Robert's Waste and Recycling in Santa Ana. He noted they were visible from a long distance, well-ventilated, and portable. He reported the company quoted \$210 per month, per unit, for full service 5 times per week. He advised that 10 of these units on the public dock would be very helpful for all users of the Harbor. He recommended the City negotiate a contract with the company as it would be a fraction of the cost of the previously proposed floating restrooms.

Drew Lawler inquired if the potential to move moorings would be a discussion item on the agenda. Chair Scully confirmed it is an agenda item and Mr. Lawler could offer his comments when it is discussed.

#### 5) APPROVAL OF MINUTES

#### 1. Minutes of the September 14, 2022 Harbor Commission Regular Meeting

Chair Scully reported that written comments were submitted to staff by Commissioner Marston and himself.

Commissioner Marston noted she offered comments but was unsure what Water Quality Board was being referenced in the minutes and requested it is corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully and Commissioner Marston. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

Chair Scully opened public comments.

Jim Mosher, a Resident, requested typos on page 3 and page 4 of the minutes be corrected.

Vice Chair Beer moved to approve the draft Minutes of the September 14, 2022 meeting as amended by Chair Scully, Commissioner Marston, and Jim Mosher. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham,

Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None Absent: None

#### 6) CURRENT BUSINESS

#### 1. Finance Presentation on Harbor Department Operations

The City of Newport Beach was granted sovereign tidelands and submerged lands in trust in 1919. This grant and its amendments were repealed in 1978 and a new grant was enacted tasking the City with stewardship over all of the sovereign tide and submerged lands located within the City's 1919 city limits. Are presentative of the granting authority, the California State Lands Commission will give a presentation related to the stewardship of those granted tidelands.

#### **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.

Deputy Finance Director Michael Gomez provided a brief overview of the City Department Operational Budget which is approximately \$275 million. He noted Fire, Police, Utilities, and Public Works often have the largest budgets with the largest staff. He reported the Harbor Department has 3 full-time employees (FTEs) and 9.39 part-time employees which would be translated to 9 FTEs annually.

Deputy Finance Director Gomez reported that the Harbor Department has been fiscally responsible since its inception. He noted Harbor Expenditures have never exceeded the Operating Budget. He advised the largest part of the Operating Budget is Salaries and Benefits and explained that Internal Service Charges are for services the City provides such as Information Technology and Human Resources services. He advised the other Maintenance & Operations Accounts are the core operations of the Harbor Department. He explained Capital Expenditures are those above the fixed asset threshold but are not necessarily Capital Projects.

Deputy Finance Director Gomez explained that the Harbor Department budget was similar to the Library budget and Recreation & Senior Services budget in that they are public-facing, provide services, and generate revenue. He noted the Harbor Department is the smallest of those expenditure budgets.

Deputy Finance Director Gomez reported the largest sources of revenue for the Harbor Department are Mooring Permits, Marina Park Slips, and All Other Revenue. He advised the Harbor Department has exceeded its annual budget in terms of revenue but is confined to Mooring Permits and Marina Park Slips. He provided a comparison of Harbor Revenue to Library Services and Recreation & Senior Services and noted the Harbor had a steady increase in its revenue across the pandemic which is directly related to the fact that the Harbor is an outdoor destination. He provided a comparison of Harbor staffing as compared to other departments. He noted Harbor Personnel has steadily increased over the last three years.

Deputy Finance Director Gomez provided a brief overview of Harbor Revenue as compared to its Operational Budget. He noted the Harbor is recouping a large part of its expenditures through revenue. He explained that some departments such as Recreation & Senior Services are subsidized by the General Fund to keep recreation classes and services fees low for residents.

Secretary Yahn inquired about the difference between the General Fund and the Tidelands Funds.

Deputy Finance Director Gomez explained the main difference between the two is that the General Fund's primary revenue is from Property Taxes, Sales Tax, and Transient Occupancy Tax (TOT). He explained the Tidelands Fund or any Non-General Fund is typically derived from providing services which would be Mooring Permits and Marina Boat Slips for the Harbor Department. He confirmed there is a subsidy that comes from the General Fund to the Tidelands Fund so all of its revenues will meet its expenditures.

Commissioner Marston requested a copy of the presentation for review as the color differentiation was difficult to see on the screen. She inquired how the steady increases in revenue factor into the Harbor Departments budget and staffing.

Deputy Finance Director Gomez reported from a budgetary perspective staff will push forward a budget for the City Manager and City Council's consideration that balances revenues and expenditures unless there is a purposeful decision to designate more money to a fund balance.

He further explained that staff will have ongoing discussions with the Harbor Department during the budget process to discuss the trajectory of revenue. He noted if it looks like there will be a consistent increase in revenue, the Harbor Department can then request that the City Manager and the City Council approve additional operating funds.

Commissioner Marston inquired about what is considered a Capital Expenditure for the Harbor Department versus the Public Works Department.

Deputy Finance Director Gomez explained a Capital Expenditure would be anything purchased over \$5,000 that the City may hold for a period which would then be registered in the City's financial statements. He clarified there are no Capital Improvement Projects in the Harbor Department.

Chair Scully inquired if the expenses related to slips at Marina Park for the Balboa Yacht Basin are included in these numbers. Deputy Finance Director Gomez confirmed they are included and noted that the cost of maintenance is as well.

Chair Scully inquired if building new slips or replacing slips would come under Capital Improvement Projects. Deputy Finance Director Gomez confirmed they would be included in the Capital Fund.

Chair Scully inquired if the part-time employees in the Fire Department were lifeguards. Deputy Finance Director Gomez confirmed those are the City's lifeguards.

Chair Scully opened public comments.

Hein Austin inquired if private pier permits are included in the Tideland Funds. Finance Director Gomez confirmed those are included. Mr. Austin advised under state statute the City is required to treat anyone who uses Tidelands equally.

He believes the main flaw in the revenue stream for the Harbor is the inequitable distribution of rates. He advised the focus has been on moorings which account for 1,200 boats but there are approximately 5,000 boats in the Harbor. He noted if the permits for the private piers and the moorings were charged \$1 per square foot for the amount of space they occupy under the tidelands statute, he believes all of the financial issues for the Harbor Department would be resolved. He encouraged the City to review the Tideland Fund statutes and consider charging equal rates.

Drew Lawler requested clarification from Mr. Austin if he was including off-shore mooring permittees with the same square footage as those who have dock space. He noted that off-shore mooring permittees should pay less because it is far more inconvenient.

Chair Scully closed public comments.

The item was received and filed.

#### 2. Harbor and Beaches Master Plan Projects – Review

The item was continued to a date uncertain.

## 3. Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal that will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process, and research. The Commission will be asked to approve recommendations related to optimizing the utilization of the mooring fields and allowing mooring permittees to request a permit exchange for a mooring of a different size. The recommendations are included in the proposed draft ordinance amending sections of the City of Newport Municipal Code, Title 17.

#### 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) Review, modify, and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

Harbormaster Paul Blank introduced the item.

Vice Chair Beer reported he has read and carefully considered every letter that was written to the Harbor Commission on this item. He advised a letter of concern was sent from the Newport Mooring Association (NMA) to its members, mooring permittees, the Harbor Commission, the Mayor of Newport Beach, and the City Council. He shared the facts related to the allegations set forth in the NMA letter which may the basis of public comments.

Vice Chair Beer addressed a few of the concerns from NMA. He reported the NMA letter states that the Harbor Commission is proposing to move boats across the Harbor and is proposing a radical change to Title 17 of the City Code. He advised the statement is false and misleading as there is nothing agendized that proposes to move any boats across the Harbor. He explained the City has always maintained the right to move any permittee's vessel temporarily or permanently as per Title 17, Section 17.60.040.

Vice Chair Beer reported the NMA letter also states Commission Objective 2.3 is a proposal to terminate transferability. He advised this statement is also false and misleading as there is nothing agendized suggesting to terminate the transferability of any existing mooring permits.

Vice Chair Beer reported the NMA letter states the proposed changes to Title 17 have been pushed forward under the guise of a potentially dangerous new mooring system that is a danger to life and limb and does not seem to be understood by the Harbor Commission. He advised the statements are false, misleading, without fact, and have no merit. He noted this statement is disrespectful to the Harbor Commissioners who have been carefully selected and approved by a vote of the Mayor and the City Council. He explained the proposed mooring reconfiguration has successfully been used in other harbors including San Diego Harbor for more than 40 years. He advised Newport Harbor is one of the most protected harbors along the coast and noted this efficient mooring design has been engineered and designed to withstand the natural elements that may exist in the Harbor and is not an obvious danger to life and limb.

Vice Chair Beer reported the NMA letter alleges that the Harbor Commission has not met with NMA regarding their concerns. He encouraged NMA board members to attend Harbor Commission meetings and read the agendas to have a better understanding of what is happening. He reported the Harbor Commission has met with the NMA and has actively engaged in dialogue over the past four years. He advised this item has been agendized for public comment at eight Harbor Commission meetings since 2018. He noted Commission Objective 2.3 has been discussed at each of the last 30 Harbor Commission meetings, has been defined in writing, adopted by the City Council, and posted on the City's website. He reported this item was properly noticed and agendized for the June 8, 2022 Harbor commission meeting where a full presentation was provided with members of the NMA Board and NMA permittees in attendance. Lastly, he advised the formal PowerPoint presentation shown at that meeting was provided to the NMA via email the following day.

Vice Chair Beer reported in June, the NMA requested information about the meeting that related to project economics and proposed mooring rate increases. He advised he responded via email, copying the Harbor Commission and City Council to explain the purpose of Objective 2.3, specifically noting economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective. He also advised in that email he noted he would be happy to meet with the NMA Board in person or virtually to discuss what was presented. He reported there was no response from the NMA to meet and discuss.

Vice Chair Beer reported on September 26, 2022, he sent an engineering study for the mooring field to the NMA Board via email in which he also offered to meet with the NMA board. He advised no response was received from the NMA. He reported on September 30, 2022, he sent via email the most recent updated version of the Mooring Anchor Calculations Report where he also offered to meet and discuss. He advised there was no response from NMA to meet and discuss.

Vice Chair Beer reported that despite an ongoing invitation to meet and discuss there have been no responses or requests from NMA to do so. He advised the recent letter received from the NMA indicates the Harbor Commission has not met with NMA regarding any of their concerns. He noted the statement is false and encouraged the recipients of the letter to take strong exception to its contents and allegations. He noted taking up valuable time at a public meeting to respond to false statements is not productive and does not benefit the boating community or the Harbor Commission's open water initiative for improvements to the mooring fields and navigation within the Harbor which all NMA members and mooring permittees benefit from.

Vice Chair Beer advised the NMA board members should be held accountable and responsible for any misinformation that has been disseminated on their behalf to the mooring permittees of Newport Harbor, the Harbor Commission, and the Mayor and City Council. He noted he was compelled to provide a detailed account of the truth so the public can base their individual opinions on the facts. He encouraged all intending to offer public comments to consider the facts presented and the information in the following presentation.

Vice Chair Beer provided a brief update on the Mooring Field Open Water Initiative Improved Utilization Report. He provided a brief history relating to mooring extensions and improved navigation. He reported the Newport Harbor Mooring Fields have been historically managed by the Orange County Sherriff's Department (OCSD) which approved mooring extensions on an adhoc basis without any official policy, guidelines, or best practices. He advised in 2017, the City ended its contract with OCSD for mooring administration and code enforcement. He noted in 2018, the City Council approved the Harbor Commission Objective to evaluate the current mooring fields and provide a recommendation for new guidelines. Lastly, he reported in 2019, the Harbor Commission adopted a temporary policy to conditionally approve certain mooring extension requests of up to 5 feet but was halted since it could adversely affect any design being developed for better utilization of the space in the mooring fields.

Vice Chair Beer reported that Newport Harbor is currently experiencing a mooring shortage and noted the City has no available moorings available for new long-term permittees. He advised the current cost of entry to acquire a mooring permit in Newport Harbor is typically \$1,000 per foot or more. He advised new City moorings will not require an acquisition fee and will allow for more affordable boating. He explained the history of granting mooring extensions to existing permit holders without proper policy has resulted in less-than-desirable outcomes to aesthetics, safety, and navigable water space. Lastly, he noted the current space within the mooring field footprint is not safely navigable nor suitable for public access.

Vice Chair Beer provided a brief overview of the benefits of new double rows versus a single-row mooring configuration. He reported benefits include improved utilization of water space, 50% wider fairways, increased spacing between moorings in the same row, more overall maneuvering room, safer navigation, the addition of much-needed additional long-term moorings, and reduced maintenance costs for mooring permittees if a helical type anchor is used.

Vice Chair Beer provided a brief overview of the benefits of the new sand line mooring configuration. He reported benefits include preventing mooring buoys from drifting into fairways, making it easieroffering an option to tie up to a single bow morning line connected to the stern line, and the ability to attach a pick-up pole to the floating spreader line that can be retrieved to make the pick-up simpler and not require hooking the line as is required with a 2-point mooring configuration. He advised the sand line provides a safe, proven, and simple way to approach and secure a vessel for all mariners. He noted double rows with sand lines will reduce the number of mooring balls in the Harbor by 50%. Lastly, he advised that currently, up to 50% of all fairways in all mooring fields are less wide than the adjacent boats are long which creates a navigation risk. He noted fairway widths will be increased by an average 50% to 100% of current conditions.

Vice Chair Beer reported helical anchors and conservation buoys have less impact on eelgrass and the marine ecosystem. He advised helical anchors may provide greater holding strength and provide a smaller footprint resulting in less scarring on the seafloor. He explained conversation buoys aid in keeping the chain off the sea floor to minimize the scarring of eelgrass.

Vice Chair Beer presented an initial Boring Log Location Map and noted the Harbor materials appear to be suitable for a helical-type anchor system. He reported the initial mooring field has been identified as the C Field. He provided examples of a mooring scar and advised mooring scarring destroys eel grass and disrupts the marine ecosystem. He noted the California Coastal Commission has imposed strict guidelines for eelgrass monitoring and mitigation. He advised the proposed sharing mooring configuration would result in only one buoy with a sand line.

Vice Chair Beer presented a rendering of a single-row mooring field in Newport Harbor and noted without policies defining row and fairway sizes, a mooring field can become a safety concern and become a very inefficient use of valuable waterways. He presented a picture of America's Cup Harbor in San Diego with a double-row mooring configuration. He noted that 90% of the moorings are in 50% of the space and are much safer for mariners. He presented a rendering of the new double-row mooring design in C Field.

Vice Chair Beer presented a typical mooring design in Newport Harbor and presented a rendering of a shared center weighted mooring anchor, a shared center helix anchor system, and a typical sand line mooring. He advised a 2-point mooring configuration has higher costs than a shared helix mooring configuration.

Vice Chair Beer reported the City has Harbor Design Standards for marinas that require the fairways to be a minimum of 1.5 X the boat Length Overall (LOA). He noted the fairways between rows in a mooring field should be held to the same or stricter guidelines as a marina slip. He presented an example of a new mooring configuration of the B Field. He advised a configuration that complies with Harbor Design Standards will provide beachgoers and waterfront residents the ability to enjoy greatly improved Harbor views. He advised inefficiency at the J & H Fields also currently exists and will greatly improve with the proposed design.

Vice Chair Beer reported there are currently <u>approximately</u> 564 moorings <u>in the City managed mooring fields</u> and this initiative would allow the City to add <u>up to 97</u> new moorings while increasing the space between the boats and the fairways. He advised the cost for Phase 1 is <u>estimated to be</u> \$450,000 with more than half going to new moorings <u>so that cost could be reduced</u>. He noted the City would recoup these costs because the new moorings would create new, incremental revenue. He provided a brief overview of the Summarization Outline of the Proposed Reconfiguration of Moorings, Future Requests for Extension, Suggested Guidelines for New Double Row Moorings, and outlined the net adjustments.

Chair Scully thanked Vice Chair Beer for the thorough presentation.

Commissioner Cunningham thanked Vice Chair Beer for his hard work.

Secretary Yahn applauded Vice Chair Beer's efforts for working tirelessly with the GIS staff to develop this plan. He believes the study does a good job of maximizing the space of the mooring fields along with being safe and having adequate maneuverability for all Harbor users and not just mooring permittees. He expressed his pleasure with the ad hoc committee for developing such a thoughtful methodology. He believes the bold new look of the mooring fields will provide a higher capacity of vessels and provide enhanced community access to the Harbor. He expressed support for the concept and once again, applauded Vice Chair Beer's efforts.

Commissioner Marston thanked Vice Chair Beer for his efforts.

Commissioner Williams commented that the City, the general public, and the boating community are incredibly lucky to have Vice Chair Beer leading this effort.

Secretary Yahn left the meeting at 6:14 p.m.

Commissioner Svrcek commented that the plan was very thorough and thanked Vice Chair Beer for his efforts.

Chair Scully thanked everyone in the room for their comments and hopes the air in the room is much clearer and there is a better understanding as to the direction that this objective has been going. He advised it is an opportunity to offer additional moorings as it is currently locked out.

Chair Scully opened public comments.

Wade Womack, a member of NMA, expressed confusion with the agenda item and noted it seems to revolve around a Harbor Commission vote on moving forward on a new mooring system that has not been vetted by the Commission or the public. He noted it also appears like the Commission is looking to revise Title 17 in anticipation of a new mooring plan that has not been agendized as a stand-alone item or fully discussed in public. He noted the only time the new shared anchor mooring plan was discussed was at the June 8, 2022 Harbor Commission meeting as a simple Harbor Commissioner update. He advised the proposed mooring plan was posted after the meeting so the public had no opportunity to review it for any thoughtful feedback at the June 8, 2022 meeting. He expressed concern that the mooring plan details are not attached to the agenda item and were not posted online for review. He expressed concern regarding the preliminary plans of the shared mooring anchor system that was in the conceptual phase on June 8, 2022 yet the details of the plans are not posted for review for this meeting. He inquired how the Harbor Commission can approve plans related to revisions to Title 17 when the plan is not posted for public review. He recommends the Harbor Commission take no action tonight and agendize the proposed mooring plan on a future agenda as a stand-alone item before making any revisions to Title 17. He expressed concern that new mooring permits will not be transferrable and believes the charges made against NMA tonight were unfair.

Hein Austin commented that applying this model in Newport Harbor will be a recipe for disaster, particularly in the C Field. He advised C Field has the highest current exposure in the Harbor. He provided detail on how the proposed mooring may be dangerous based on his personal experience. He noted what happens in C Field is vastly different from what is happening at America's Cup Harbor and believes this will make the Harbor unsafe.

John Fradkin advised he is an NMA Board member, a long-time mooring permittee, and a member of Balboa Yacht Club. He thought tonight was the night to make comments and apologized for not getting together with Vice Chair Beer previously but he did not get the invitation. He reported the NMA has not signed off on this and has not looked at it extensively until this week. He advised he is an expert on off-shore moorings and knows the Harbor very well. He noted Vice Chair Beer is not an experienced yachtsman and is not qualified to determine if the plan is solid. He noted America's Cup Harbor does not use helical anchors but uses weights. He believes there are pros and cons to this plan. He advised the double row system will not work well in the Harbor and is going to compromise safety. He noted Vice Chair Beer is missing how difficult it is to attach to the mooring given the current and the wind. He concurred there may not be deaths but there will

certainly be hand-crushing injuries. He recommended making changes to the plan and disagrees that the plan, as is, is a good idea.

An unnamed speaker advised he has only had a mooring since 2004 but has been on the Harbor since 1979. He advised he was concerned with the mooring settings, transferability, and how permittees could be moved to a different field. He noted C Field has many anomalies that the other fields do not have and it takes some time to moor. He encouraged the Harbor Commission to reconsider the plan.

Clint Acoutin, a tugboat operator who works with Chevron and Foss Maritime, advised he is very familiar with mooring systems and operations. He requested that a better image of the helix screw be provided for public review. He expressed concern regarding the proposed mooring plan and outlined an example. He noted he has worked with the helix screw and it works well but a better diagram would help the public better understand.

Drew Lawler requested clarification of the mooring configuration and inquired if the bow and the stern would be attached through a sand line. Vice Chair Beer confirmed that is correct.

Mr. Lawler inquired if there were any plans to make changes in the D Field. Vice Chair Beer advised there <u>cwould</u> be plans to change all mooring fields <u>because of based on</u> the results of this plan.

Mr. Lawler expressed support for the plan to not move boat owners out of their existing mooring field.

Scott Carlin reported for 100 years through trial and error the current single mooring system works. He presented an example of approaching the mooring using the current system and using the hybrid system. He advised at the end of the day it is a roll of the dice and he does not want to roll the dice. He agrees it should be studied further but should not be voted on tonight.

Ken Hatch, a resident in J Field, reminded the Harbor Commission of the experiment with the sand line moorings from 4 years ago. He agreed with previous commenters that given the currents and the wind, the proposed plan will never work. He thanked the Harbor Commission for its efforts and believe the plan is close but needs additional work. He encouraged the Harbor Commission to come together will all interested parties to build a better plan.

Jessie Fleming, a resident of the Harbor since the early 1980s, advised she has had a mooring for the last 6 years. She expressed appreciation that the fairways will be made wider and increase the distance between vessels. She noted that mooring permittees are also part of a community and everyone is helping each other when there are high winds. She advised during high winds it is not necessarily the moorings that drag, it is that people do not tie their boats off properly and their lines snap. She expressed concern about the two boats meeting in the middle and inquired about the distance between the two boats sharing the mooring. She noted if one boat breaks loose in the front it will spin from the back and hit the boat behind it.

Vice Chair Beer clarified the distance between each buoaty is approximately 20 feet and there is also a bridle connected to a cleat on deckoff of that.

Jerry LaPlane, D Field mooring permittee, advised he is a power boat owner who has run boats for 35 years. He advised he uses a spreader line similar to what Mr. Austin described. He noted

in the comparison to slips being relatively the same distance, a slip is like a spreader line with a dock on each side. He expressed concerns regarding the Title 17 changes and noted the red line regarding transferability is unclear and needs clarification.

An unnamed speaker reported he is a live-aboard in H Field and uses the public pier at 15th Street several times daily. He advised if 90 more moorings are added there will be no place for dinghies to park.

Bill Allen, F Field mooring permittee, advised he has been to every Harbor Commission meeting over the last 3 or 4 years and has never heard a discussion on a cutoff date for extending the mooring. He advised he recently submitted an application and was denied and is now only hearing that there was a cut-off date. He inquired how the Harbor Commission came up with the cutoff date and noted that it is not very fair since it was not published.

Keegan Heggarty reported he has been involved in collisions in the mooring fields due to a lack of line of sight between moorings and believes the increase in channel size will offer better visibility and vessels to be oriented correctly before approaching the mooring. He believes the plan will increase safety and navigability in the Harbor. He inquired if there is anything that prevents uses of the proposed mooring system from using a spreader line on the shared moorings.

Steven Turansky, J Field mooring permittee, reported he has been inquiring about the mooring extension for several years and the reply has always been that applications are not being taken, and is now hearing there was a cut-off date. He expressed concern that the cut-off date was not made public. He advised all different boats have different displacement versus windage and expressed concern that there could accidents if there is a shared mooring system.

Nigel Bailey, H Field mooring permittee, advised all boats on H and J Field face one direction because the wind is coming from another direction and mooring should take place into the wind. He noted the proposed shared mooring system will place vessels bow to bow and someone will have to approach the mooring with the wind behind them which will be very difficult.

George Hylkema, an NMA Board member, reported he approaches the mooring against the wind or the current and does not see how he can approach the mooring if he cannot compensate for tide and not have the boat press on past the buoy and hit the boat ahead of him. He noted there are many empty moorings in the C Field. He expressed appreciation for the efforts that have gone into the design but believes it needs additional review by experts.

Val, A Field mooring permittee, reported she has a 35-foot sailboat and advised she uses a spreader line when approaching the mooring and noted it can be very difficult. She expressed concern regarding the danger of trying to attach to a shared mooring on a windy day.

Stacy Kline, a C Field mooring permittee, would like to be fully informed about this process and wants to be involved with the process. She encouraged the Harbor Commission to include boat owners in the decision-making process and noted they want to be part of the solution.

Richard Gourd, a C Field mooring permittee, agreed with the comments of the experienced boaters that the shared mooring system would almost be impossible and there would not be a way to stop the boat. He requested clarification of the transferability of the mooring permit.

Vice Chair Beer clarified that existing permittees will be able to transfer mooring permits as long as it is permitted in Title 17.

Chair Scully closed public comments.

Commissioner Williams noted it has become apparent to him that there is a mooring problem and there is a relationship problem. He advised the Harbor Commission is comprised of volunteers who have the best intentions for Newport Harbor. He advised the Commission does not hear from the NMA until the evening before a Commission meeting and that the emails that are being received are unprofessional. He noted if he was an NMA member, he would be questioning the NMA leadership and advised they are doing a disservice to its members, the public, and the boaters in the Harbor. He encouraged all parties to do better, to collaborate, to stop spreading disinformation, and to fix the relationship.

Commissioner Cunningham advised there are a lot of issues with moorings. He agrees that the Harbor Commission is not getting many ideas from NMA for improvement to the mooring system and the experience for mooring permittees. He explained the Harbor Commission has been thinking about the mooring system for the long term and not just for today.

Vice Chair Beer reported he has been a boater in Newport Harbor for 20 years, has captained a 58-foot Viking for the last 14 years, and has attached to the mooring by himself in rough conditions. He noted he has taken a lot of consideration of the conditions and can see how using the spreader line can be easier. He can also recognize that this is a mooring field and not slips and requires experience. He reported the vast majority of permittees do not use spreader lines. He explained the Harbor Commission has to look to the next decade and beyond on how to accommodate most of the people in the mooring fields. He advised there may be many empty moorings in C Field but they are not for sale and have almost created a monopoly for moorings. He recalled a situation where a mooring sold for \$165,000 and noted that is not affordable boating and is not fair to the public because they cannot get onto the Harbor and tidelands to use and enjoy. He reported the space is there to provide additional moorings safely. He believes there is only one issue which is the sand line. He believes boaters should be able to operate their vessel and not run into another boat.

Vice Chair Beer reported America's Cup Harbor is a harbor that experiences a lot of wind and there is wakes from large vessels that travel the main entrance channel that feeds into the harbor. He noted the use of spreader lines to slow the vessel is very lowoptional.

Chair Scully advised he disagreed with public commenters that this item has not been addressed at the Harbor Commission. He noted change is hard and will be difficult here. He expressed support for picking a field, working on it, and perfecting the design of the mooring field in the harbor.

Commissioner Cunningham expressed support for selecting 1 field and piloting a shared mooring field. He advised he is not opposed to obtaining additional feedback, more dialogue, and rolling it out slowly.

Commissioner Svrcek expressed support for selecting 1 field and piloting a shared mooring program.

Commissioner Williams echoed Commissioner Cunningham's comments and noted the Harbor Commission wants to work together with NMA and the public positively and constructively.

Commissioner Marston noted she would like to see more constructive input from the community rather than barraging emails. She encourages the public to provide alternative approaches and plans to the Harbor Commission in writing. She expressed support for implementing a phased approach. She noted Vice Chair Beer took the time to go through his records to confirm he contacted NMA multiple times and received no response which is unacceptable.

Vice Chair Beer noted heads were shaking when Commissioner Marston advised he contact NMA multiple times via email. He confirmed he has the emails that were sent and encouraged NMA to find them but would like to put that behind—them. He clarified the plan that was introduced is to identify <u>and approve</u> one mooring field initially and conduct a pilot within that mooring field <u>before completing the entire field</u>. He agreed that a <u>field</u> test will need to be conducted to confirm Noble Engineering's findings.

Vice Chair Beer does not see how anyone can disagree that this <u>initiative</u> is not <u>intended toal</u> benefit <u>allto the</u> stakeholders. He believes there <u>areis an</u> alternatives that <u>can may</u> satisfy all parties and looks forward to thate dialogue.

Chair Scully inquired if Vice Chair Beer would be agreeable to continuing the item to continue dialogue with mooring permittees and NMA to come up with additional feedback and come back to the Harbor Commission. Vice Chair Beer agreed but noted it needs to be a short timeline.

Chair Scully continued the item to the November 9, 2022 meeting of the Harbor Commission.

## 4. Establish Ad Hoc Committee to Review and Suggest Harbor Commission Objectives for 2023

The Harbor Commission establishes annual Objectives to focus the Commission on issues that are important to the City Council, the Harbor Commission, and the community. At the Harbor Commission meeting of September 14, 2022, the Commission requested to set up an Ad Hoc Committee to review and suggest Objectives for 2023.

#### Recommendation:

- 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 to develop a list of Harbor Commission Objectives for 2023.

Harbormaster Blank reported a staff report was presented to the Harbor Commission as part of the agenda packet.

Chair Scully, Commissioner Cunningham, and Commissioner Williams volunteered to be a part of the Ad Hoc Committee.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion.

Chair Scully opened public comments. There being no speakers, public comments were closed.

Vice Chair Beer moved to appoint Chair Scully, Commissioner Williams, and Commissioner Cunningham to the Ad Hoc Committee to develop a list of Harbor Commission Objectives for 2023. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

#### 5. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

#### Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Chair Scully advised Harbor Resource Manager Chris Miller will be needed for the Review of City Council Policy H-1 – Pier and float extensions beyond the pierhead line. He hopes to have something to review at the next meeting.

Commissioner Marston reported the Ad Hoc Committee to review piers and ports was convened a year and a half ago under the impression that there were many issues in the Harbor. She advised she and Secretary Yahn conducted extensive field reviews and only found a few issues in the Harbor. She reported they presented at a Harbor Commission meeting in July 2021 and at the stakeholders meeting in February 2022. She advised she and Secretary Yahn recommend that the Ad Hoc Committee on this item be closed and the few issues identified are being addressed and it was determined no policy needed to change.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and ports, seconded by Commissioner Williams.

Chair Scully opened public comments.

Eric Peterson inquired if the Ad Hoc Committee is closed and the original problems return will the Committee be reinstated. Commissioner Marston advised the previous problem should not return as it is regulated under the current policy.

Chair Scully closed public comments.

Commissioner Marston moved to conclude the Ad Hoc Committee on piers and floats. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Cunningham, Commissioner

Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None Abstain: None

**Absent:** Secretary Yahn

Commissioner Cunningham reported the Ad Hoc Committee on the Review of the Harbor and Beach Master Plan met with Harbor Resources Manager Miller last month and will be brought back to the Commission in November for discussion.

Chair Scully opened public comments. There being no speakers, public comments were closed.

The item was received and filed.

#### 6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a project update.

#### Recommendation:

- 1) Determine this action is 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

<u>Functional Area 1:</u> Secretary Yahn was absent from the meeting and unable to provide any updates.

<u>Functional Area 2:</u> Vice Chair Beer noted his time has been spent on Objective 2.3 and had no comments at this time on any of the other objectives in Functional Area 2.

<u>Functional Area 3:</u> Commissioner Cunningham advised the CIP Ad Hoc Committee did discuss CIP vessels but will push comments to the next meeting.

<u>Functional Area 4:</u> Chair Scully reported that for Objective 4.1, the Trash Wheel obtained all of the necessary permits and staff is now working on grant funding for the project. He reported he and Commissioner Marston continue to talk about Lower Castaways. Commissioner Marston

advised that Harbormaster Blank recommended putting Lower Castaways on hold due to what was going on with the City Council. She inquired if they should continue to review that objective. Harbormaster Blank advised he will take action to obtain additional information and report back at the next meeting of the Harbor Commission. Chair Scully reported that on Objective 4.3, he and Commissioner Williams continue to work on the Newport Harbor Safety Committee. He reported it is going very well with the first meeting will be held on October 18th and anticipates between 15 and 20 operators participating.

Chair Scully opened public comments.

Mr. Mosher inquired about Objective 4.2 - Lower Castaways and noted the sub-committee seems to know more than the public. He noted the minutes indicate it may have something to do with the YMCA and referenced a Closed Session of the City Council about property acquisition somehow related to the YMCA with no explanation but the notice for that meeting gave an address of the Upper Castaways. He commented that the last meeting's minutes for Functional Area 4.3 reference the Newport Harbor Safety Committee and asked for additional details on the Committee.

Chair Scully advised as part of Objective 4.3, he and Commissioner Williams worked to develop a Safety Committee comprised of harbor operators, both non-profit and commercial, to discuss any safety issues that have occurred, discuss best practices, and try to get the community to work together for public safety and navigating in the water properly. He clarified the first meeting of the Newport Harbor Safety Committee will be on October 18th.

Chair Scully closed public comments.

The item was received and filed.

#### 7. Harbormaster Update – September 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

#### 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 reported in regards to keeping the Harbor clean, Harbor Service Workers (HSW) assisted the City Park Patrol in removing a couch that had been thrown off the bluff below Galaxy Park in Upper Newport Bay. He advised most of the pumps-out hydrants at Marina Park

have been replaced. He thanked marine sanitation guru Noel Platchak for coordinating and supervising the work and noted Mr. Platchak sent two nice notes regarding the work of HSWs in that effort. He reported a sub-contractor pressure washed all of the public piers in addition to the monthly maintenance they provide.

Harbormaster Blank reported in regard to keeping the Harbor safe, all equipment was removed from all 3 patrol boats, identified, and only equipment that supports patrol activities was returned to the boats. He advised training sessions on performing basic engine maintenance and the cooling systems of the boats were conducted. He reported a post-Summer Harbor Summit was held on September 27th with the audience consisting of Marine Activity Permit holders and sailing programs. He advised it was well-attended.

Harbormaster Blank reported in regard to keeping the Harbor well-enjoyed, he advised they take a proactive stance on any usage limits and anchorages and noted there have been some challenges enforcing them. He advised no one has overstayed their anchorage and problem vessels have left the Harbor. He noted HSWs also consistently enforce noise limits and noted a recent call from a well-known waterfront resident to report a charter vessel that was out of compliance with noise limits and a Notice of Violation was issued. He reported there was a collaborative effort with OCSD to assist a disabled vessel in the Classic Yacht fleet when the commercial/tow assist vessel that was assisting them also became disabled in Marina Park.

Harbormaster Blank reported a suggestion was made during the Harbor Summit that the City reconsider competing with private enterprise rental of small vessels. He noted the City offers instructional classes in small boat sailing and racing, kayaking, and paddle boarding. He explained qualified customers can rent from the City-owned fleet of kayaks, paddleboards, RS Quests, and J-22s. He advised the Harbor Department is undergoing an operational review conducted by an outside consultant that is reviewed but never published so he is unable to share it with the Harbor Commission. He reported he will provide a published report based on that information during the next couple of months. He recalled an incident where a resident reported inappropriate behavior on one of the patrol boats but when questioned on the specifics became defensive. He reported the caller escalated the issue to the City Manager who also experienced the same behavior from the caller. Lastly, he presented an image of the sea star that was finally captured at Marina Park and is a sign of good health in the Harbor. Lastly, he announced that a fundraiser will take place at the Lido Marina Village on October 13th at 6:00 p.m. in support of the Navy Seals Foundation.

Harbormaster Blank provided a brief overview of revenue statistics and noted the Harbor Department continues to exceed its prior year's revenue. He advised last month's noise statistics were inaccurate due to switching to the new system but noted this month's statistics are correct. He reported that 907 of the 929 mooring permits have been fully executed.

Commissioner Williams thanked Harbormaster Blank for everything he does.

Commissioner Marston expressed excitement at seeing the image of the sea star. Harbormaster Blank reported it is visible at low tide although it moves.

Vice Chair Beer thanked Harbormaster Blank for his efforts and noted the improved water quality in the Harbor is a direct result of the work <u>done keeping of pumping</u> waste out of the Harbor and the dredging that has been conducted.

Chair Scully inquired about the polypropylene line that was removed. Harbormaster Blank reported approximately 2,000 feet of polypropylene line was removed from the Harbor and was probably from a fishing vessel.

Chair Scully inquired if any additional information was available on the fatality that occurred in the anchorage. Harbormaster Blanks reported he had no additional information.

Chair Scully opened public comments.

Len Bose applauded Harbormaster Blanks on the Harbor Summit and noted he looks forward to attending the Safety Committee meeting. He encouraged the Harbor Commission to consider restarting the group meetings regarding the ferry boats.

Richard Dorn reported there has been a problem at the Fernando Street public docks with boats being left for a month at a time without being put away overnight. He advised there have been reports of the Code Enforcement officer not enforcing impounding the vessel.

Harbormaster Blanks advised there is an extensive effort that goes into public dock enforcement every day. He advised there are reasons boats are not impounded on occasion because there is not sufficient evidence to support the impound.

Hein Austin thanked Harbormaster Blank for being such an excellent communicator and noted it is a pleasure working with the Harbor Department. He reported the walkways on the public dock at D Field have not been painted for quite some time along with some nails sticking out of the dock and requested an update.

The item was received and filed.

#### 7) MOTION FOR RECONSIDERATION

None

#### 8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Chair Scully reported attendance at the Water Quality/Coastal Tidelands Committee meeting where the Lower Newport Bay Dredging Project update was provided by Harbor Resources Manager Miller along with a report on bay and ocean water quality which resulted in A ratings across the board.

#### 9) <u>MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE</u> AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)

None

#### 10) DATE AND TIME FOR NEXT MEETING: Wednesday, November 9, 2022 at 5 p.m.

#### 11) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:44 p.m.

November 9, 2022 Agenda Item No. 6.1

TO: HARBOR COMMISSION

**FROM:** Chris Miller, Administrative Manager, 949-644-3043

cmiller@newportbeachca.gov

TITLE: Harbor and Beaches Master Plan Projects – Review

\_\_\_\_\_

#### **ABSTRACT**:

The Harbor Commission subcommittee has reviewed the Harbor and Beaches Master Plan ("PLAN") and is seeking input from the Harbor Commission. It is anticipated the subcommittee will return with a final draft for approval at the December meeting.

#### **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.

#### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

#### **DISCUSSION:**

Per the direction of the City Council, the Harbor Commission assists in developing the Plan which identifies future larger, capital projects and the funding mechanisms to achieve those goals. It is designed to be a "living document" to provide a roadmap for harbor and beach-based projects, but it also has the flexibility to be adjusted as needed. It is considered a planning document to assist in the creation of the annual Capital Improvement Program which ultimately becomes part of the City's annual budget.

At the July Harbor Commission meeting, a subcommittee was formed to review the Plan. At tonight's meeting, the subcommittee will review their recommendations and seek input from the

Commission. It is anticipated the subcommittee will return in November for final Harbor Commission approval.

Please see the approved 2022 Plan included as Attachment A. The subcommittee recommends the following additions to the Plan:

#### **Potential Projects:**

Restrooms (shoreside): Improve existing

• Fire Safety Boat: \$2M

Please note that general proofreading of the Plan (general cleanup, date adjustments, etc.) will occur before the plan is finalized at later date.

#### **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.

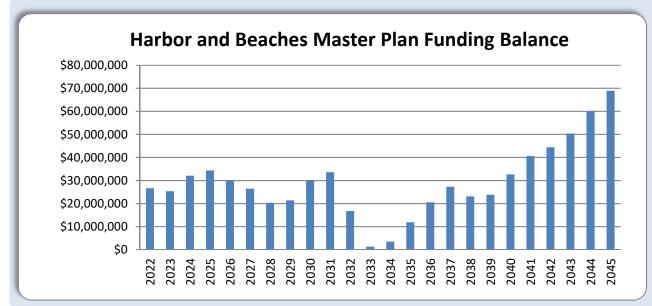
#### **NOTICING:**

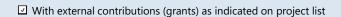
The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

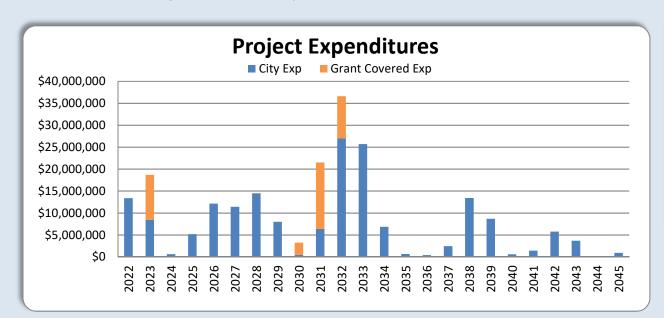
#### **ATTACHMENTS**:

Attachment A – 2022 Harbor and Beaches Master Plan Projects

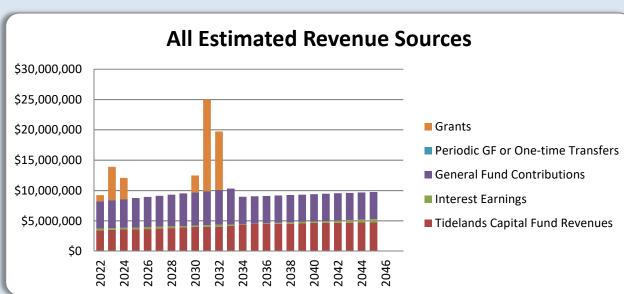
#### HARBOR & BEACHES MASTER PLAN DASHBOARD

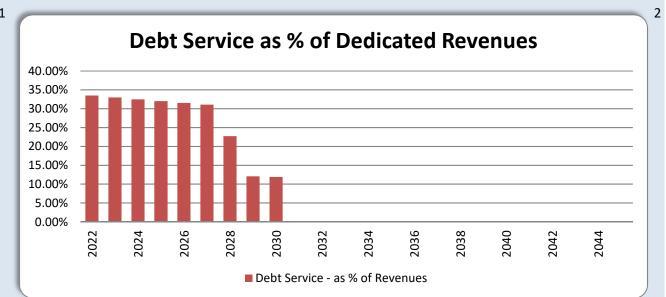


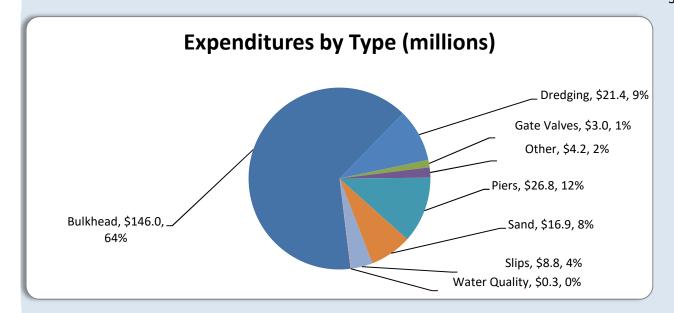


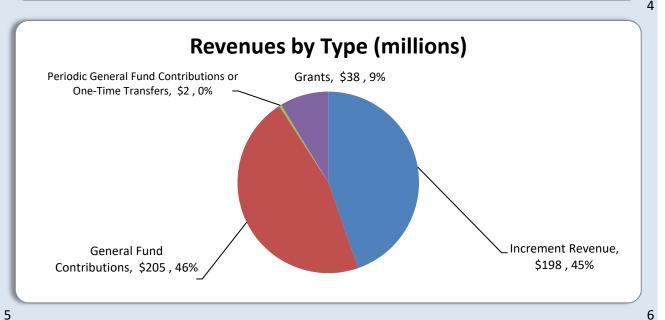


Updated: 02/01/2022









#### **HARBOR & BEACHES MASTER PLAN PROJECTS**

Last Updated:

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			Units Today's Unit		F	FY Design Start FY Const Start			External				
Ref #	Project	Category	Measurement	Total Units	Cost	Current Age:	Useful Life	Project Estimate	Year	Year	Growth	Contributions	Net Proposed Cost
UTILITIES													
19 Tide G	Gate Valves (Balboa Island): Replace (34 total)	Gate Valves	EA	15	\$50,000	**	25	\$750,000	2022	2025	\$807,668		\$807,668
32 Tide G	Gate Valves (Peninsula): Replace	Gate Valves	EA	39	\$50,000	**	25	\$1,950,000	2022	2026	\$2,152,435		\$2,152,435
SUBTO	OTAL							\$2,700,000			\$2,960,103	\$0	\$2,960,103
BULKHEAD/ST	RUCTURES												
8 Bulkhe	ead (American Legion): Repair	Bulkhead	LF	1	\$1,700,000	65	40	\$1,700,000	2019	2021	\$1,742,500		\$1,742,500
	Castaways: Bulkhead Only	Bulkhead	LF	265	\$3,800	**	80	\$1,007,000	2024	2026	\$1,111,540		\$1,111,540
	a Island, N, S, E & GC: Boardwalk & Perimeter Drainage Syst	tem Other	SF	92,000	\$25	**	80	\$2,300,000	2024	2026	\$2,538,770		\$2,538,770
, ,	Little Island not include ~42k SF)												
	a Island, N, S, E & GC: Replace Seawall SBF	Bulkhead	LF	4,386	\$3,800	92	81	\$16,667,666	2026	2031	\$20,815,631		\$20,815,631
	a Island, N, S, E & GC: Replace Seawall GC and EBF	Bulkhead	LF	4,386	\$3,800	92	80	\$16,667,666	2026	2031	\$20,815,631		\$20,815,631
	a Island, N, S, E & GC: Replace Seawall NBF	Bulkhead	LF	4,386	\$3,800	92	82	\$16,667,666	2026	2037	\$24,139,751		\$24,139,751
	ead (American Legion): Replace	Bulkhead	LF	336	\$3,800	65	80	\$1,276,800	2051	2070	\$4,177,038		\$4,177,038
	ead (West Newport): Replace	Bulkhead	LF	1,722	\$3,800	**	80	\$6,543,600	2038	2041	\$10,460,927		\$10,460,927
	ead (Corona Del Mar): Replace	Bulkhead	LF	175	\$3,800	**	80	\$665,000	2042	2045	\$1,173,466		\$1,173,466
	ead (Promontory Bay): Replace	Bulkhead	LF	1,158	\$3,800	57	80	\$4,400,400	2042	2045	\$7,764,993		\$7,764,993
	ead (Rhine Wharf): Replace	Bulkhead	LF	343	\$3,800	62	80	\$1,303,400	2046	2049	\$2,538,763		\$2,538,763
	ead (Street Ends - Peninsula): Replace	Bulkhead	LF	2,217	\$3,800	**	80	\$8,424,600	2053	2056	\$19,505,663		\$19,505,663
	ead (Balboa Yacht Basin): Replace	Bulkhead	LF	1,370	\$3,800	37	80	\$5,206,000	2063	2065	\$15,053,254		\$15,053,254
	ead (Marina Park): Replace	Bulkhead	LF	857	\$3,800	7	80	\$3,256,600	2093	2095	\$19,751,796		\$19,751,796
SUBTO								\$86,086,399			\$151,589,722	\$0	\$151,589,722
	- REPAIR / REPLACE												
	Pier (15th St): Float only	Piers	EA	1	\$50,000	**	20	\$50,000	2021	2022	\$51,250		\$51,250
	Pier (19th St): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (Coral Ave): Gangway & Float	Piers	EA	1	\$75,000	37	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (Fernando St): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (M St): Gangway & Float	Piers	EA	1	\$100,000	**	20	\$100,000	2021	2022	\$102,500		\$102,500
	Pier (Opal Ave): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (Park Ave): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (Washington St): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	a Yacht Basin Major Dock Maintenance	Slips	EA	1	150,000	37	40	\$150,000	2021	2022	\$153,750		\$153,750
	Piers Maintenance (Balboa and Newport)	Piers	EA	1	500,000	**	0	\$500,000	2021	2022	\$512,500		\$512,500
	Pier (29th St): Gangway & Float	Piers	EA	1	\$100,000	**	20	\$100,000	2021	2022	\$102,500		\$102,500
	Pier (Emerald Ave): Gangway & Float	Piers	EA	1	\$75,000	36	20	\$75,000	2021	2022	\$76,875		\$76,875
	Pier (Sapphire Ave): Gangway & Float	Piers	EA	1	\$75,000	**	20	\$75,000	2021	2022	\$76,875		\$76,875
	a Yacht Basin Marina (Slips): Replace	Slips	Slips	172	\$35,000	37	40	\$6,020,000	2022	2024	\$6,324,763		\$6,324,763
	Pier (15th St): Pier & Gangway	Piers	EA	1	\$115,000	**	20	\$115,000	2031	2034	\$154,662		\$154,662
	Pier (Coral Ave): Pier only	Piers	EA	1	\$75,000	37	20	\$75,000	2031	2034	\$100,867		\$100,867
	Pier (Emerald Ave): Pier only	Piers	EA	1	\$75,000	36	20	\$75,000	2031	2034	\$100,867		\$100,867
	Pier (Fernando St): Pier only	Piers	EA	1	\$75,000	**	20	\$75,000	2031	2034	\$100,867		\$100,867
	Pier (M St): Pier only	Piers	EA	1	\$100,000	37	20	\$100,000	2031	2034	\$134,489		\$134,489
57 Public	Pier (Opal Ave): Pier only	Piers	EA	1	\$115,000	**	20	\$115,000	2031	2034	\$154,662		\$154,662
58 Public	Pier (Park Ave): Pier only	Piers	EA	1	\$115,000	**	20	\$115,000	2031	2034	\$154,662		\$154,662
59 Public	Pier (Sapphire Ave): Pier only	Piers	EA	1	\$115,000	**	20	\$115,000	2031	2034	\$154,662		\$154,662
60 Public	Pier (Washington St): Pier only	Piers	EA	1	\$75,000	**	20	\$75,000	2031	2034	\$100,867		\$100,867
62 Public	Pier (Rhine Channel): Float only	Piers	EA	1	\$175,000	15	30	\$175,000	2034	2037	\$253,452		\$253,452
64 Public	Pier (Grand Canal, Balboa Ave): Pier Platform	Piers	EA	1	\$15,000	5	20	\$15,000	2037	2038	\$22,268		\$22,268
68 Public	Pier (Rhine Channel): Gangway only	Piers	EA	1	\$60,000	**	40	\$60,000	2044	2047	\$111,237		\$111,237
70 Marin	a Park Slips: Replace	Slips	EA	23	\$40,000	7	40	\$920,000	2052	2055	\$2,078,143		\$2,078,143
72 Public	Pier (Balboa Marina West): Float only	Piers	EA	1	\$200,000	1	40	\$200,000	2059	2062	\$537,013		\$537,013
	Pier (Balboa Marina West): Gangway	Piers	EA	1	\$50,000	1	40	\$50,000	2059	2062	\$134,253		\$134,253
	Pier (Central Ave): Gangway and Float	Piers	EA	1	\$250,000	5	40	\$250,000	2055	2057	\$593,301		\$593,301
	Pier: Newport	Piers	EA	1	\$20,000,000	82	85	\$20,000,000	2025	2027	\$22,628,164		\$22,628,164
	n Pier: Balboa	Piers	EA	1	\$15,000,000	82	85	\$15,000,000	2030	2032	\$19,201,268		\$19,201,268
SUBTO			· ·	-	, ,,,,,,,,	- <del>-</del>		\$45,050,000			\$54,577,966	\$0	\$54,577,966
DREDGING								, ,,,,,,,,,,			, , , , , , , , , ,	7.0	, , , , , , , , , ,
	Canal Dredging and Beach Maintenance	Dredging	CY	1	\$1,500,000	**	20	\$1,500,000	2037	2039	\$2,282,427		\$2,282,427
	ing: Lower Bay (Channels - Ongoing Maintenance)	Dredging	CY	1,200,000	\$19	**	30	\$22,800,000	2019	2022	\$23,370,000	\$10,000,000	\$13,370,000
- 5.006	o sale and terramines of going maintenance,	~ 00	<u>.</u>	_,0,000	7-3			¥==,000,000			<del>+</del> ==,5, 0,000	\$20,000,000	+==,5,0,000

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			Units		Today's Unit				FY Design Sta	rt FY Const Start	FV Cost Est @2.5%	External	
Ref#	Project	Category	Measurement	<b>Total Units</b>	Cost	Current Age:	Useful Life	Project Estimate	Year	Year	Growth	Contributions	Net Proposed Cost
25	Dredging: Newport Island Area (Channels) - TBD	Dredging	CY	20,000	\$150	**	50	\$3,000,000	2028	2030	\$3,655,209		\$3,655,209
43	Dredging (Balboa Yacht Basin):	Dredging	CY	25,600	\$70	37	40	\$1,792,000	2022	2024	\$1,882,720		\$1,882,720
48	Dredging: Upper Bay Catch Basins	Dredging	CY	500,000	\$30	13	21	\$15,000,000	2027	2030	\$18,276,043	\$18,276,043	\$0
49	Dredging: Upper Bay Channels	Dredging	CY	250,000	\$30	13	21	\$7,500,000	2027	2030	\$9,138,022	\$9,138,022	\$0
	SUBTOTAL							\$51,592,000			\$58,604,421	\$37,414,065	\$21,190,356
FERR	/ & WHARF REPAIR / REPLACE												
35	Ferry Landing - Agate Avenue	Bulkhead	EA	1	\$0	92	60	\$0	2023	2025	\$0		\$0
36	Ferry Landing - Palm Street	Bulkhead	EA	1	\$0	92	60	\$0	2023	2025	\$0		\$0
	SUBTOTAL							\$0			\$0	\$0	\$0
WATE	R QUALITY												
20	Water Quality: TMDL Compliance:	Water Quality	LS	1	\$200,000	**	Ongoing	\$200,000	2022	2028	\$231,939		\$231,939
33	Vessel Sewage Pumpouts Replacements	Water Quality	EA	5	\$21,255	**	7	\$106,275	2027	2028	\$123,246	\$102,031	\$21,215
	SUBTOTAL							\$306,275			\$355,185	\$102,031	\$253,154
BEAC	H NOURISHMENT - HARBOR & OCEAN												
22	Central Peninsula Sand Nourishment (Ocean Beach)	Sand	CY	1,000,000	\$15	1	20	\$15,000,000	2022	2025	\$16,153,359		\$16,153,359
44	Surfside/Sunset Beach Sand Nourishment Stage 14	Sand	LS	1	\$300,000	5	7	\$300,000	2027	2029	\$356,606		\$356,606
51	Public Bay Beaches: Sand Nourishment (25k yards)	Other	CY	25,000	\$50	6	25	\$1,250,000	2028	2031	\$1,561,079		\$1,561,079
	SUBTOTAL							\$16,550,000			\$18,071,044	\$0	\$18,071,044
MISC	ELLANEOUS												
4	Navigation Markers: Convert Federal Stationary Markers to Floats	Other	LS	1	\$60,000	**	0	\$60,000	2030	2030	\$73,104	\$74,932	(\$1,828)
	SUBTOTAL							\$60,000			\$73,104	\$74,932	(\$1,828)
	GRAND TOTAL							\$202,344,674			\$286,231,545	\$37,591,028	\$248,640,517
DOTE	NTIAL PROJECTS												
POIE	Onshore Mooring Enhancements	Moorings						\$0			\$0		\$0
	Multiple Vessel Mooring System (MVMS) - City Owned	Moorings	EA	6	\$45,000	**	20	\$270,000	2023	2023	\$270,000		\$270,000
	Mooring Field Realignment	Moorings	EA	800	\$200	0	0	\$160,000	2023	2025	\$270,000		\$172,303
		iviouiiigs	LA	800	•	U	U		2022	2023		ćo	·
	TOTAL				\$45,200			\$430,000			\$442,303	\$0	\$442,303

<sup>\*\*</sup> denotes "unknown".

#### HARBOR & BEACHES MASTER PLAN SOURCES AND USES PROFORMA

	2022	2023	2024	2025	2026	2027	2028	2029	2030
AFFORDABILITY ASSUMPTIONS									
Tidelands Capital Fund Revenues	3,736,094	3,792,136	3,849,018	3,906,753	3,965,354	4,024,835	4,085,207	4,146,485	4,208,682
Growth Assumption	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%
Debt Service as % of Revenues	33.46%	32.96%	32.48%	32.00%	31.52%	31.06%	22.68%	12.06%	11.88%
Harbor Capital Balance as % of Debt Service	2130.44%	2026.84%	2562.39%	2748.63%	2393.44%	2111.47%	2189.80%	4267.67%	6011.94%
HARBOR CAPITAL SOURCES	BUDGETED								
Beginning Harbor Capital Balance	33,004,996	26,630,505	25,335,544	32,029,898	34,357,937	29,917,942	26,393,429	20,292,025	21,338,362
<u>Sources</u>									
Increment Revenue Projections	3,435,842	3,493,958	3,589,187	3,619,926	3,633,415	3,703,455	3,803,650	3,913,058	4,000,531
Interest Earnings	300,253	298,178	259,830	286,827	331,939	321,379	281,557	233,427	208,152
General Fund Contributions	4,500,000	4,612,500	4,727,813	4,846,008	4,967,158	5,091,337	5,218,620	5,349,086	5,482,813
Periodic GF or One-time Transfers									
Grants	1,000,000	5,500,000	3,500,000	-	-	-	10,203	56,117	2,784,611
Total Sources (does not include grants):	8,236,094	8,404,636	8,576,830	8,752,761	8,932,512	9,116,171	9,303,827	9,495,571	9,691,495
<u>Uses</u>									
Debt Service	(1,250,000)	(1,250,000)	(1,250,000)	(1,250,000)	(1,250,000)	(1,250,000)	(926,659)	(500,000)	(500,000)
Other Fiscal Charges	-	-	-	-	-	-	-	-	-
Project Uses	(13,360,585)	(8,449,597)	(632,476)	(5,174,722)	(12,122,506)	(11,390,685)	(14,478,572)	(7,949,234)	(470,158)
Transfers Out	-	-	-	-	-	-	-	-	-
Less: Cash Proj Funding									
Total Uses:	(14,610,585)	(9,699,597)	(1,882,476)	(6,424,722)	(13,372,506)	(12,640,685)	(15,405,231)	(8,449,234)	(970,158)
Projected Harbor Capital Balance	26,630,505	25,335,544	32,029,898	34,357,937	29,917,942	26,393,429	20,292,025	21,338,362	30,059,699

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November 9, 2022 Agenda Item No. <u>6.2</u>

TO: HARBOR COMMISSION

**FROM:** Chris Miller, Administrative Manager, 949-644-3043,

cmiller@newportbeachca.gov

TITLE: Council Policy H-1: Review of Proposed Changes to Pier and Float

Extensions Beyond the Pierhead Line

#### **ABSTRACT**:

At the May 2022 meeting, the Harbor Commission formed a subcommittee to review Council Policy H-1 (H-1) which addresses the pier and float extensions beyond the pierhead line. The Committee requests the Harbor Commission's review of the proposed draft changes to H-1 so that staff may return later with a final proposed document for review and approval.

#### **RECOMMENDATION:**

- 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.

#### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

#### **DISCUSSION:**

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved in compliance with Council policy as may be amended from time to time. Based on recent experience applying the H-1 policy to various dock reconfiguration applications that have come before the Harbor Commission for review, the Commissioners felt it was appropriate to review H-1 with the goal of simplifying the application review process yet still being mindful of field conditions and operational characteristics of the Harbor and navigation channels.

Historically, harbor piers were originally administered via the 1941 City document "Regulations for Execution of Work or Erection of Structures Channelward of the U.S. Bulkhead Line in Newport Bay." Then in 1962, the Harbor Permit Policies (later to be known as H-1) were created by using some of the original 1941 language which continued to remain in the document for the decades to follow.

H-1 evolved over the years from a document that governed most of the Harbor regulations to today's simplified version which solely focuses on the distance that floats may extend

channelward. To date, there have been 69 revisions to H-1 in its 57 year history – a testament to the evolving needs of the harbor.

In recent years, the Harbor Commission has reviewed multiple dock applications with strict adherence to H-1. However, the Commission has expressed a desire to simplify the process for the applicant, the Commission, and staff by providing flexibility both within H-1 as well as with the Commission's decision-making process while also balancing the harbor's functional and aesthetic characteristics.

#### Proposed H-1

As previously noted, H-1 was once a comprehensive document which included, among other things, an area-by-area (delineated via U.S. Bulkhead Station numbers) set of rules noting the allowable distance floats may extend channelward beyond the pierhead line. Equally important, it also addressed those unusual areas of the harbor where pierhead lines do not exist.

The current version of H-1 uses a simpler approach by applying broader rules to the entire Harbor, and also allows the Harbor Commission some discretion for exceptions. However, conflicts arise when dock permittees who were previously allowed to extend beyond the pierhead line for decades, or who bought their vessels and properties with an understanding of the rules, were no longer allowed to extend the same distance when it came time to reconstruct their docks. Therefore, after having reviewed numerous dock applications over the past few years, the Harbor Commission desires to update H-1 to provide clear guidance for specific areas of the harbor which will then ease the application burden on the applicants as well reducing the number of required Harbor Commission public hearings.

The proposed H-1 reflects updates which revert back to the area-by-area delineation that was previously seen in earlier versions of H-1. In other words, no new changes are proposed other than what was once in place. The subcommittee feels this is an important starting point for discussion and also feels the harbor community will embrace reverting back to the previous template. With that said, however, the proposed H-1 has been reorganized and the verbiage has been improved to increase clarity and minimize confusion to the extent possible.

To assist the public, the Harbor Commission, and plan-check staff, a "Mapbook" will be prepared to graphically depict the H-1 rules with aerial photos which will further provide clarity to H-1. A previous version of a Mapbook was proposed to the Harbor Commission in 2018 but it was deemed too cumbersome to be attached to H-1. Therefore, to remedy this, the Mapbook will be attached to the future Council staff report along with other accompanying documents so it will be part of the permanent record for research purposes but not part of the actual H-1 policy.

The subcommittee and staff are seeking Harbor Commission and community feedback on this draft version at tonight's meeting and in the weeks to follow. It is the subcommittee's goal to return to the Commission with a final version for approval at either the December or January meeting, if possible. Final review by the City Council would be anticipated in early 2023.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3)

Council Policy H-1: Review of Proposed Changes to Pier and Float Extensions Beyond the
Pierhead Line
November 9, 2022
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(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). The local dock construction companies and permitting consultants were also notified, and Swift Slip Dock and Pier Builders, Inc. preliminarily reviewed a draft version of the proposed changes.

#### **ATTACHMENTS**:

Attachment A - Council Policy H-1 – Proposed Redline Attachment B - Council Policy H-1 – Current Version

DRAFT 11/01/22 H-1

#### PIER AND FLOAT EXTENSIONS BEYOND THE PIERHEAD LINE

#### Background

Newport Beach Municipal Code (NBMC) Section 17.35.030(A) provides that piers and floats may not extend bayward beyond the pierhead line unless approved in compliance with Council policy. This Policy sets forth the specific criteria, as a limited exception to the general rule set forth in Section 17.35.030(A) of the NBMC, where a harbor development permit and/or approval in concept for a pier or float to extend beyond the pierhead line may be granted.

Section I of this Policy sets forth the <u>circumstances wherein the Public Works Director</u>, <u>Community Development Director and/or Harbormaster</u>, as applicable, may approve a <u>harbor development permit and/or approval in concept</u>, <u>pursuant to this Policy. Section II of this Policy sets forth the circumstances wherein the Harbor Commission</u>, and/or City Council upon appeal or call for review, may approve a pier or float to extend bayward beyond the pierhead line. <u>Section III of this Policy sets forth the General Provisions.</u> <u>Section II of this Policy sets forth the circumstances wherein the Public Works Director</u>, <u>Community Development Director and/or Harbormaster</u>, as applicable, may approve a harbor development permit and/or approval in concept, pursuant to this <u>Policy</u>.

#### I. Criteria for Staff Review, Approval and Findings as Required

This Policy allows exceptions to the distance that piers and floats may extend channelward in certain parts of the harbor. By default, piers and floats shall not extend beyond the pierhead line unless noted below. If ambiguity exists, then Harbor Commission approval is required. See Harbor Lines map (City Plan# H-5080-S) for U.S. Bulkhead and Pierhead Station locations.

- A. U.S. Bulkhead Station No. 109 to No. 110: Piers and floats may be permitted to extend 16 feet channelward of the U.S. Pierhead Line.
- B. Bay Island, U.S. Pierhead Station No. 563 (east of U.S. Bulkhead Station 163) to U.S. Pierhead Station No. 564 (west of U.S. Bulkhead Station No. 164): Piers and floats shall not be permitted.
- C. U.S. Bulkhead Station No. 119 to No. 120 and Station No. 120 to No. 221: Piers and floats may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
- <u>D. U.S. Bulkhead Station No. 122 to No. 125: Piers and floats may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.</u>

#### E. West Newport Channels:

1. Rialto and Rivo Alto: Piers and floats may be permitted to extend channelward a maximum distance of 30 feet from the City Bulkhead Line. Where the City Bulkhead Line along a property exceeds 30 feet, float lengths parallel to the City Bulkhead Line will be allowed a one-foot increase for each additional two feet of City Bulkhead Line along a property.

Example (1): 30 foot City Bulkhead Line allows a 20 foot float length with five-foot setbacks.

Example (2): 34 foot City Bulkhead Line allows a 22 foot float length with five-foot setbacks (20' plus 2' equals 22').

- 2. The channel lying westerly of Newport Boulevard and northerly of Newport Island (along the South Line of the 125' Channel Reservation as shown on Tract 1011 [aka City Bulkhead Line]): Piers and floats may be permitted to extend channelward a maximum distance of 30 feet from the City Bulkhead Line. Where the City Bulkhead Line along a property exceeds 30 feet, float lengths parallel to the City Bulkhead Line will be allowed a one-foot increase for each additional two feet of City Bulkhead Line along a property. (See above examples.)
- 3. Balboa Coves and Newport Marina Villas (Piers and floats along the North Line of the 125' Channel Reservation as shown on Tract 1011 [aka City Bulkhead Line]):
  - a) Community piers or commercial marinas: Maximum extension channelward shall be 30 feet from the City Bulkhead Line.
  - b) Individually owned piers and floats up to 20 feet in length, parallel to the City Bulkhead Line: Maximum extension channelward shall be 30 feet from the City Bulkhead Line.
  - c) Individually owned piers and floats over 20 feet in length, parallel to the City Bulkhead Line: The 30 foot maximum extension channelward from the City Bulkhead Line shall be reduced one foot for each additional two feet added to the 20 foot float length.

Example (3): 26 foot long float may extend a maximum of 27 feet (30' minus 3' equals 27') from the City Bulkhead Line.

- G. Lido Isle, U.S. Bulkhead Station No. 172 to No. 174: Piers and floats may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
  - 1. Via Lido Soud: Piers and floats shall not be permitted between the westerly line of Lot 457 and the easterly line of Lot 919, Tract 907, except for community association piers and floats which shall be subject to special permits approved by the Harbor Commission.
  - Via Lido Nord: Piers and floats shall not be permitted between the easterly line of Lot 849 and the westerly line of Lot 493, Tract 907, except for community association piers and floats which shall be subject to special permits approved by the Harbor Commission.
- H. U.S. Bulkhead Station No. 130 to No. 131: Piers and floats may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
- I. Upper Bay: Piers and floats may be permitted to extend to the Pierhead Line as shown on Harbor Lines Map (aka City Plan # H-5014-S) approved by City Council.
- J. Linda Isle: Piers and floats may be permitted to extend to the Pierhead Line as shown on Harbor Lines Map (aka City Plan # H-5029-S) approved by City Council.
- K. Harbor Island Bridge easterly to U.S. Bulkhead Station No. 141: Piers and floats shall not be permitted.
- L. Balboa Island: Revisions to existing piers and floats may be permitted providing they do not further restrict or impair the public's use of the bay or beach in the vicinity of the piers and floats.
  - 1. South Bay Front, U.S. Bulkhead Station No. 255 to No. 256: Piers and floats may be permitted to extend 16 feet channelward of the U.S. Pierhead Line.
  - South Bay Front, U.S. Bulkhead Station No. 256 to No. 259: Piers and floats may be permitted to extend 10 feet channelward of the U.S. Pierhead Line.
  - 3. North Bay Front, U.S. Bulkhead Station No. 151 easterly to the northerly prolongation of the easterly line of Garnet Avenue: Piers and floats may be permitted to extend 10 feet channelward of the U.S. Pierhead Line.
  - 4. North Bay Front, easterly from the northerly prolongation of the easterly

line of Garnet Avenue to the northerly prolongation of the easterly line of Coral Avenue: Piers and floats may be permitted to extend to the City Pierhead Line (as shown on "City Bulkhead & Pierhead Lines" map, aka City Plan # H-5270-S).

- 5. North Bay Front, easterly from the northerly prolongation of the easterly line of Coral Avenue to U.S. Bulkhead Station No. 152: Piers and floats may be permitted to extend 10 feet channelward of the U.S. Pierhead Line.
- East Bay Front, U.S. Bulkhead Station No. 152 southerly to the easterly prolongation of the northerly line of Park Avenue: Piers and floats may be permitted to extend 10 feet channelward of the U.S. Pierhead Line.
- 7. East Bay Front, southerly from the easterly prolongation of the northerly line of Park Avenue to U.S. Bulkhead Station No. 255: Piers and floats may be permitted to extend 16 feet channelward of the U.S. Pierhead Line.
- M. East Property Line of Beacon Bay Subdivision to U.S. Bulkhead Station No. 104: Piers and floats may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.

For those piers or floats in areas where the pierhead line does not exist or where the bayward extension of those structures is not clearly limited by the pierhead line or where ambiguity or anomalies exist or unless otherwise noted in Section II below, the Public Works Director, Community Development Director and/or Harbormaster, as applicable, may approve a pier and float reconstruction project if the:

- A. Existing pier or float is in substantial conformance with the existing City-issued permit;
- B. Reconstruction will utilize the same or less square footage;
- C. Reconstruction is in a substantially similar configuration as the existing pier or float; and the
- D. Pier or float complies with the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria, the California Building Code as set forth in Title 24 of the California Code of Regulations, and other applicable provisions of the NBMC.

<u>Projects that do not meet the above criteria for approval shall be reviewed in accordance with the applicable provisions of Title 17 (Harbor Code) of the NBMC.</u>

# II. Harbor Commission/City Council Review and Findings Required for Approval

Harbor Commission review and approval is required at the following locations or if ambiguity exists.

- A. U.S. Bulkhead Station No. 112 westerly to the northerly prolongation of the westerly line of Adams Street: Commercial piers and floats between "A" Street and Adams Street shall be approved by the Harbor Commission.
- B. U.S. Bulkhead Station No. 113 to No. 114: Piers and floats shall be approved by the Harbor Commission.
- C. The Rhine, extending northerly from U.S. Bulkhead Station No. 221 into the Rhine to U.S. Bulkhead Station No. 122: Piers and floats shall be approved by the Harbor Commission.
- D. U.S. Bulkhead Station No. 125 to No. 126: Piers and floats shall be approved by the Harbor Commission.
- E. U.S. Bulkhead Station No. 226 to No. 227 and Station No. 227 to No. 128: Piers and floats shall be approved by the Harbor Commission.
- F. Harbor Island: U.S. Bulkhead Station No. 140 easterly to Harbor Island Bridge: Piers and floats shall be approved by the Harbor Commission.
- G. Collins Isle: Except between U.S. Bulkhead Station No. 160 northerly to U.S. Bulkhead Station No. 250: Piers and floats shall be approved by the Harbor Commission.

## H. Balboa Island:

- 1. All new piers and floats shall be approved by the Harbor Commission.
- South Bay Front, from the westerly prolongation of the northerly line of Lot
   Block 1, Resubdivision of Section 1 of Balboa Island Tract to Collins Isle
   Bridge: Piers and floats shall be approved by the Harbor Commission.
- 3. North Bay Front, Collins Isle Bridge northeasterly to U.S. Bulkhead Station No. 151: Piers and floats shall be approved by the Harbor Commission.
- I. U.S. Bulkhead Station No. 137 to the East Property Line of Beacon Bay Subdivision:

<u>Piers and floats may be permitted to extend 16 feet channelward of the U.S. Pierhead Line but shall be approved by the Harbor Commission.</u>

J. U.S. Bulkhead Station No. 104 to No. 106: Piers and floats shall be approved by the Harbor Commission.

After holding a public hearing and considering a staff report and accompanying materials that include, but are not limited to, the application and materials supporting the staff recommendation, the Harbor Commission, or the City Council on appeal or call for review, may approve or conditionally approve a harbor development permit and/or approval in concept for a pier or float to extend bayward beyond the pierhead line upon considering the following findings and substantial benefits of the proposed project:making all of the following findings:

- A. The existing pier or float is currently encroaching bayward beyond the pierhead line;
- B. The existing pier or float was previously permitted to encroach bayward beyond the pierhead line or is in substantial conformance with the existing City-issued permit;
- C. The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment;
- D. Any vessel utilizing the pier or float will not extend bayward beyond the project line or the line established under the <u>previous</u> City-issued <u>pier or float</u> permit, whichever is <u>less</u>greater; and
- E. The pier or float will:
  - 1. Preserve the diverse uses in Newport Harbor and the waterfront that contribute to the charm and character of Newport Harbor;
  - 2. Maintain or enhance public access to Newport Harbor's waterways and waterfront areas;
  - 3. Preserve or enhance the visual character of Newport Harbor;
  - 4. Not negatively impact adjacent property owners, harbor views, navigation, and future harbor dredging; and
  - 5. Be aesthetically consistent and compatible with its surroundings.

# II. Criteria for Staff Review and Findings Required for Approval

For those piers or floats in areas where the pierhead line does not exist or where the bayward extension of those structures is not clearly limited by the pierhead line, the Public Works Director, Community Development Director and/or Harbormaster, as applicable, may approve a pier and float reconstruction project if the:

- A. Existing pier or float is in substantial conformance with the existing City-issued permit;
- B.A. Reconstruction will utilize the same or less square footage;
- C.A. Reconstruction is in a substantially similar configuration as the existing pier or float; and the
- D.A. Pier or float complies with the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria, the California Building Code as set forth in Title 24 of the California Code of Regulations, and other applicable provisions of the NBMC.

Projects that do not meet the above criteria for approval shall be reviewed in accordance with the applicable provisions of Title 17 (Harbor Code) of the NBMC.

## III. General Provisions

- A. Appeals and calls for review of decisions under this Policy shall be in accordance with Chapter 17.65 (Appeals or Calls for Review).
- B. Any approval granted under this Policy for piers and floats to encroach bayward beyond the pierhead line is separate from any and all other required permits and/or approvals.
- C. Any permit issued by the City of Newport Beach before June 26, 2019 that allows an existing pier or float to extend bayward beyond the pierhead line is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

#### History

Adopted H-1 - 6-1-1964

Amended H-1 - 10-19-1964

Amended H-1 - 10-26-1964

Amended H-1 - 4-27-65

Reaffirmed H-1 - 8-30-1966

Amended H-1 - 1-9-1967

Amended H-1 - 7-24-1967

Amended H-1 - 6-24-1968

Amended H-1 - 8-19-1968

Amended H-1 - 12-23-1968

Amended H-1 - 1-26-1970

Reaffirmed H-1 - 3-9-1970

Reaffirmed H-1 - 2-14-1972

Amended H-1 - 8-14-1972

Amended H-1 - 6-25-1973

Reaffirmed H-1 - 12-10-1973

Amended H-1 - 12-17-1973

Amended H-1 - 6-10-1974

Reaffirmed H-1 - 11-11-1974

Amended H-1 - 3-10-1975

Amended H-1 - 4-28-1975

Amended H-1 - 5-27-1975

Amended H-1 - 10-28-1975

Amended H-1 - 12-8-1975

Amended H-1 - 5-10-1976

Amended H-1 - 10-26-1976

Amended H-1 - 11-22-1976

Reaffirmed H-1 - 1-24-1977

Amended H-1 - 5-23-1977

Amended H-1 - 5-22-1978

Amended H-1 - 12-11-1978

Amended H-1 - 3-12-1979

Amended H-1 - 6-25-1979

Amended H-1 - 6-9-1980

Amended H-1 - 6-23-1980

Amended H-1 - 11-23-1981

Amended H-1 - 6-28-1982

Amended H-1 - 10-12-1982

Amended H-1 - 10-25-1982

Amended H-1 - 6-27-1983

Amended H-1 - 1-14-1985

Amended H-1 - 3-25-1985

Amended H-1 - 6-24-1985

Amended H-1 - 6-22-1987

Amended H-1 - 6-13-1988

Amended H-1 - 11-28-1988

Amended H-1 - 6-26-1989

Amended H-1 – 9-25-1989

Amended H-1 - 11-27-1989

Amended H-1 - 5-14-1990

Amended H-1 - 6-25-1990

Amended H-1 - 4-8-1991

Amended H-1 - 6-24-1991

Amended H-1 - 10-28-1991

Reaffirmed H-1 - 1-24-1994

Amended H-1 - 6-27-1994

Amended H-1 - 6-26-1995

Amended H-1 - 3-25-1996

Amended H-1 - 6-8, 1998

Amended H-1 - 12-14-1998

Amended H-1 - 5-8-2001

Amended H-1 - 9-10-2002

Amended H-1 - 10-28-2003

Amended H-1 - 4-13-2004

Amended H-1 - 1-8-2008

Amended H-1 - 5-22-2018

Amended H-1 - 6-25-2019

Amended H-1 - 11-5-2019

Amended H-1 - 9-14-2021

Amended H-1 - \_\_\_\_\_

## PIER AND FLOAT EXTENSIONS BEYOND THE PIERHEAD LINE

# Background

Newport Beach Municipal Code (NBMC) Section 17.35.030(A) provides that piers and floats may not extend bayward beyond the pierhead line unless approved in compliance with Council policy. This Policy sets forth the specific criteria, as a limited exception to the general rule set forth in Section 17.35.030(A) of the NBMC, where a harbor development permit and/or approval in concept for a pier or float to extend beyond the pierhead line may be granted.

Section I of this Policy sets forth the circumstances wherein the Harbor Commission, and/or City Council upon appeal or call for review, may approve a pier or float to extend bayward beyond the pierhead line. Section II of this Policy sets forth the circumstances wherein the Public Works Director, Community Development Director and/or Harbormaster, as applicable, may approve a harbor development permit and/or approval in concept, pursuant to this Policy.

# I. Harbor Commission/City Council Review and Findings Required for Approval

After holding a public hearing and considering a staff report and accompanying materials that include, but are not limited to, the application and materials supporting the staff recommendation, the Harbor Commission, or the City Council on appeal or call for review, may approve or conditionally approve a harbor development permit and/or approval in concept for a pier or float to extend bayward beyond the pierhead line upon making all of the following findings:

- A. The existing pier or float is currently encroaching bayward beyond the pierhead line;
- B. The existing pier or float was previously permitted to encroach bayward beyond the pierhead line or is in substantial conformance with the existing City-issued permit;
- C. The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment;
- D. Any vessel utilizing the pier or float will not extend bayward beyond the project line or the line established under the City-issued permit, whichever is less; and
- E. The pier or float will:
  - 1. Preserve the diverse uses in Newport Harbor and the waterfront that contribute to the charm and character of Newport Harbor;

- 2. Maintain or enhance public access to Newport Harbor's waterways and waterfront areas;
- 3. Preserve or enhance the visual character of Newport Harbor;
- 4. Not negatively impact adjacent property owners, harbor views, navigation and future harbor dredging; and
- 5. Be aesthetically consistent and compatible with its surroundings.

# II. Staff Review and Findings Required for Approval

For those piers or floats in areas where the pierhead line does not exist or where the bayward extension of those structures is not clearly limited by the pierhead line, the Public Works Director, Community Development Director and/or Harbormaster, as applicable, may approve a pier and float reconstruction project if the:

- A. Existing pier or float is in substantial conformance with the existing Cityissued permit;
- B. Reconstruction will utilize the same or less square footage;
- C. Reconstruction is in a substantially similar configuration as the existing pier or float; and the
- D. Pier or float complies with the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria, the California Building Code as set forth in Title 24 of the California Code of Regulations, and other applicable provisions of the NBMC.

Projects that do not meet the above criteria for approval shall be reviewed in accordance with the applicable provisions of Title 17 (Harbor Code) of the NBMC.

#### III. General Provisions

- A. Appeals and calls for review of decisions under this Policy shall be in accordance with Chapter 17.65 (Appeals or Calls for Review).
- B. Any approval granted under this Policy for piers and floats to encroach bayward beyond the pierhead line is separate from any and all other required permits and/or approvals.
- C. Any permit issued by the City of Newport Beach before June 26, 2019 that allows an existing pier or float to extend bayward beyond the pierhead line is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

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Amended H-1 - 1-26-1970

Reaffirmed H-1 - 3-9-1970

Reaffirmed H-1 - 2-14-1972

Amended H-1 - 8-14-1972

Amended H-1 - 6-25-1973

Reaffirmed H-1 - 12-10-1973

Amended H-1 - 12-17-1973

Amended H-1 - 6-10-1974

Reaffirmed H-1 - 11-11-1974

Amended H-1 - 3-10-1975

Amended H-1 - 4-28-1975

Amended H-1 - 5-27-1975

Amended H-1 - 10-28-1975

Amended H-1 - 12-8-1975

Amended H-1 - 5-10-1976

Amended H-1 - 10-26-1976

Amended H-1 - 11-22-1976

Reaffirmed H-1 - 1-24-1977

Amended H-1 - 5-23-1977

Amended H-1 - 5-22-1978

Amended H-1 - 12-11-1978

Amended H-1 - 3-12-1979

Amended H-1 - 6-25-1979

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Amended H-1 - 6-23-1980

Amended H-1 - 11-23-1981

Amended H-1 - 6-28-1982

Amended H-1 - 10-12-1982

Amended H-1 - 10-25-1982

Amended H-1 - 6-27-1983

Amended H-1 - 1-14-1985

Amended H-1 - 3-25-1985

Amended H-1 - 6-24-1985

Amended H-1 - 6-22-1987

Amended H-1 - 6-13-1988

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Amended H-1 - 06-8, 1998

Amended H-1 - 12-14-1998

Amended H-1 - 5-8-2001

Amended H-1 - 9-10-2002

Amended H-1 - 10-28-2003

Amended H-1 - 4-13-2004

Amended H-1 - 1-8-2008

Amended H-1 - 5-22-2018

Amended H-1 - 6-25-2019

Amended H-1 - 11-5-2019

Amended H-1 - 9-14-2021

November 9, 2022 Agenda Item No. <u>6.3</u>

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster, (949) 270-8158

pblank@newportbeachca.gov

**TITLE:** Recommendations Resulting from Commission Objective 2.3 to Improve

Navigation Safety, Allow for Additional Moorings Within the Fields and

Mooring Size Exchanges Requests

#### **ABSTRACT:**

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal which will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process and research. The Commission will be asked to approve recommendations related to optimizing utilization of the mooring fields and allowing mooring permittees to request a permit exchange to mooring of a different size. The recommendations are included in proposed draft ordinance amending City of Newport Municipal Code, Title 17 (attached).

## **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
- Review modify and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

# **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

November 9, 2022
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#### DISCUSSION:

On July 1, 2017, the City took over the management of the City's offshore and onshore mooring fields. The City manages over 1,200 moorings located within the Harbor and approximately 800 of those are offshore moorings in ten mooring fields. Over the next several years, the Harbor Department received a significant number of requests for mooring extensions and determined that neither the City's Municipal Code nor the Harbor Department had a process or method to grant a mooring extension request.

In accordance with the Harbor Commission's charge under Section 713 of the Newport Beach City Charter to advise the City Council on matters relating to the use, control, operation and regulation of Newport Harbor, a subcommittee of the Commission was convened and has worked on recommendations for improvements to the mooring field utilization and a process to accommodate requests from permittees to adjust the size of their permitted moorings.

On October 10, 2018, a subcommittee of the Harbor Commission (Beer and Drayton) was appointed to review the offshore mooring extension process. The subcommittee worked with the City's Harbor Department and Information Technology staff to determine the existing mooring configurations within each row and field. As the subcommittee soon discovered, there was no specific criteria or guidelines for establishing maximum lengths and vessel mixes within mooring fields or the rows of moorings within the fields. In addition, mooring fields are often odd shaped and conditions in each mooring field differ greatly.

When Commissioner Drayton finished his term on the Harbor Commission, Commissioner Beer took responsibility for doing a detailed analysis. His focus included ensuring safe navigation for all users of the harbor in and around the mooring fields, not just the mooring permittees. Other considerations include:

- Grouping vessels of similar size in the same row for the most efficient use of the limited space within each mooring field and potentially opening up space for improved navigation and additional moorings.
- Ensuring the fairways between the rows provide for safe navigation even in adverse conditions
- The narrow fairways between rows are particularly challenging to navigate at lower tide levels
- The fairways between rows are considered navigable water for all mariners, not just the mooring permittees.

Commissioner Beer's objective in optimizing field and row layouts is threefold: 1) to ensure the fields are safe and have adequate maneuverability for all mariners, not just the mooring permittees; 2) to maximize the use of space within the mooring fields in the most effective manner possible and 3) provide staff and the community with guidance for mooring size exchange requests. While the City Council amended Title 17 in 2020 to provide for mooring extensions, the issues of optimizing the mooring fields and their usage remained to be addressed.

Commissioner Beer met with the Newport Mooring Association (NMA) to discuss the objectives stated above and took the NMA's comments into consideration. Those comments included the NMA's position that reducing the width of an existing row resulting in the reduction of boat size to a mooring permittee (even only upon future transfer) would be met with concern; and that the existing list (at that time) of mooring permittees seeking a five-foot extension should have a way of being accommodated. Commissioner Beer considered the NMA comments in addition to those

Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

November 9, 2022
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of other stakeholders, including several mooring permittees, and subsequently developed a general methodology that was based in part by the Newport Harbor Design Standards, to establish the maximum size vessels within each row of each mooring field. The maximum lengths were calculated allowing for approximately 1.5 boat lengths as the primary fairway width for navigation and maneuverability: and approximately 50 feet on center for widths between moorings in the same row. Once those distances were determined, the subcommittee then reviewed those lengths with conditions in the fields and revised the methodology to suit field conditions.

At the October 12 Harbor Commission meeting, further input from the NMA, mooring permittees, other harbor stakeholders, and Commissioners was heard and received. Commissioner Beer extended an additional invitation to the leadership of the NMA to meet and receive their feedback and guidance. That meeting took place at the Harbor Department office on Thursday, October 20 and resulted in action items for the NMA and Commissioner Beer.

Having considered input and feedback from a significant number of stakeholders, Commissioner Beer has prepared policy recommendations on Mooring Row Alignments and the Mooring Size Exchange Process. The purpose of the policy is to provide operational guidelines to support amendments to Title 17. Implementation of the proposed recommendations would require a City ordinance and amending Title 17. A draft proposal for the ordinance along with strikeout versions showing the proposed amendments to Title 17 are attached. Commissioner Beer now seeks approval of the recommendations by the full Harbor Commission. When approved by the Harbor Commission, the Ordinance and code revisions will be forwarded to the City Council with a request to review and adopt.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to 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, Division 6, 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).

#### **ATTACHMENTS:**

Attachment A – Proposal for Mooring Field Reorganization 11.2.22

Attachment B –17.25.020 strikeout 11.1.22

Attachment C –17.60.040 strikeout 11.1.22

Attachment D – Feedback Received through 11.2.22

# Outline of Proposed Reconfiguration of Moorings; and Requests for Relocation (formerly mooring extensions)

- 1: The City of Newport Beach shall reconfigure the mooring fields to double row systems where applicable. If a helical type of anchor is used, the City shall provide the helical anchor. If a weighted anchor is used, the City will utilize the existing mooring anchor weights, where practicable, and provide additional weight per the new engineered specifications, if necessary. Double mooring rows may consist of one shared anchor or two separate anchors as determined by the City. All existing hardware and materials will be used for the new mooring systems when possible. Any additional anchor weights, chain, lines, conservation buoys or other hardware per new engineered specifications, as necessary, shall be provided at City's expense.
- **2:** Mooring permittees shall bear the responsibility to maintain, repair, and replace all components of the new anchor mooring system, e.g. all weighted anchors, chains, shackles, weights, lines and buoys. The City shall bear the responsibility to maintain, repair, and replace the helical anchors, if installed.
- **3:** Moorings will still be substantially the same configuration with either two mooring buoys and a spreader line to prevent mooring buoys from drifting into the fairways, or alternatively, mooring permittees may request to have their mooring equipped with a single mooring buoy and a sand line to retrieve the opposing anchor line (like what is used in Catalina).
- 4: Requests for mooring extensions shall no longer be considered. Instead, requests for a longer or extended mooring will require relocating to a larger mooring. The mooring permittee making the request shall pay a fee for the relocation request and shall bear all costs of relocating their vessel and the displaced vessel. Relocations will require payment of a fee and be contingent upon availability of a vacant mooring or another permittee in the same mooring field (or also an adjacent field in the case of moorings in the H and J fields) having a vessel in a mooring row that is designated for a length of at least 5-feet greater. In no event will relocations be considered for mooring lengths in excess of 5' of the current mooring length for the permittee making such request. Authority to approve relocation requests shall lie with the Harbormaster.
- 5: For the approximately 10 requests for mooring extensions of up to 5 feet that the City received prior to June 1, 2022, the additional length shall be taken into account when making the new mooring assignments and such requests shall be located in new moorings that will accommodate the requested increase in length up to 5-feet, if adequate spacing exists. In the event this reconfiguration proposal is approved by the City, those permittees will be allowed to extend their mooring lengths by up to 5-feet if in the discretion of the Harbormaster such increase in the mooring will not adversely affect navigation, safety or impede either adjacent fairway.

- **6:** Mooring permittees that are assigned to moorings larger than their existing mooring or their currently permitted vessel shall not be subject to increased mooring fees unless they moor a larger vessel.
- 7: Existing mooring permits shall remain valid and transferable in accordance with the existing provisions of Title 17 but shall be amended to reflect any changes in mooring location assignments or length restriction. Mooring permits issued after the adoption of the ordinance implementing these mooring proposals shall not be transferable.
- **8:** Specifications for mooring equipment will be determined and adopted by the Harbor Commission instead of City Council, as is currently required.

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## 17.25.020 Anchorage, Berthing and Mooring Regulations.

- A. Location. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within designated areas. Any vessel which is berthed, moored or anchored at a place not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space. No vessels shall be moored or anchored in any part of any turning basin or channel unless secured both fore and aft except as provided in subsection (H) of this section. Every vessel moored or anchored in any part of the harbor outside of any turning basin or channel shall be so moored or anchored as to prevent such vessel from swinging or drifting into any turning basin or channel.
  - 1. No person owning, leasing, occupying or having charge or possession of any vessel shall:
    - a. Berth or anchor the same in Newport Harbor except within the designated areas; or
    - b. Anchor a vessel in any of Newport Harbor's designated public anchorage areas or at any location on the open waters of the Pacific Ocean within five hundred (500) yards of a designated protected swimming area for a cumulative period of time that exceeds seventy-two (72) hours within any thirty (30) calendar day period. The Harbormaster may authorize, in writing, an extension to the seventy-two (72) hour time limit if the Harbormaster determines that given the particular circumstances an extension of time is reasonable and warranted.
  - 2. Any vessel which is berthed, moored or anchored at a place in Newport Harbor not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas in Newport Harbor, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space.
- B. Application of Chapter. The terms of this chapter, as they relate to moorings and buoys, shall apply to "on-shore moorings" which are moorings located landward of the pierhead line and to "offshore moorings" which are located bayward of the pierhead line, with equal force and effect.

## C. Berthing.

- 1. Boats berthed at private or public piers shall not extend beyond the prolongation of the side property lines of the property or properties to which the pier is connected in accordance with Section 17.35.020.
- 2. Any boat berthed at a pier or slip shall not extend bayward beyond the end of the pier or slip by a distance of more than the maximum width of its beam. Between Bulkhead Station 256, beginning at Collins Avenue to Bulkhead Station 255, boats moored at a pier or slip shall not extend more than fifteen (15) feet bayward beyond the end of the pier or slip or more than the width of the beam of the boat, whichever is less.

- D. Permit Required. No person shall place, erect, construct or maintain a pier mooring or buoy in the waters of Newport Harbor over City-owned or controlled tidelands without first having obtained a permit pursuant to this title.
- E. Unauthorized Use of Mooring. No person shall use a mooring unless he or she holds a current and valid permit except with the permission of the Harbormaster for temporary use, as herein provided.
- F. Mooring System Chains and Fastenings. Offshore moorings in the City's mooring fields may, at the direction of the City, consist of one anchor weight for every two vessels or two separate anchor weights for each vessel. Mooring permittees shall be responsible for maintaining, repairing, and replacing all anchor system components, including but not limited to, all chains, shackles, weights, lines, buoys, and all other gear and equipment used in securing their vessels to the mooring. The City shall be responsible for maintenance, repair, and replacement at its cost of any helical anchor installed for use as a shared anchor mooring system.
  - 1. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring.
  - 2. All mooring lines on buoys, except for a Spreader Line as described below, shall be so arranged that, when dropped, they will immediately sink. With a double mooring, however, it shall be permissible to connect two mooring lines with a spreader line having floats attached thereto to keep such line afloat when the mooring is unoccupied. All double or two-point moorings that are equipped with two mooring buoys for mooring to both bow and stern are at all times required to have (i) a vessel properly tied to both mooring buoys, or (ii) a single 3/4" polypropylene line secured and connected to both the bow and stern buoys (the "Spreader Line"). The Spreader Line shall be no longer than the length of the mooring plus five feet and equipped with 9" long two-color buoys affixed in-place to the line and no less than ten feet apart, and (iii) two lines that are appropriately sized and specified for attachment to each mooring buoy that will be secured one each to the port and starboard cleats at each the bow and stern at all times the vessel is occupying the mooring space, and (iv) maintained the Spreader Line keeping it clean from algae and other marine growth to ensure it remains easily visible.
  - 3. Sand Line Moorings. With the approval of the Harbormaster, mooring permittees may use a single buoy system for a two-point mooring by use of a Sand Line. A "Sand Line" is a line from one anchor line to the opposing anchor line and shall be properly weighted to immediately sink when dropped. The mooring permittee must submit a Mooring Modification Request to the Harbormaster and shall include details of the modification (including diagrams, if requested), The Harbormaster may approve the request based upon his or her determination that the modification will not result in any safety or navigational concerns.
- G. Buoy Markings. Mooring buoys shall be painted with the number allocated thereto by the Harbormaster to the mooring, the numeral(s) of which shall be at least three inches in height.
- H. Mooring, Anchoring and Vessel Condition Requirements.

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#### STRIKEOUT VERSION

- 1. Mooring Anchoring and Mooring. All vessels anchored on the open waters of the Pacific Ocean shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area. All vessels using moorings in Newport Harbor shall be firmly anchored to a mooring from bow and stern in such a manner as to prevent the vessel from swinging, turning or excessive drifting, except in areas designated by the Harbormaster as single mooring areas. Vessels in single mooring areas shall be tied from the bow. A vessel's LOA shall not exceed the designated length of its mooring row. At no time may any portion of the vessel or object attached to the vessel extend into the fairway. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area.
- 2. Vessel Condition. Safety, Seaworthiness and Operability. Vessels assigned to a mooring by permit must be maintained in a safe, seaworthy and operable condition. If, based upon the appearance of the vessel, inspection by the City or other facts, the Harbormaster has cause to believe a vessel is not safe, seaworthy and operable, the Harbormaster shall give written notice to the permittee, in accordance with the service requirements of Section 1.05.030, requesting a demonstration that the vessel is safe, seaworthy and operable. The permittee shall, upon written notice specifying the date and time, demonstrate to the Harbormaster that the vessel assigned to the mooring is safe, seaworthy or operable. In the event that the Harbormaster determines that vessel is not safe, seaworthy or operable, the permittee shall:
  - a. Commence repairs within thirty (30) calendar days upon service of the written notice of such determination and complete repairs within ninety (90) calendar days of the commencement unless the Harbormaster, upon written request from the permittee specifying the reasons therefor, approves an extension of time to complete the repairs; or
  - b. Remove the vessel within thirty (30) calendar days of service of the written notice of such determination and request assignment of a different vessel that is safe, seaworthy and operable to the mooring within sixty (60) calendar days after the removal of the vessel. This section is not intended to apply to any brief period of repair common to most vessels. The Harbormaster may repeat his or her request to test operability and seaworthiness as needed.
- 3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:
  - a. Promotion of a fire hazard, including, but not limited to, improper open fuel storage, deficiencies in the vessel's fuel storage tanks, inoperable electrical systems, storage of combustible or other flammable material that constitutes a fire hazard to any vessel:
  - b. Retention of water that becomes stagnant, unsanitary, or polluted;

- c. Accumulation or storage of rubbish, trash, debris, rubble, containers, or boxes that are visible aboard the vessel or stored inside the vessel in such a way as to make the vessel inoperable for its intended use;
- d. Storage or securing a vessel in such a way that it impedes pedestrian travel on City beaches and tidelands;
- e. Contribution to hazards to public safety or health, such as, but not limited to: propagation of vermin, rats, insects, or unsanitary conditions from the accumulation of fecal materials:
- f. Maintenance in such nonseaworthy condition that the vessel is unsafe, unsightly or poorly maintained, including, but not limited to: broken windows, unsecured doors or hatches, excessive marine growth attached to the vessel, being inoperable for the vessel's intended use, partially destroyed or partially repaired for more than three continuous months, providing access to marine mammals, actively seeping hazardous or toxic material into the surrounding waters, or would present a physical danger to public safety personnel during emergency access;
- g. Operation of its mechanical or electrical systems creates excessive noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health or safety;
- h. Violation of the terms and conditions of other use or rental permits as granted by the City;
- i. Allowance of repetitive, boisterous or unruly conduct by the vessel operator or occupants when that conduct:
  - i. Is offensive to a person of ordinary sensibility, and
  - ii. Continues after a written or oral request to terminate the conduct, or
  - iii. Is offensive to a considerable number of people;
- j. Anchorage in an area controlled by the City without adequate anchor(s) rope or chain appropriate for the wind and sea conditions encountered in Newport Bay;
- k. Inability of a vessel on a shore mooring to be self-righting on an incoming tide without flooding the vessel;
- I. Attachment to a mooring in such a way that the vessel regularly drifts or impedes safe navigation in Newport Bay; or
- m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay.

Violation of this subsection (H) is hereby declared to be a public nuisance. In the event that the City determines that a vessel is a public nuisance, the City may commence public nuisance abatement as provided in this title.

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- 4. If, based upon the appearance of the vessel, inspection by the City or Harbormaster or other facts, the Harbormaster determines that a sea lion has boarded a moored vessel, the Harbormaster shall issue and serve a notice of violation in accordance with Section 1.05.030 and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within seven calendar days of the notice of violation. If the Harbormaster determines that appropriate deterrent measures have not been taken within seven calendar days of the notice of violation, the Harbormaster may issue an administrative citation or take any other enforcement action authorized by this Code. In the event the Harbormaster issues an administrative citation, the permittee shall:
  - a. Take any and all necessary action to employ and maintain appropriate sea lion deterrent measures; or
  - b. Remove the vessel from Newport Harbor.
- "Appropriate deterrent measures" shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of vessels assigned to a mooring. If the City is unable to reach the permittee within the seven calendar days, the Harbormaster may install temporary deterrent measures as needed and recover the City's cost of compliance.
- I. Maintenance. All moorings shall be kept in good and serviceable condition in the location assigned by the Harbormaster.
- J. Specifications. Specifications for the size of chains required on moorings, and weights of moorings, and all other mooring equipment shall be as adopted by resolution of the City—CouncilHarbor Commission. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring. All mooring lines on buoys shall be so arranged that, when dropped, they will immediately sink. With a double mooring, however, it shall be permissible to connect two mooring lines with a spreader line having floats attached thereto to keep such line afloat when the mooring is unoccupied.
- K. Inspection of Moorings. Each mooring shall be lifted by the owner for inspection by the Harbormaster at least once every two years and shall be repaired, as necessary, so as to be in good condition before being replaced; provided, that the Harbormaster may require any mooring to be lifted at any time when deemed necessary to assure it is in good condition. If the permittee has such lifting performed by a marine contractor, then the Harbormaster may authorize such contractor to inspect the mooring on behalf of the Harbormaster and certify the results to the Harbormaster in writing. The permittee shall pay the costs of any inspection performed by a contractor on behalf of the Harbormaster.
- L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.
- M. Administration. The Harbormaster shall administer all provisions in this section.

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## 17.60.040 Mooring Permits.

A. Permit Required. No person shall place, erect, construct, maintain, use or tie to a mooring in the waters of Newport Harbor over City-owned or controlled tidelands (i.e., an offshore mooring) or in the nearshore perimeter of Newport Harbor perpendicular to the shoreline (i.e., an onshore mooring) without first having obtained a mooring permit from the Harbormaster or having otherwise complied with this section. A mooring permit is in the nature of license for the temporary use of a specific location within Newport Harbor.

B. Issuance of Permit—Conditions. The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit or mooring sub-permit to allow the mooring permittee or mooring sub-permittee to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel if the Harbormaster makes the findings set forth in Section 17.05.140(D)(1). A mooring permittee may hold up to two mooring permits at any time. A mooring permittee that held or continues to hold more than two mooring permits prior to May 11, 2017, may continue to hold the mooring permits until the permits are sold, revoked, or otherwise transferred under this chapter. Mooring permits shall be issued according to a lottery, followed by a waiting list. Vessels that are shorter than the length of their designated mooring rows by five feet or are subject to relocation to a mooring that is appropriate for the vessel's length within the same mooring field, or in the case of moorings within the H and J fields to an adjacent mooring field.

# 1. Exceptions.

- The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, as noted in subsection (B)(3)(h) of this section. In addition, the Lido Isle Community Association ("LICA") has permits for onshore moorings on Lido Isle. These organizations shall hold their respective permits under the yacht club, or respective organization name, for the moorings identified by the City as under their respective control at the time of enactment of the ordinance codified in this section. The yacht clubs and LICA shall be solely responsible for managing moorings under their control and shall be permitted to assign moorings under their control to yacht club members and members of LICA, respectively. The yacht clubs and LICA shall keep accurate records of the name and address of the club members and community association members to which each mooring has been assigned and the corresponding length of each vessel. The yacht clubs and LICA may not sell or otherwise transfer the moorings under their control to a third party that is not a member of the yacht club or LICA. Mooring records and 24/7 emergency contact information shall be provided annually to the Harbormaster by the yacht clubs and LICA on or before February 1st.
- b. Mooring of a Tender. A single vessel no longer than fourteen (14) feet in overall length to serve as access to and from the assigned vessel may be secured to the assigned vessel or may be secured to the offshore mooring in the absence of the assigned vessel. The vessel must be secured in such a manner so as not to intrude into the fairway or obstruct neighboring permittees. Notwithstanding the single vessel restriction, permitted live-aboards may secure up to two vessels no longer than fourteen (14) feet in overall length to the assigned vessel, to serve as access to and from the assigned live-aboard vessel.
- c. Multiple Vessel Mooring System Program. The Harbormaster may approve a multiple vessel mooring system in the single anchor mooring areas of Newport Harbor.

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An application and applicable fee, established by resolution of the City Council, for a multiple vessel mooring system shall be submitted in writing to the Harbormaster, who shall evaluate the application based upon standards established and the application shall be approved if the Harbormaster makes the findings under the applicable standards and those set forth in Section 17.05.140(D)(1).

- 2. Permit Requirements. Each mooring permit may be issued for up to two persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. To the satisfaction of the Harbormaster, the mooring permittee(s) shall: Mooring permittee(s) shall fully comply with the following conditions and requirements of the mooring permit:
  - a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current email address(es), if one exists, of the mooring permittee(s);
  - b. Agree to be responsible for permit rent, fees, maintenance and repair of mooring equipment;
  - c. The permit for joint ownership moorings shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the mooring permit;
  - d. Grant permission to the City to temporarily assign the mooring to another vessel when it is unoccupied through the issuance of a mooring sub-permit;
  - e. Agree to defend and indemnify the City and any other government entity with jurisdiction against any claims or losses arising out of, or related to the use of, the mooring permit except where the claim or loss arises from the sub-permittee's damage of the mooring, or out of the negligence and/or misconduct of a person assigned the mooring as a mooring sub-permittee under subsections (G) and/or (H) of this section;
  - f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;
  - g. Provide registration or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster;
  - h. Agree to pay fair market value rent, as established by resolution of the City Council, on a rent schedule established by the Harbormaster, which shall be similar to the schedule used to collect rent from other tidelands users in Newport Harbor;
  - i. Agree that the mooring permit does not provide any ownership interest in the underlying tidelands, which are held in trust by the City and owned by the people of the State of California;
  - j. Authorize the City, or its designee, to move the vessel on the mooring to another location at the permittee's expense when deemed necessary by the Public Works Director and/or Harbormaster, including but not limited to increasing and improving safety or the utilization and organization of the mooring fields; and
  - k. Agree to allow the Harbormaster, or his designee, to board the permittee's vessel at any time to inspect the condition and operability of the marine sanitation device(s)

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and/or insert dye tablets to determine whether said devices are discharging overboard in accordance with applicable laws.

- 3. Permittee/Transferee Qualifications. A mooring permit may be held only by a natural person(s) holding title to an assigned vessel. A mooring permit Mooring permits that were issued before <<date of adoption of ordinance>> may be held by, or transferred to, only the following persons:
  - a. A natural person(s) holding title to an assigned vessel;
  - b. An executor or administrator carrying out the terms of a will or administering a probated estate that holds a mooring permit, but only for the period of time prior to distribution of the estate:
  - c. An inter vivos trust, family trust, or other similar type of trust estate holding a mooring permit, so long as all trustors are natural persons and the primary mooring permittee shall be the trustee of the trust;
  - d. An approved transferee whose vessel and/or mooring permit are subject to any of the terms and conditions stated in subsection (E) of this section; "Immediate family," which shall mean the mooring permittee's spouse and heirs at law to the second degree of consanguinity;
  - e. A marine contractor, or marine support service provider, holding a mooring permit used to provide current or ongoing harbor infrastructure and marine or fishing services (such as maintenance or dredging);
  - f. Balboa Island Yacht Club for the purposes of youth education in boating and marine activities; Kerckhoff Marine Laboratories for the purpose of marine and oceanographic research; and American Legion Post 291 for the purpose of serving veterans and their families and supplying them with affordable access to boating and harbor activities; or similar marine educational entities; or
  - g. The Balboa Yacht Club, Newport Harbor Yacht Club (collectively "yacht clubs") and the Lido Isle Community Association—only for those moorings assigned by the City within certain established mooring areas or locations, prior to January 13, 2011. These designated mooring areas may not be expanded. The boundaries of all mooring areas in Newport Harbor are graphically depicted by National Oceanographic and Atmospheric Administration (NOAA) Chart Number 18754. Yacht clubs shall be entitled to a maximum number of moorings identified in NOAA Chart Number 18754 that are located within the yacht club's established mooring fields and at a minimum the current number of moorings assigned to them as of January 13, 2011.
- C. Plans and Specifications Required. No mooring permit shall be issued for placing, erecting, constructing or maintaining a mooring or buoy unless such mooring or buoy is constructed:
  - 1. In accordance with standard plans and specifications approved by the Harbormaster and at a location approved by the Harbormaster; or
  - 2. In accordance with other plans and specifications for such mooring or buoy which have been submitted by the applicant, showing the construction of such proposed mooring

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or buoy together with the location thereof, and which meet the requirements established in this chapter and which have been approved by the Harbormaster.

- D. Late Fees. A late charge shall be added to all payments due but not received by the City by the due date in accordance with Section 17.05.120.
- E. Transfer of Permit. Mooring permits are non-transferable. The sole exception are those mooring permits that were issued before <<date of adoption of ordinance>> which may be transferred only to the persons specified in subsection (B)(3) of this section. No mooring permittee shall transfer a permit for a mooring or buoy granted under the provisions of this chapter, except:
- 1. When transferred from a natural person to another member of his or her immediate family, which shall be defined for the purposes of this section as the mooring permittee's spouse and heirs at law to the second degree of consanguinity; or\_
- 2. Except when transferred to immediate family, a mooring permit may only be transferred under this subsection up to one time once in any twelve (12) month period.
- F. Procedures for Transfers. Permits shall not be transferred without the prior written approval of the Harbormaster. The Harbormaster may approve the transfer of a mooring permit under the procedures set out below:
  - 1. The mooring permittee(s) (or, if the permittee is deceased or incapacitated, the transferee) shall submit to the Harbormaster:
    - a. A completed mooring transfer form (on the form provided by the Harbormaster); and
    - b. Documentation that the proposed new mooring permittee (transferee) qualifies as a mooring permittee under subsection (B)(3) of this section.
  - 2. If transferee intends to purchase an assigned vessel but does not have title on the assigned vessel owned by the mooring permittee and transferor at the time of transfer, then:
    - a. Within sixty (60) days of a transfer, transferee shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the assigned vessel or, in the case of an onshore mooring, a photograph of the assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or
    - b. If such documentation is not received by the Harbormaster within the sixty (60) day period, then the vessel or the mooring may be impounded, and the mooring may be deemed vacant and assigned pursuant to subsections (G) and (H) of this section.
  - 3. If transferee intends to moor a vessel other than the assigned vessel and does not have title to the vessel that will be moored at the time of transfer, then:
    - a. Within sixty (60) days of an approved transfer, the transferee shall notify the Harbormaster that the assigned vessel has been removed from the mooring and before a new vessel may be placed on the mooring shall submit to the Harbormaster a copy of

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a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the new assigned vessel, or in the case of an onshore mooring, a photograph of the new assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or

- b. If the documentation is not received within sixty (60) days of a transfer, the mooring may be deemed vacant by the Harbormaster and the mooring may be assigned pursuant to subsections (G) and (H) of this section. The mooring may remain vacant until such time the permittee notifies the Harbormaster of their intent to assign their vessel to the mooring.
- 4. The transfer request shall be denied unless mooring permit rent, including late payment fees, is paid current; required mooring inspections are current; registration or documentation and insurance are provided; required maintenance and repairs are complete and there are no derelict or unauthorized vessel(s) on the mooring; and the vessel is of appropriate length with the appropriate weights and chains.
- 5. The mooring permittee and transferee shall provide a written agreement to defend and indemnify the City of Newport Beach in any dispute with a third party over transferee's right to be the mooring permittee or in any dispute with a third party over the mooring permittee's right to transfer the permit.
- 6. Transfer Approval. Upon confirmation of compliance with this subsection, the Harbormaster must find all of the following conditions to approve the transfer of a mooring permit:
  - a. The mooring permittee no longer owns the assigned vessel or has retained ownership of the assigned vessel and has permanently vacated the mooring;
  - b. The transferee has met all the qualifications and conditions for issuance of a permit in subsection (B) of this section;
  - c. The transferor or transferee has reported to the Harbormaster the price paid for the mooring permit, and has paid to the City the required transfer fee; and
  - d. The transferor represents that the person did not discriminate against any transferee or prospective transferee because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.
- 7. The Harbormaster may approve a one-for-one exchange of moorings between two mooring permittees, subject to compliance with this subsection without any transfer fee imposed by the City.
- 8. The Harbormaster may approve the changing of an assigned vessel on the permit, subject to the requirements of subsection (B) of this section, without any transfer fee imposed by the City.
- 9. Following an approved transfer, the Harbormaster shall list the transfer price of the mooring permit on a publicly available website hosted by the City, or on a third party's website under contract with the City to host information regarding mooring permit transfers.

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G. City's Authority to Assign Moorings through Use of Sub-Permits. With the exception of the Balboa Yacht Club, the Newport Harbor Yacht Club, and the Lido Isle Community Association's designated moorings, mooring permittee may not rent, assign, or transfer the use of the mooring to any other person. With the exception of moorings issued to mooring permittees described in subsection (B)(3)(g) of this section, the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:

1. Deemed Vacant Moorings. The Harbormaster may assign deemed vacant moorings through the issuance of sub-permits at his or her own discretion. Sub-permits may be renewed upon availability. The mooring permittee may reclaim its mooring upon three days' prior written notice to the Harbormaster of its intent to return the assigned vessel to the mooring.

A "deemed vacant mooring" shall be defined as a mooring upon which:

- a. An assigned vessel has not been attached for thirty (30) consecutive days or more; or
- b. A vessel, other than an assigned vessel or approved sub-permittee vessel approved in accordance with subsection (H) of this section, has been attached for thirty (30) days or more; or
- c. Required documentation for an assigned vessel has not been provided for a transfer request pursuant to subsection (F) of this section.
- 2. Noticed Vacant Moorings. The Harbormaster may assign noticed vacant moorings through the issuance of a mooring sub-permit for any period of time, up to the reoccupation date on the mooring permittee's written notice, or the twenty-four (24) hour written notice per subsection (G)(2)(b) of this section. If the mooring continues to be vacant for thirty (30) days past the reoccupation date indicated on mooring permittee's notice, and there is no further written notice from mooring permittee, the mooring shall become a deemed vacant mooring.
  - a. Mooring permittee may provide written notice to the Harbormaster of its intent to vacate its mooring for fifteen (15) days or more. These moorings shall be "noticed vacant moorings." Written notice shall include the date the mooring permittee intends to vacate his/her mooring, and the date he/she intends to reoccupy the mooring with the assigned vessel.
  - b. If a mooring permittee provides written notice, the mooring permittee may reclaim the assigned mooring on the reoccupation date indicated in his/her written notice or, if the mooring permittee returns prior to or after the reoccupation date, upon twenty-four (24) hours' written notice to the Harbormaster.
- H. Procedures for Mooring Sub-Permit Issuance. Issuance of a mooring sub-permit shall be subject to the following conditions:
  - 1. Provision of a written representation of the mooring sub-permittee's vessel length which shall be satisfactory to the Harbormaster;
  - 2. The mooring sub-permittee agrees to be responsible for any damage to mooring equipment; to defend and indemnify the City of Newport Beach and the mooring permittee against any claims or losses arising out of, or related to, the mooring rental; to provide proof

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of insurance as may be determined by the City's Risk Manager; to provide registration or other proof of ownership; to provide an equipment damage deposit, all to the satisfaction of the Harbormaster; and authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster:

- 3. The repair of any damage to the mooring equipment shall be paid by the mooring subpermittee. If the mooring is damaged by a vessel assigned by the City, or the City's agent, the City shall arrange for the repair of the mooring with a qualified vendor and provide notice to the permittee of the occurrence and the arranged repair date. Should the subpermittee fail to pay for the damage for any reason, the City will pay for the required repairs to the mooring, and then seek reimbursement from the sub-permittee. Also, the City shall make available a mooring without charge for the returning vessel of the mooring permittee until such time as their permitted mooring is repaired;
- 4. The mooring sub-permittee shall provide approved mooring lines which shall be removed at the end of the rental period;
- 5. A mooring sub-permit may be up to fifteen (15) days and may terminate at any time for any reason, and may be renewed based on availability. Upon return of the assigned vessel to the mooring, the Harbormaster will attempt to reassign the sub-permittee to another mooring. Mooring sub-permittees have no right of renewal or substitute moorings upon return of the assigned vessel, or upon termination of a mooring sub-permit for any reason. Mooring sub-permittees accept an indefinite term at their own risk. The decision by the Harbormaster to terminate a sub-permit shall be final and nonappealable;
- 6. The mooring sub-permit rent will be based on a rate established by resolution of the City Council; and
- 7. Mooring sub-permits are offered to the public on a first-come, first-served basis. City owned and operated moorings may be reserved in advance.
- I. Mooring Permit Transfer Nonrefundable Fee. The City shall charge the mooring permittee for the right to transfer a mooring permit under subsection (E) of this section in an amount equal to seventy-five (75) percent of the annual mooring rent as established by City Council resolution. This transfer fee represents a one-time nonrefundable transfer fee for the use of a mooring. A mooring permit transfer fee shall not be required if:
  - 1. The transfer is from the mooring permittee to the same mooring permittee as trustor of an inter vivos trust, living trust or other similar estate planning tool;
  - 2. The transfer is made under subsections (F)(7) and (8) of this section; or
  - 3. The transfer is made <u>pursuant to under</u> subsection  $\frac{(E)(1) \cdot (B)(3)(d)}{(immediate family)}$ .
- J. Surrendered Mooring Equipment. If the mooring permittee sells, transfers, or otherwise no longer owns the assigned vessel and does not intend to apply for, or does not receive, approval to transfer the permit to another, the permittee may provide written notice to the Harbormaster of his or her intent to surrender the mooring permit; otherwise the provisions of subsection (G) of this section regarding a vacant mooring shall apply.

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Once a mooring permit is surrendered, the mooring permittee shall remove the assigned vessel and/or the mooring equipment thirty (30) days after written notice of surrender of the permit, or, upon failure to remove the mooring equipment, title shall vest in the City and the City shall compensate the mooring permittee the fair value for the mooring equipment, less rent or fees owed, as provided in subsection (L) of this section.

- K. Revocation of Permit.
  - 1. The grounds and procedure for revocation of a mooring permit are set forth in Section 17.70.020.
  - 2. Upon revocation of the mooring permit, it shall be the duty of the mooring permittee to immediately remove the mooring equipment and any moored vessel. If not removed within thirty (30) days of revocation of the permit, the mooring equipment shall vest in the City and may be auctioned by the City to another person or may be removed by the Harbormaster and the cost of mooring equipment removal shall be paid by the mooring permittee. Any moored vessel or equipment not removed within thirty (30) days may be impounded by the City and disposed of in the manner provided by law. City-incurred costs of removal of mooring equipment or any vessel moored thereto may be charged against the permittee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel or mooring equipment.
  - 3. During any revocation proceeding, if the mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbormaster.
- L. Moorings Reverting Back to City. Should a mooring revert back to the City for any reason, whether through abandonment, surrender, failure to provide documents pursuant to subsection (F) of this section, or for any other reason other than as set forth in subsection (K) of this section, the following shall apply:
  - 1. The mooring permittee shall be entitled to recover all of the mooring permittee's mooring equipment within thirty (30) days of reversion;
  - 2. If the mooring permittee does not recover his or her mooring equipment, the mooring permittee shall be entitled to payment from the City of the fair value of the mooring equipment as depreciated by use in an amount to be determined by the Harbormaster and as set in the City's master fee resolution, after any and all past due rent and fees, if applicable, have been satisfied; and
  - 3. The mooring equipment may be publicly auctioned by the City, or the City's designated representative, or the mooring equipment may be used for other City purposes.
- M. Request to Relocate to Larger Mooring (Extend Mooring Length).
  - 1. Review Authority. If aAn offshore mooring permittee wishesing to moor a vessel other than the assigned vessel that is or will be longer than the assigned vessel that is longer than the length specified on their mooring permit must submit to the Harbormaster a request for relocation to a larger mooring. Mooring lengths shall not be extended beyond the designated mooring lengths for the mooring rows., the Harbormaster may amend the existing offshore mooring permit to extend the vessel occupancy length to accommodate a longer vessel up to a maximum of five additional feet in accordance with this subsection; provided, however, that the Harbormaster may refer such applications to the Harbor Commission for consideration and final action. Applications for the extension of vessel

STRIKEOUT VERSION Page 9/11

occupancy length in excess of five feet shall be submitted to the Harbor Commission forconsideration and rendering of a decision. For applications requiring the approval of the Harbor Commission, the Harbormaster shall present to the Harbor Commission all relevantfacts to support the findings included in Section 17.05.140(D)(1). If the relocation is approved, the offshore mooring permit(s) shall be amended to reflect the new mooring assignments and the increased mooring lengths. The permittee requesting the relocation shall pay all transfer fees and costs to move both vessels.

# 2. Application.

- a. Filing and Review of Request. An offshore mooring permittee shall file a written request for <u>mooring relocation an extension of the assigned vessel occupancy length</u> with the Harbor Department on a form prescribed by the Harbormaster, together with the filing fee required by the City's fee schedule adopted by resolution of the City Council.
- b. Application Requirements. An application for an extension of the vessel occupancy length a mooring relocation shall include the following information in addition to such other information as may be required by the Harbormaster:
  - i. The full identification of the applicant and the vessel for which anamendment to the existing offshore mooring permit the mooring relocation is sought, certifying that the applicant and the assigned vessel have complied with (or in the event the vessel identification is unknown, applicant will certify that such unidentified vessel prior to occupying the mooring space will comply with) all of the applicable United States Coast Guard license, inspection, and certification requirements, and certifying that the applicant has read and is otherwise familiar with all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title;
  - ii. Such plans and specifications as may be required by the Harbormaster for such mooring to accommodate the proposed longer vessel to be accommodated at the new mooring; and
  - iii. Detailed information regarding the vessel including make, model, year, LOA, beam, dimension, vessel ID, and if the vessel identification is not known at the time of making an application, the LOA and adjusted LOA (including bowsprits, swim steps, or stern-mounted dinghies) of the proposed vessel for which the applicant seeks approval. The LOA as published by the manufacturer of a particular vessel shall be used to determine the required mooring size of a particular vessel, and the size of the specification for the chains, weights, and tackle necessary to secure a vessel on a particular mooring for a permittee. Adjusted LOA shall be used to determine the maximum vessel length that can fit in any particular slip or side-tie.
- 3. Action on Extension Relocation Request. Upon receipt of a completed application for an extension of the assigned vessel occupancy length, Within seven (7) days from the receipt of a valid application, the Harbormaster will notify in writing the respective mooring permittees that a request for relocation has been submitted and any objection must be submitted in writing with specific reason(s) within ten (10) days from the date notification

was sent out. The Harbormaster or the Harbor Commission, as applicable, may approve or conditionally approve an amendment to the offshore mooring permit to allow the extension of the vessel occupancy length (in the event of an application for an unidentified vessel only a conditional approval may be obtained) the relocation request only if the request is for no greater than 5', if an appropriate-sized mooring is vacant, the mooring assignment can be exchanged with a mooring in the same mooring field (or in the case of the H and J fields an adjacent field) that is occupied by a vessel that is at least 5' shorter than the maximum length of its mooring row, and after making the findings set forth in Section 17.05.140(D)(1) and making the following findings:

- a. There have been no changes in the conditions or circumstances of the existing offshore mooring permit so that there would have been grounds for denial of the original offshore mooring permit or grounds for revocation thereof at the time an application for extension of the assigned vessel occupancy length is filed;
- b. The proposed extension of the assigned vessel occupancy length Relocation will not:
  - i. Impede or obstruct the fairways or channels or prevent or obstruct the passage of other vessels between the rows;
  - ii. Impede, obstruct or prevent other mooring permittees from safely navigating in and out of adjacent moorings or moorings in other rows connected by the same fairway to the row of the permittee's vessel;
  - iii. Result in vessel(s) encroaching into the fairway or Eextending beyond the outer boundaries of the mooring area or row; or
  - iv. Exceed the intended vessel LOA established by Council policy for Violate the designated maximum vessel LOA for the row or mooring area in which the vessel will be moored; or
  - v. Exceed the maximum length of the other vessels in the same row;
- c. The applicant and the assigned vessel have complied with all of the appropriate United States Coast Guard license, inspection, and certification requirements for the assigned vessel and all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title; and
- d. The applicant agrees to cover all costs associated with modifying the length of the relocating to the longer mooring and relocating the vessel displaced by the applicant to its new mooring location, including, but not limited to, any costs associated with relocating mooring anchors and tackle, and any costs associated with resizing mooring tackle to meet applicable mooring standards (e.g., chain size or anchor weights).

Example: Permittee A will require a larger mooring in order to replace Atlantis (40' LOA), which is in a 40' row, with Atlantis II (42' LOA). Permittee B's Barnacle (41' LOA) is in a 45' row. Permittee C's Calypso (40' LOA) is in 45' row. All three moorings are in the same mooring field. A's mooring assignment can be switched with C, but not with B.

4. Conditions of Approval. If the Harbormaster or the Harbor Commission, as applicable, approves an application for an amendment to the offshore mooring permit under this section, such approval shall be conditional and contingent upon the following requirements:

STRIKEOUT VERSION Page 11/11

a. The mooring permittee must occupy relocate to the new mooring with the new vessel within twelve (12) months following the date of approval; and

- b. For mooring permits that are transferable, they shall not be sold or transferred until The mooring permittee's rights pursuant to a valid mooring permit, as amended, shall not be sold or otherwise transferred for a period of twelve (12) months have elapsed following the date of occupancy of the new mooring with the new vessel. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of this section.
- 5. Noncompliance with subsection (M)(4)(a) or (b) of this section will constitute groundsfor the Harbormaster to shall result in recission of the relocation approval. terminate the
  amendment to the mooring permit. In the event that the Harbormaster terminates the
  amendment to the mooring permit issued pursuant to this chapter, it shall be the duty of the
  mooring permittee to remove the moored vessel to return the mooring area where vessel
  was assigned to its original length at the mooring permittee's expense within thirty (30) days
  of written notification to do so. Rather than reverting back to the City upon such termination,
  the mooring permittee may thereafter continue to use the mooring in accordance with all of
  the terms and conditions of the original offshore mooring permit and subject to all of the
  terms and provisions of this title applicable to mooring permits. Within thirty (30) days of
  such recission, the permittee who requested relocation shall at its sole expense return their
  vessel and the displaced vessel to their prior assigned mooring locations or other mooring
  locations as deemed appropriate by the Harbormaster. Violation of subsection (M)(4)(b) of
  this section shall also be grounds for revocation of the mooring permit.

From: Eric Young <ericyoung@lemonlawprotector.com>

**Sent:** November 02, 2022 11:02 AM

**To:** Harbor Commission; Dept - City Council; Blank, Paul; Harbor

Feedback

**Cc:** mail@yournewportmooringassociation.org; Eric Young

**Subject:** Objection to Proposed Mooring Changes (C-62 Mooring Permittee)

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello,

I am a resident of Newport Beach, business owner in Newport Beach, and permittee for Mooring C-62. I write to express sincere objection the proposed changes to the Newport Harbor mooring system. The proposed changes will drastically interfere with safe navigation, shore access to moorings, and quiet enjoyment of vessels while moored. There is simply no need for any of the proposed changes.

I began navigating Newport Harbor in 1994 and I have regularly navigated the harbor ever since. The mooring fields have remained the same the entire time and have not substantially changed over the years (except when the Newport Harbor Yacht Club has temporarily moved its swing moorings for special events). Indeed, I can navigate the harbor in fog and at night knowing exactly where the mooring fields are located.

I have navigated various vessels throughout Newport Harbor since 1994 (previously docked in the 1300 block of W. Bay Ave.) and I purchased the permit for mooring C-62 in June 2017. I have also navigated vessels in San Diego Harbor (including America's Cup Harbor and Cabrillo Isle Marina), Huntington Harbor, Alamitos Bay, and Dana Point Harbor. The tide and wind in Newport Harbor is much stronger than any other harbor in southern California. The proposed changes are not safe or desirable.

Since 2017, I have witnessed other mooring permittees in the C-field navigate in the tide and wind. The constantly changing conditions require different approach angles to safely moor a vessel in the C-field. Once moored, the tides and winds routinely shift vessels very close to one another. (Chuck South has confirmed that there is a unique swirling tide in the C-field caused by Bay Island). The moorings should be left "as-is" to allow safe navigation and to prevent vessels from colliding while moored. Additionally, permittees and live-aboards should not be forced into closer proximity while enjoying the quiet use of their vessels.

(Location, Location, Location) After saving up enough money, I spent my life savings on the permit for mooring C-62 based on its location relative to shore access. I had back surgery in 2005 and I cannot row a boat for any significant distance, nor can I carry an outboard motor to affix to a rowboat to reach a more distant mooring. I am sincerely concerned that the proposed changes may end my 28 years of boating in Newport Harbor.

I concur with the strong opposition asserted by the Newport Mooring Association.

- The new system will make it more difficult to get on and off your mooring and 50% of mooring permittees will have to access their mooring in a downwind and less safe fashion.
- The only example the City has provided where a bow-to-bow mooring system is utilized is America's Cup Harbor which is tucked in behind Shelter Island in San Diego Harbor. America's Cup Harbor is perhaps the most protected marina in Southern California as it is almost fully encircled by land and lies within protected San Diego Harbor. It is a very protected "harbor within a harbor". It is obvious to an experienced mariner that the conditions in America's Cup Harbor do not compare to the prevailing wind and currents we experience in Newport Harbor rendering it a useless comparison.
- There should be no changes to Harbor Code/Title 17.

I have discussed the proposed changes with residents of Newport Beach and other mooring permittees. There is a consensus of strong opposition to the proposed changes.

Respectfully submitted.

Best regards,

G. Eric Young, Esq.

YOUNG & YOUNG APC
620 Newport Center Drive, Suite 1100
Newport Beach, CA 92660
ericyoung@lemonlawprotector.com
Phone: (833) 536-6600; Fax: (844) 572-7150
http://www.lemonlawprotector.com/

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From: vandeveer@cox.net

**Sent:** November 02, 2022 6:44 AM

To: Harbor Feedback
Cc: Blank, Paul

**Subject:** Proposed revisions to Harbor Code Title 17 and Mooring relocation

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I strongly oppose the proposed Mooring plan and Harbor code revisions.

As a Mooring J-099 holder for 34 years, and a resident of Newport Beach, I have paid the city on my lease and followed the NB City requirements. I have a 37' Sailing sloop.

I, as well as my mooring neighbors and friends in the harbor do not believe the restructuring of the mooring fields is feasible or fair and cannot be equitable for mooring holders.

Because of the wind conditions, I will enter my mooring from either direction depending on wind direction. I am on my boat several times a week and do a lot of solo sailing.

My mooring is front row in J-mooring section giving me plenty of room to approach the mooring from either direction. This allows me to moor my boat by myself if I do not

have crew aboard. My mooring is valuable to me because of its location.

The proposed Double Row Design does not appear feasible considering the variable wind conditions in Newport Harbor. The proposed revisions to Harbor code (Title 17)

Wich will give "Harbor Master Unilateral Authority" to relocate my boat and mooring location is, not fair or reasonable. How can the Harbor commission make the changes

To mooring locations fair and equitable? I chose my mooring for the specific location which gives me <u>access</u> to street parking, and a location which affords a reasonable distance to use a rowing dingy to get to my mooring.

During the presentation by the Harbor Commission, a substantial emphasis was placed on the Moorings as a revenue generator for the City of Newport by adding 100 moorings.

The re-alignment of the moorings would be on the burden of existing mooring lease holders. Nothing was mentioned about the single moorings that the Yacht clubs provide for

their members. These moorings take up a substantial amount of the available mooring space.

As far as safe boating is concerned, I have not witnessed or heard of mooring boats having collisions.

The boat and paddle board business could enhance boat safety by giving

Renters a better Safety record by giving them better instructions on the rules of the road for harbor navigation.

Regards,

Ken Vandeveer 15 Edgewood Dr. Newport Beach, CA. **From:** steve barrett <stevetag444444@gmail.com>

**Sent:** November 01, 2022 9:41 PM

To: Harbor Commission

**Subject:** Fwd:

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

----- Forwarded message ------

From: steve barrett < stevetag444444@gmail.com >

Date: Tue, Nov 1, 2022, 9:37 PM

Subject:

To: < CityCouncil@newportbeachca.gov >

I don't know if you have boats and have tried to get on and off a mooring in the wind. But it is very hard and there is NO way that a nose to nose shared mooring system will work. I can only get on and off my mooring safety in a west wind.

Another very bad part of there plan is changing the rule about the size of the boat. My boat is 39' 8" on paper. That is why I bought a 40' mooring so I can live on my boat as a retirement plan. I am a live aboard and have been restoring my boat for almost 20 years. And if you allow them to do this, my boat won't fit on a 40' mooring any longer. That's like someone telling you that you have to tear down your house on the lot you had it on for a long time, and build a smaller house. Please tell me you see a major problem with that. Good morning Fields have been like this for decades, and the boats can get by just fine on both sides of the mooring field.

In closing please do not let them do this. Is very unfair, ridiculous and not to mention that you will have a mud line that you'll have to pull up and get your boat completely filthy every time you leave the pump out dock and clean your boat.

If you have ANY questions please write back.

Thank you Stephen Tagliareni From: isthisrandall@aol.com

**Sent:** November 01, 2022 7:36 PM

To: Harbor Commission
Subject: Your Proposal Changes

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To whom it may concern.

My name is Randall Leroy. I am a United States Coast Guard licensed 100 ton captain. Mariner number 3673116. I live in Newport Beach. I am currently running a 75' sailboat out of Newport Harbor. We are parked on a slip, but I was asked to email you to respectfully list some concerns about the proposed changes to the mooring configuration and title 17.

I am also involved with a small sailboat that resides on a mooring in Newport Harbor. I am steadfastly against any changes to the current configuration for the following reasons:

-It will be unsafe for mariners to park downwind in an area where space is constricted by nearby boats. A shared bow mooring system will not allow for adequate room to maneuver boats on and off their respective moorings. Personal injury and property damage will result. Bad things happen when you start trying to park boats downwind. This is basic Chapman's seamanship 101.

-Newport Harbor with its brisk afternoon westerly winds that funnel through its reaches and the large estuary of the Back Bay that ebbs and flows into it causing significate tidal flow is very different than the small highly protected America's cup harbor. America's cup harbor is a small harbor WITHIN the San diego Bay. Highly protected from almost every angle and especially the west. The effects of tidal flow on the boats in that mooring area are minimal. Apples and oranges guys. And by the way, boats in America's cup harbor are parked bow to stern, NOT bow to bow.

-you propose adding additional moorings to make boating more accessible in Newport Beach. But no mention of any additional parking spots for cars, bathrooms or dinghy docks. Parking on the peninsula is horrific in the summertime and injecting more boats into the harbor will make everything less accessible for everyone. As for the bathrooms, we've all seen the highly popular videos on social media of people using Newport harbor itself as their restroom. Pollution of the bay will increase. I understand that people love boating and want access, but what is the limit? Ever been in a parking lot where the lines are painted to close together?

-Sand lines in Newport harbor just will not work. Due to our substantial tidal flow and mass of silt and debris that flow out of back bay, sand lines become horribly fouled with mud and barnacles in a matter of days. This has been observed by the harbor master recently when they added sand line moorings in front of Marina park. Those moorings have since been removed. Bringing a barnacle laden mud covered "sand" line on board is a nightmare. This leads to unhappy and potentially injured people, muddy boats and further polluted muddy water.

- -Claiming that squeezing the boats together will be more aesthetically pleasing is a matter of opinion. It may make for a "better" view for one homeowner but what about the neighbor who's view lines up with the row? Now we're talking about affecting home prices in Newport Beach?
- -The moorings as they are now are over 100 years old. Does that not count for anything? They are a part of Newport Beach history.
- -all changes to title 17 proposed are completely unnecessary and should never be implemented. None of these are an improvement and would only further the need for future discussions. Leaving the moorings and title 17 alone will save a great deal of time.

Your service as volunteers truly is greatly appreciated. I think that the NMA and mooring owners in general would do well to remember that you are in fact volunteering. I don't think anyone is against straightening the mooring rows up a bit. Maybe some public education on spreader line use. Maybe some bouys to more clearly mark the fairways. But not this drastic change. Newport Harbor is a special place and we need to protect rather than exploit it.

**Thanks** 

Randall Leroy Mmc#3673116

Sent from the all new AOL app for Android

From: Dr Tony <drt@etchiropractic.com>
Sent: November 01, 2022 7:00 PM

To: Harbor Commission

**Subject:** mooring reorganization and relocation

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Good evening,

I have concerns in regards to the proposed new mooring layout/relocation being considered by the harbor commission.

My first one is getting on and off the mooring if I end up stern to the wind. My boat has a lot of windage and I currently approach bow into the wind and while on the mooring I take the wind across the bow. If I were turned around I would have great difficulty getting on and off the mooring and I would shift considerably while moored. I purchased that mooring permit with that in mind. Mooring B-51

My second concern would be loosing my current end tie position. Again, my boat is hard to handle in the wind and it would most certainly eliminate my ability to single man it safely on and off the mooring.

Privacy is my third and maybe even first concern. Our reason for choosing a mooring over a slip was a greater sense of separation and privacy. Sharing a mooring would change how we enjoy the harbor and our time on board. Fourth would be a sand line. Forget how dirty the boat will get. I don't have the muscle to pull it over in windy situations and I have a solid structure that doesn't allow me to walk it back by myself and even with help I would need to remove side windows to pass it back. Having a decent length above water spreader line and long hook gives my speed an advantage to retrieve them pulling a line up from under the boat and around my screws is concerning.

Thank you for all the work and thought into improving our harbor. When it comes to this matter I am in opposition, if it passes I may end up having to sell my boat.

Thank you, Tony Fedoryk Daytripper Mooring B-51

Dr. Tony Fedoryk ET Chiropractic

20341 Irvine Ave. Unit D1 Newport Beach CA, 92660 Phone (949)398-6353 Fax (949)398-6354

Sent from my iPhone

From: Jim Carmack < Jim@carmackinsurance.com>

**Sent:** November 01, 2022 6:57 PM

To: Harbor Commission

**Subject:** Proposed Mooring condition changes

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

My family and my business are residents of Newport Beach and I am a mooring holder. I oppose any changes to the current mooring plan.

Jim Carmack

From: Admin <mail@newportmooringassociation.org>

**Sent:** November 01, 2022 5:34 PM

To: Beer, Ira

**Cc:** Harbor Commission; Blank, Paul; NMA Email Board

**Subject:** RE: Revised documents?

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Beer,

## 1. Maps of proposed changes to all mooring fields.

With all due respect, please send the map of the "draft" new locations for the moorings in all fields, which should also include which homes may have expanded water view and which home may have more obstructed view. This should be sent even if the maps are tentative.

In the past, you have suggested that the NMA has had access to all earlier drafts, if only the NMA had asked. While we disagree that you have been transparent with your plans, you now say you will not provide drafts of your "tentative" map/plan for the A, B, D, and other fields. At the same time, you continue to refuse to allow advanced stakeholder meetings for open discussions of changes to Title 17 which would be needed to implement these plans. This refusal to allow all stakeholders to see final proposed language to title 17 changes and drafts of new mooring locations does not appear to be reasonable, or responsible, and appears to be the opposite of transparency.

# 2. Final Draft of Proposed Changes to Title 17 and need for Separate Stakeholder Meetings well in advance of any Vote.

Regarding our request for the most recent draft of the "redline changes" to Title 17, you say that we have these. We assume you are referring to what you sent to us a week ago, on Monday, October 24. This was the redlined draft that you requested our proposed changes to, and comments, on within 2 days. With a great deal of effort, we managed to meet your deadline, and on October 26, we provided you with our comments on, and proposed changes to, your Title 17 draft.

Are you now saying that none of our proposed changes will be part of the draft Title 17 changes that you will be submitting to the Harbor Commission on November 9, or are you saying that you will not be sharing with us what, if any, of our proposed changes will be included until a few days before the meeting?

In either case, given our extensive comments and suggested changes, please provide us with your personal assurance that:

- A. You will ask that any vote on your proposed changes to Title 17 will be postponed until after the November 9 meeting.
- B. You will personally support postponing any vote on the final language (whatever it may be) until all stakeholders see the final language and hear from stakeholders in separate stakeholder meetings to be set well in advance of any proposed vote.

If you cannot provide these assurances, we invite calls from other commissioners to express their personal views on this.

Sincerely

The Board of Directors

## **Newport Mooring Association**

From: Beer, Ira < IBeer@newportbeachca.gov> Sent: Monday, October 31, 2022 9:59 AM

To: Admin <mail@newportmooringassociation.org>

**Cc:** Harbor Commission < Harbor Commission@newportbeachca.gov>; Blank, Paul < PBlank@newportbeachca.gov>; NMA Email Board < nmaboard@indigoharbor.com>

Subject: Re: Revised documents?

Hello Megan,

I am not certain what Scott and Jerry believed they noticed on my laptop; however, you have the drawings for the C, J & H fields and those are all that was looked at and are in the presentation deck previously sent to you. Drafts of other fields are preliminary in nature and would not be appropriate to distribute at this time.

To the best of my knowledge, you have all the current information of the proposed plan, including the redlined version of Title 17 changes which was sent to you about one week ago.

As for a list of permittees asking for extensions, I am not sure the Harbor Dept is able to share that information. Many of those permittees may not be members of the NMA and have not consented to sharing of that information.

Please let me know if you require any additional information.

Best regards,



From: Admin < mail@newportmooringassociation.org >

**Date:** Monday, October 31, 2022 at 9:40 AM **To:** "Beer, Ira" < <u>IBeer@newportbeachca.gov</u>>

**Cc:** Harbor Commission < <u>HarborCommission@newportbeachca.gov</u>>, "Blank, Paul" < <u>PBlank@newportbeachca.gov</u>>, NMA Email Board < <u>nmaboard@indigoharbor.com</u>>

**Subject:** Revised documents?

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning, Ira -

When you met with Scott Karlin and Jerry LaPointe and showed them the reconfigured portion of H field, they noticed that you had all the revised mooring fields plotted out as files on your laptop. Would you share those revised mooring fields to us? They would allow us to better assess the feasibility of your proposal.

Also, in the spirit of cooperation, will you allow us to review the latest versions of your comprehensive plan, including your updated proposal, he latest redlined changes to Title 1, and the list of mooring permitters that are still on the list for mooring extensions? It would be helpful to us.

Thanks for your help!



Megan Delaney
Newport Mooring Association
https://newportmooringassociation.org

From: tomiovenitti@gmail.com
Sent: November 01, 2022 2:28 PM

To: Harbor Feedback

**Cc:** 'Tom lovenitti'; Harbor Master

**Subject:** Mooring Fields

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Ira good afternoon,

In the best interest of the mooring permittees, and in the best interest of the City of Newport Beach and of Newport Beach Harbor Department, I am writing this letter to give a perspective of pro's and con's to the proposed reconfiguration presently under consideration to improve the mooring fields subject to Shelter Island Americas Cup Marina. The City of Newport Beach and its Harbormaster have already received my ideas both in writing and email regarding Title 17 on other issues over the years so I am not new to the harbors improvements and concerns. I hope what I have to offer is useful in the upcoming discussion and decisions.

I am presently a permitted owner of H210. My boat overall is 54 feet bow to stern and 16 feet wide. The mooring maximum is 60 feet with an option to extend to 70 feet given the present configuration. The approach for my boat is West with starboard side tie up of both bow and transom mooring lines on a 4 point adjusted position. In as much as I am a professional boat handler and skipper, and my 52 years of experience and many hours of precision boat handling are present on my boat, the bay current, wind and tidal issues could provide those with less experience a more difficult approach and tie up.

With my power boat, twin screw capabilities, the wind normally onshore or south west blow can be tricky and add the fact tidal currents and size of boat, the difficulty becomes critical and concerning for most boat handling. There is no stopping point when heading into these situations and one wrong move could create a domino affect of collisions if not handled exactly as required. In addition, the weight of my boat is 56,000 lbs., and wind and current create unstable situations leaving the helm to tie up. Today, there is plenty of room to negotiate these weather affects and maintain a safe distance from the adjoining or adjacent moorings and boats. In an emergency situation there is presently room for negotiations and avoiding collisions.

In Catalina, we were owners of a 60 foot mooring in Avalon. The distance between boats is enough to allow side ties and visitors for a fee. On windy days or difficult weather situations, the Harbor Patrol would assist those in need with difficult mooring placements and stern swings from drift. Should there be no resolve in the reconfiguration at minimum there should be a Harbor patrol boat assistance on call 24/7 for such difficult events and request at no charge to the boat handler.

Should there be a reasonable solution? I think so. It is apparent that there are many in the harbor who unlike me, do not use their boats or ever step aboard their boats. Some sit for years deteriorating and unpleasant looking as they are, take up a lot of room. But what is the correct solution given the weather circumstances not apparent in the America Cups Marina where calm waters and weather protection is much better than our open marina? I think a much better review and challenge is suggested to look at all the issues affecting those in these proposed changes. I will admit that being able to moor in the mornings is far easier than after 10 AM on any day in Newport Harbor when the currents are calm and wind at minimum.

I liked the dual mooring with a central dock solution where a neighboring permittee would share a central dock buoyed by both mooring balls giving a boat the ability to actually step off and tie to a barrier which does several things. 1) it reduces the size of the harbor footprint, 2) it allows boat handling to have an easier tie up in weather conditions and 3) it organizes the field in size, its throughway and cleanliness.

I am willing to meet when needed to assist and discuss these ideas. But, please do not approve this change "bow to bow" without a more intense review of the issues confronting the permittees. The idea seems simple in concept and meets the Ad-Hocs goals but it doesn't speak for the experience of those affected.

Sincerely,
Tom iovenitti
Thomas (Tom) Iovenitti
H210, Bada Bing!
949-887-0128
1425 W Bay Ave.

Newport Beach, CA 92661

From: Jennifer Krestan < jenniferkrestan@yahoo.com>

**Sent:** October 31, 2022 10:19 PM

To: Harbor Feedback; Beer, Ira; Cunningham, Scott; Yahn, Don; Williams,

Gary; Harbor Commission; Marston, Marie; Scully, Steve; Svrcek, Rudy;

Blank, Paul

**Cc:** Newport Mooring Association;

mail@yournewportmooringassociation.orgHar

**Subject:** Mooring reconfiguration plan questions and comments

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

With boats moored bow-to-bow on one mooring can, how does Chuck South access the mooring cans in order to perform maintenance without relocating the boats?

In the current mooring configuration mooring maintenance is performed without moving the moored boats. Why should the mooring holder pay to have his boat moved for maintenance?

On shared moorings, are the costs shared between the two mooring-holders or, if the moorings belong to the City of Newport Beach, does the City pay? Without raising fees?

Racing sailboats almost always have folding props and never have thrusters. This makes for extremely poor control when in reverse and will greatly affect a sailboat's ability to connect to a mooring can when the can is downwind.

A powerboat of the same size as a sailboat generally has much more windage. Should a powerboat be moored to windward of a sailboat, the distance between the two would be greatly reduced as the powerboat is blown toward the sailboat.

The J&H mooring fields suffer almost no current compared to fields near Balboa Island or Balboa Peninsula. This makes these mooring fields a poor choice for a test as they will experience significantly less current and less movement as a result.

I spend considerable funds to keep my boat in good condition. I do not want to bounce a weighted sand line against my topsides or on my deck. Therefore, I must retain the current two-buoy and spreader line with foam floats configuration, not a potentially-damaging weighted sand line.

Ray Booth

From: Harbor Master

**Sent:** October 31, 2022 12:40 PM

To: Harbor Feedback Cc: 'Brian Benson'

**Subject:** FW: Mooring Field Improved Initialization Report

Hello,

Please see Mr. Benson's comments below.

Best,

#### **Joseph White**

Dockmaster - Harbor Department

City of Newport Beach

1600 West Balboa Blvd., Newport Beach, CA 92663

P: 949-270-8159

Marina Park Slips and Mooring rentals dockmaster@newportbeachca.gov

From: Brian Benson <br/> <br/>bbenson@cpa.com>

**Sent:** October 31, 2022 12:08 PM

**To:** Harbor Master <a href="master@newportbeachca.gov"> **Subject:** Mooring Field Improved Initialization Report

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

#### Dear Harbormaster:

Thank you for providing me with the a full copy of the Mooring Field - Improved Utilization Report. As an experienced boater, long-time Newport Beach resident and mooring permittee, let me start by saying that I applaud all efforts to clean up the mooring fields. I am pleased to see the big improvement in recent years that the Harbor Department has made in terms of removing derelict boats, providing wash down facilities, etc. That said, I would like to comment on a few items in the report.

My first observation is that the sand line recommendation is not user friendly to boaters. In general, sand lines are much harder to use than a floating spreader line. Walking the sand line to the back of the boat in windy conditions, while shorthanded, can be a nightmare. Moorings with the traditional floating

spreader lines are hard enough to handle when there is a stiff breeze. To add the extra effort of pulling the line off the bottom will make mooring retrieval even more difficult.

The report describes sand lines as being like the moorings on Catalina. This is not a selling point. Picking up a mooring on Catalina can be extremely difficult. The Avalon and Two Harbors Harbormasters frequently offer to help boaters secure their stern line by pulling the boat into position. I am sure Newport Harbor is not willing to offer this assistance. But my point is that it not easy to handle a sand line.

Even the best boaters sometimes have trouble grabbing a Catalina mooring. You only need to watch boats picking up an Isthmus mooring on a windy afternoon to realize how difficult it can be. I have seen several boats become disabled picking up, or even dropping, the sand line as it fouls the propeller or catches on the keel or rudder. Not to mention that in Newport Harbor that sand line is going to be covered with mud every time you pull it on board, further making it difficult to keep a mooring boat clean. I see the value of sand lines for the new guest moorings at the end of the H Field, but anywhere else it should be strictly voluntary.

My second point is regarding the proposed mooring spacing. The report makes it sound like the new spacing is always going to be a big benefit to the boater. However, the report does not address the potential downside to the new configuration. I see a downside for some boaters as they lose the benefit of having a fairway on each end of their mooring. The report does not consider that boaters generally enter their mooring heading into the wind, and thus may need to cut between other boats to approach their morning.

For example, consider a boat returning to its mooring on a typical summer afternoon. The boater will want to approach the mooring from the east, heading into the prevailing west wind. If the mooring is on the east side of a double mooring, then the larger fairway is great. However, if they are on the west side of the double mooring, they will likely need to use the same fairway as the first boat, then have to cut between two boats to reach their mooring. In this case they may have less space to maneuver than under their old configuration because they will lack their own fairway and need to grab the mooring that is only a few feet in front of their double mooring partner. They will need to cut between two sets of boats, where under the old schema they would use their own fairway and just need to fit between the boat next to them.

Now maybe the fairways are currently so screwed up that most people will benefit, even if they need to use a fairway requiring them to cut between two boats. I will let you be the judge of that. But surely there will be some boaters that are not going to be happy with the change; and I feel the report should have addressed this issue, rather than making it sound like its as easy as pulling a car into a parking spot.

In closing, I would like to remind the City that these moorings represent a substantial investment for many of us. A lot of people I know paid a premium to get a mooring in a specific location that suits them best. This premium may be because of its location in relation to the shore and/or its ease of access. I would hope that the City will do what it can to protect individual's investments and access to their mooring especially if their boat is actively used and not just a mooring sitter that hasn't been sailed in years.

Thank you, Brian Brian R. Benson Newport Beach Resident Mooring Permittee 949.675.4257 bbenson@CPA.com From: Pat and Bud C <patandbud@hotmail.com>

**Sent:** October 31, 2022 10:13 AM

To: Harbor Commission

**Subject:** The reconfiguration of the mooring fields

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To Whom it May Concern,

As live aboard offshore mooring permittees we'd like to offer some thoughts and concerns on the reconfiguration of the mooring fields.

To start, I feel confident in my handling of my boat, a 46 ft., twin engine power boat in most wind conditions with the current mooring set up. I have, however, gotten in that rare circumstance as the wind argued with my method of returning to my mooring that having a boat any closer than a fairway between us would have added a lack of safety rather than more safety. I watched and aided experienced captains battle the winds, especially from the south (abeam) as they lose control and need room to reposition or abort and start a fresh. On that, having the 50 ft. between the boats certainly is a plus, but having a boat either at the bow or stern is not. And bow to bow? The prevailing winds are from the west/southwest. To approach into the wind makes sense. The forward momentum gets stopped while tying off the bow then pushes you back to pick up the stern lines. We'll all manage, as we do now when winds differ, but it is much nicer to start out working with prevailing winds. The other concerns of the 2 boat rows is the windage on the sharing of the one anchor. I have clocked a 70 mph. wind gust from the south that caused some boats to drag anchor which has me skeptical that the windage against the beam of 2 boats will not be a problem. We have 30 knots a number of times each winter and I question if America's cup harbor, being more sheltered has the same windage. It's not been mentioned how this single anchor would be maintained. It doesn't seem like it can just be lifted, washed, inspected and redropped.

As far as safely navigating through the mooring fields, I feel there needs to be a balance between having enough room for boaters to safely get on and off their moorings but not to encourage the novice rental fleets or overconfident sailors under sail to weeve through the fields unnecessarily. Sailing through the moorings between the boats rather than up and down the fairways is an unnecessary problem now but making the length of the moorings more than double increases the risk of these sailboats hitting a moored boat significantly greater.

If the concern is aesthetics, the moorings can be re-aligned within 2 years since all have to be maintained within that period. Aesthetically, I cannot imagine that the landowners want to exchange the "chaotic" rows for increased boat population, especially when the rows can be neatened without the increase.

Adding additional moorings also adds to the issue of lack of dinghy dock space, already a problem. Also, with no specific parking spaces for the mooring permittees, there would be added stress to the summer season parking issues.

There is also the impact on the bay with water quality. As a live aboard, we have to document our waste Pump-out. We have no problem with that as we would Pump-out with or without the requirement. There is no such requirement for other recreational boaters. I see very little usage of the Pump-out dock and question where most boats are disposing of their black water. Adding any number of boats in the bay with no way of enforcing this discharge could affect the water quality of the bay.

What should concern everyone in Newport Beach is the financials. Not knowing the expected costs to the city to do a full reconfiguration and the expected rental return compared to simply reorganizing the rows as they are at the permittee's expense seems a major question.

We have questions on some of the numbers used in the presentation. For instance, right now there are 14 boats in row h-7 and h-8. With the new configuration it's shown to add 2 boats to these rows to make a total of 12 (other rows may have similar math). That implies moving 4 boats, the owners of which probably will not want to move, so 2 new permittees can be accommodated. It seems like, aside from moving 2 boats to end up with 12, the existing permittees should have the preference of staying or moving. It looks as though all the 30 and 35 ft. moorings will and there will be more 40 ft. moorings but not as many as the existing 40 ft. plus the 30 - 35 ft. moorings that exist now combined. It's been said that all considerations will be given to the existing permittees but, if no one wants to be relocated some will not be happy.

To sum up our concerns, we cannot see how the costs to the city will be returned. Whereas we do see that straightening the fairways and enforcing spreader lines will look neater and make it safer for permittees leaving and returning to their moorings the proposed reconfiguration would make that aspect less safe and, by encouraging other boaters to needlessly come through the fields, would also be a safety concern. The addition of more boats to the bay would affect water quality and a more crowded bay aesthetically. It's difficult to back the new plan without the numbers making sense, both the number of moorings in the rows and where they'll be and the economics to the city. It seems all the costs of the proposed solution far exceeds what seems to be a relatively small problem.

We hope you will continue to listen and respect the thoughts of both the boating community and the shoreline landowners of Newport Beach. Thank you for your consideration. Herman (Bud) & Patricia Coomans

From: Baisinger, Scott L <SBaisinger@henselphelps.com>

**Sent:** October 31, 2022 9:42 AM

To: Harbor Feedback

**Subject:** Proposed Mooring Changes - Feedback

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello,

I received the email regarding the proposed mooring changes.

I am currently co-owner of an offshore mooring in Newport.

I've reviewed the email. I'm assuming there will be another email sent out showing what you are proposing, because I could not tell from that email.

There were two images sent out; one showing the moorings in J field, and another showing moorings in San Diego Harbor. I would assume that before anything is voted on, you would present a map showing exactly which mooring would be moved to where?

There were no images provided for A-field, which is where my mooring is located. Are you proposing to move the moorings in more fields than just J?

I would recommend using a google earth map to show the current configuration of the moorings, along with a google earth map showing where you are proposing to move the moorings to. Without this, it will be very difficult to provide meaningful comments.

Here are some general comments I'm able to provide without seeing what you're actually proposing;

- 1) Will the number of boats per row remain the same?
- 2) Will the number of rows remain the same?
- 3) Will the overall mooring field areas be reduced, or will additional moorings be created to fill in the "extra space" that the proposal mentions?
- 4) Will boats that currently have end moorings still have end moorings? (I purposely obtained an end mooring on the bay side of A-field as it makes parking my boat substantially easier since there are adjacent boats only on one side, and the prevailing wind works to my advantage.
- 5) What is the estimated cost of the proposed changes and who will pay for them?

Thanks,

Scott Baisinger – CHST, CM-Lean Project Superintendent 541.908.3567 (M) SBaisinger@henselphelps.com



OUR VALUES

OWNERSHIP | INTEGRITY | BUILDER | DIVERSITY | COMMUNITY

From: Paul Ludgate <kiwipaulludgate@gmail.com>

**Sent:** October 29, 2022 9:07 AM

To: Blank, Paul

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Re your proposal to radically alter the mooring fields in Newport

To compare Newport harbor to San Diego is comparing apples to avacados... the only similarity is that they are mooring fields

Comparing the Marina requirements to mooring field requirements is irrelevant. They are two completely different entities and each present a unique set of circumstances. Many people have spent years searching and changing the location of the moorings they own to get to the mooring they are currently on. To allow the city to just shift boats to where ever they want is truly offensive.

There are a number of items in this proposal that make me extreme uncomfortable and the primary objective seems (in my opinion) to add additional moorings so the city can make more money and further restrict mooring owners rights while giving the city cart blanch your shift boats wherever they like

I am strongly opposed to this proposal

Sincerely

Paul

Sent from my iPhone

On Oct 26, 2022, at 3:10 PM, Blank, Paul < PBlank@newportbeachca.gov > wrote:

**Re: Important Information Concerning Your Mooring** 

Dear LUDGATE, PAUL,

As you may be aware, the real history of Newport Beach Harbor began in the late 1800's when the first commercial vessel steamed into the harbor declaring a *new port* between San Diego and Los Angeles. However, it was not until 1936 when the Harbor was thoroughly dredged. This opened the pathway for recreational boating in Newport Harbor and led to what is arguably one of the greatest developments and destinations in California and in America today.

The mooring fields in the harbor were initially designed with well-defined rows that left much open water space between boats in the same row and allowing for fairways to be adequate in size for safe navigation by all mariners.

Over the past 20 to 30 years the original design of the mooring fields has been lost with so many boats of different sizes in different rows. This has resulted in the mooring field footprints to be far from where they used to be and in need of organization to improve safety and efficiency.

In 2017, the City of Newport Beach ended its contract with the OCSD Harbor Patrol for mooring administration and code enforcement. This resulted in the formation of a new Harbor Department run by the City of Newport Beach. One of the primary objectives adopted and unanimously approved by the Newport Beach City Council at that time was:

"Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields."

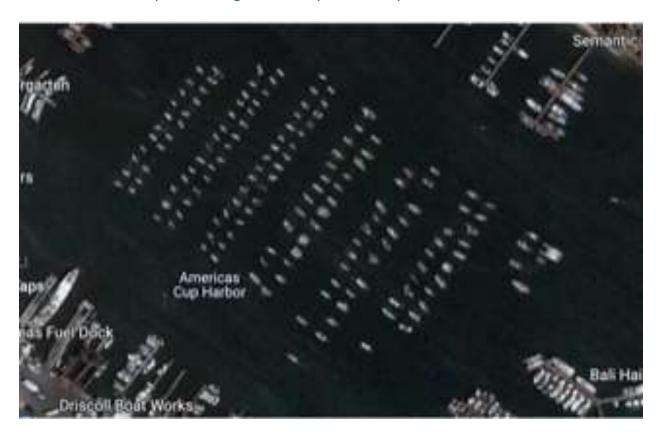
Over the past 3 years, the Ad-hoc Committee assigned to meet the above objective (which has since become an integral part of the Harbor Commission's Open Water Initiative), with the help of City staff along with many experienced Newport boaters, commercial harbor maintenance experts, and engineers hired by the City of Newport Beach, have designed an improved mooring configuration that we are happy to present to you for your comments, feedback and input.

The first image below shows the J & H mooring fields in Newport Harbor with about 200 boats in a congested space that takes up about 30 acres of prime water space. The second image below shows America's Cup Harbor in San Diego with about 180 boats and open fairways with more space between boats in the same row, yet only covering about 15 acres. The more efficient design of double rows allows for 90% of the boats in 50% the space with more room between boats and in fairways.

Current View of Newport Harbor J & H Fields



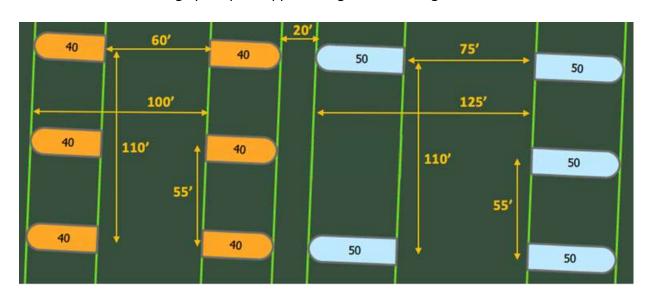
Current View of San Diego's America's Cup Harbor 90% of the Moorings in 50% Space Improved Navigation and Open Water Space



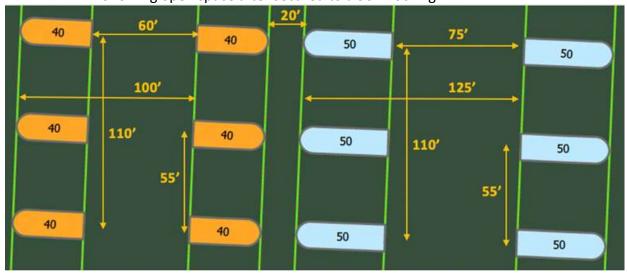
The two images below illustrate some of the benefits of the proposed new design. The first image shows the open water space that will be available to a 50' boat when approaching their mooring. The second image shows the boat

after moored. Currently, on average a boater has a fairway width of less than the LOA of the boat, which does not meet the Newport Beach Harbor Design Standards for marinas, and the distance of the boats moored port and starboard are 20' – 30' apart and in many cases no more than a beam's width between boats. As you can see below, the new configuration provides about double the space between boats in the same row than exists today (55' on center) and increases the average fairway widths for safer navigation. The opposing boats in the double row configuration will be about 20' apart at the shared mooring anchor (or row) location as shown, but there is about double the space to maneuver in every other direction.

New Double Row Mooring Design Showing open space approaching a 50' mooring



Showing open space after secured to a 50' mooring



This new design is expected to greatly improve safety and navigation and provide existing mooring permittees with an improved experience when securing lines to and from their mooring. Additionally, due to the efficiency of the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. Lastly, by cleaning up and organizing the rows, the new design will add to the aesthetics of the harbor, which is long overdue.

Some of the benefits to you as a mooring permittee are as follows:

- 1. No upfront cost to existing mooring permittees. If approved as is, the City of Newport Beach will pay all costs for the improvements.
- 2. This current proposed initiative will have no change to current mooring permittee transferability of permits as per Title 17 of the Civil Code.
- 3. Moorings will still be substantially the same configuration with either 2 mooring buoys and a spreader line will be required to prevent mooring buoys from drifting into the fairways, or alternatively, mooring permittees may request to have their mooring equipped with a single mooring buoy and a sand line to retrieve the opposing anchor line (like what is used in Catalina).
- 4. Mooring Permittees will experience the same or lower maintenance costs as today.
- 5. There will be greater average distances in rows between boats for safer mooring.
- 6. There will be substantially wider fairways on average than exist today for safer navigation.
- 7. Relocation of moorings will only be to a location within the same mooring field, and every consideration will be made to accommodate like-for-like locations and special requests, where practicable.
- 8. Improved public access and increased open water space through the mooring fields for both human-powered and motor-powered craft.
- 9. Improved aesthetics for shoreline properties of residents, commercial establishments, visitors, and all harbor users.

This initiative has been agendized as a topic discussed by the Harbor Commission and open for public comment at approximately 8 prior Harbor Commission meetings. Additionally, updates have been provided at most meetings each month for more than the past 2 years. On November 9, 2022, the Harbor Commission will review the proposed recommendations for consideration and possible vote for approval. You are encouraged to attend the meeting or send in your comments, input, and suggestions to

<u>Harborfeedback@newportbeachca.gov</u> or to the undersigned below, or to the Harbor Commissioners. All comments received before November 4, 2020, will be reviewed, and become part of public record for the upcoming meeting.

If at such time this initiative is approved by the Harbor Commission, the item would then need to be placed on an agenda for a future City Council meeting where the initiative will again be discussed by the city councilmembers and opened for public comments. If approved by City Council, the initial Phase I plan would consist of one mooring field to be selected for the new design. Within that field would be one row that would be first reconfigured to the new design and tested for suitability and conformance to the engineering specifications. After Phase I has been proven successful, a plan would be prepared to implement the new design to all mooring fields in Newport Harbor. As much as we would all like to see these enhancements occur soon, it will not happen overnight. Your patience is appreciated.

Thank you for your support in maintaining Newport Harbor as a modern and most spectacular venue for residents and visitors to enjoy year-round. Your voice counts, so please let us know what you think.

Best regards,

Ira Beer Harbor Commissioner and Vice Chairman ibeer@newportbeachca.gov



From: NJM <norm@mcstelecom.net>
Sent: October 28, 2022 12:12 PM

To: Harbor Feedback

Cc: NJM

**Subject:** Letter of opposition to proposed Mooring initiative

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Harbor Commission,

I am in opposition to the proposed mooring initiative as described in email from Ira Beer dated 10/26/22.

Having been mooring holder for nearly 2 decades, I see no need to spend time and resources in reconfiguring the existing mooring fields in Newport Harbor and find this proposal as unnecessary.

I recommend a focus on pubic dock upgrades to accommodate mooring holders, such as a dinghy storage rack to alleviate overcrowding of dinghy tie ups.

Thank you for accepting my opposition to the consideration of mooring field reconfiguration.

Norm MacLeod C-83 From: Scott Rimland <scottr@cardinaldevelopment.com>

**Sent:** October 27, 2022 5:29 PM

To:Beer, IraCc:Blank, PaulSubject:Mooring Plan

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Ira,

I plan to be at the November 9th meeting to speak in support of the mooring plan you have thoughtfully put together. However, given that is my wife's birthday, and I don't want to get mugged (ha ha), I might bug out a little early!

I made it to the last meeting but only heard about it last minute from someone from the Mooring Association who seemed to have a lot of misinformation about the plan that was sent out to permittees to get them to the meeting. While I appreciate change is often unwelcome, from what I gather from Harbor Master Blanks email and from attending the last meeting, your plan is well thought out, looks great on paper and is certainly worth a try and the community support you have requested. I do think there were a couple of valid concerns that should be considered. First is the sand line or what might be the mud line, that might not work well laying on the bottom of the bay. I have a spreader line and after just a week in the water it has growth on it. A line sitting on the bottom of the bay would be ugly. Not impossible but not great. Second was the comparison between America's Cup Marina and much of Newport Harbor. Looking at it on Google, it seems like there is a lot more wind and current to contend with in Newport than what I would expect in the relatively protected ACM. Lastly if the stated LOA is being used for the plan, I think the actual distances apart will be less than stated once boats get into place. Still better but maybe less than planned. I did read that Adjusted LOA will be used but I think there will be a lot of 48' boats that need 60' moorings. Hopefully, everyone can be accommodated with the new layout as intended. I know you have studied this long a hard, so you probably realize all of this, but if you read this far, thanks for your consideration!

Thank you both for your efforts and I look forward to the successful implementation of your plan! Please let me know if I can do anything to help.

Sincerely,

Scott Rimland
President
Cardinal Development Company
375 Bristol Street, Suite 50
Costa Mesa, CA 92626
P. 714.557.1934
Scottr@cardinaldevelopment.com

**From:** steve barrett <stevetag444444@gmail.com>

**Sent:** October 27, 2022 5:15 PM

To: Blank, Paul

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**Attachments:** image005.emz; image003.png

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I bought my mooring when I like it and the fact you want to not go by the measurement on my paperwork means my boat won't fit on a 40 ft morning. I've been restoring my boat for 15 years my boat has been on 40 ft morning for over 15 years and it would screw me and mess my retirement plan up. I don't see any reason why my boat would not fit on a 40 ft morning where it has for almost 20 years

On Wed, Oct 26, 2022, 3:22 PM Blank, Paul < PBlank@newportbeachca.gov > wrote:

**Re: Important Information Concerning Your Mooring** 

Dear TAGLIARENI, STEPHEN B.,

As you may be aware, the real history of Newport Beach Harbor began in the late 1800's when the first commercial vessel steamed into the harbor declaring a *new port* between San Diego and Los Angeles. However, it was not until 1936 when the Harbor was thoroughly dredged. This opened the pathway for recreational boating in Newport Harbor and led to what is arguably one of the greatest developments and destinations in California and in America today.

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Current View of Newport Harbor J & H Fields				
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### Current View of San Diego's America's Cup Harbor

90% of the Moorings in 50% Space

Improved Navigation and Open Water Space

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New Double Row Mooring Design

Showing open space approaching a 50' mooring				
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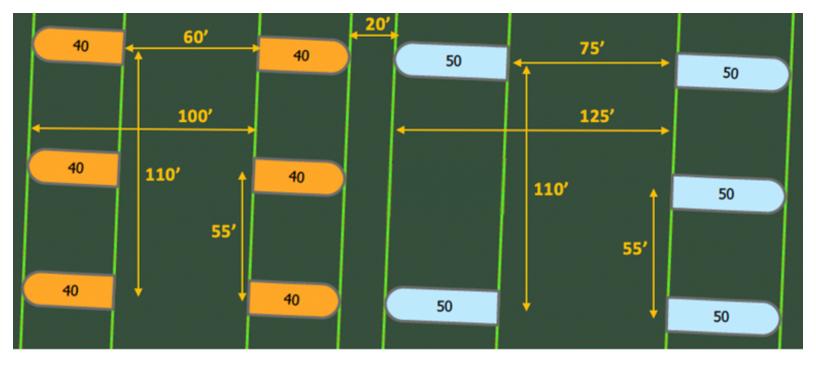
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Best regards,					
The property against a special fields to be the control of the con	Agency Address. The Bus has not make speaks a place with the Action.				



From: Tim Villalobos <dazwinecaptain@gmail.com>

**Sent:** October 27, 2022 4:45 PM

To: Blank, Paul

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I don't want to move. That why I purchased my spot on F-5.. location location. See you at the meeting..

Sincerely Tim Villalobos F-5 Sent from my iPhone

On Oct 26, 2022, at 3:01 PM, Blank, Paul <PBlank@newportbeachca.gov> wrote:

## **Re: Important Information Concerning Your Mooring**

Dear VILLALOBOS, TIM JOSEPH,

As you may be aware, the real history of Newport Beach Harbor began in the late 1800's when the first commercial vessel steamed into the harbor declaring a *new port* between San Diego and Los Angeles. However, it was not until 1936 when the Harbor was thoroughly dredged. This opened the pathway for recreational boating in Newport Harbor and led to what is arguably one of the greatest developments and destinations in California and in America today.

The mooring fields in the harbor were initially designed with well-defined rows that left much open water space between boats in the same row and allowing for fairways to be adequate in size for safe navigation by all mariners.

Over the past 20 to 30 years the original design of the mooring fields has been lost with so many boats of different sizes in different rows. This has resulted in the mooring field footprints to be far from where they used to be and in need of organization to improve safety and efficiency.

In 2017, the City of Newport Beach ended its contract with the OCSD Harbor Patrol for mooring administration and code enforcement. This resulted in the formation of a new Harbor Department run by the City of Newport Beach. One

of the primary objectives adopted and unanimously approved by the Newport Beach City Council at that time was:

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Over the past 3 years, the Ad-hoc Committee assigned to meet the above objective (which has since become an integral part of the Harbor Commission's Open Water Initiative), with the help of City staff along with many experienced Newport boaters, commercial harbor maintenance experts, and engineers hired by the City of Newport Beach, have designed an improved mooring configuration that we are happy to present to you for your comments, feedback and input.

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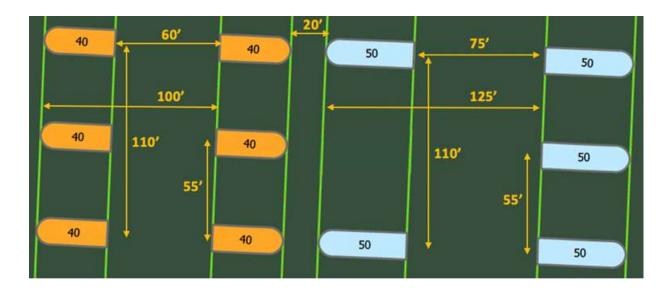


Current View of San Diego's America's Cup Harbor 90% of the Moorings in 50% Space Improved Navigation and Open Water Space

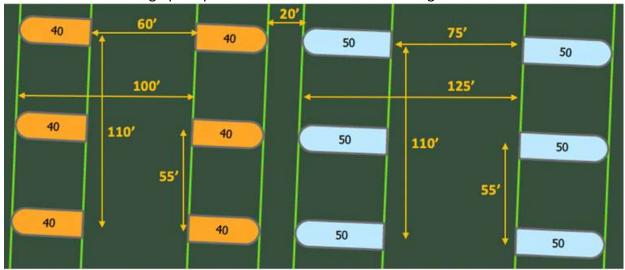


The two images below illustrate some of the benefits of the proposed new design. The first image shows the open water space that will be available to a 50' boat when approaching their mooring. The second image shows the boat after moored. Currently, on average a boater has a fairway width of less than the LOA of the boat, which does not meet the Newport Beach Harbor Design Standards for marinas, and the distance of the boats moored port and starboard are 20' – 30' apart and in many cases no more than a beam's width between boats. As you can see below, the new configuration provides about double the space between boats in the same row than exists today (55' on center) and increases the average fairway widths for safer navigation. The opposing boats in the double row configuration will be about 20' apart at the shared mooring anchor (or row) location as shown, but there is about double the space to maneuver in every other direction.

New Double Row Mooring Design Showing open space approaching a 50' mooring



Showing open space after secured to a 50' mooring



This new design is expected to greatly improve safety and navigation and provide existing mooring permittees with an improved experience when securing lines to and from their mooring. Additionally, due to the efficiency of the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. Lastly, by cleaning up and organizing the rows, the new design will add to the aesthetics of the harbor, which is long overdue.

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Best regards,

Ira Beer

Harbor Commissioner and Vice Chairman <a href="mailto:ibeer@newportbeachca.gov">ibeer@newportbeachca.gov</a>



From: Chris Bliss <chrisbliss@cox.net>
Sent: October 27, 2022 10:53 AM

To: Blank, Paul

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

As a 30 year mooring owner in Newport Harbor, I can tell you with assurance that this arrangement will not work. I am an avid sailor and go on and off my mooring about once a week, year-round, on average. In the C section the tide frequently runs at 4 to 5 knots. I have to take extreme care when approaching my mooring, and must go into the current to approach and secure my 38 foot sailboat to the mooring. This means that I must approach the mooring in different directions depending on which way the tide is going. It is impossible and hazardous to get on the mooring by going with the current, it must be done against the current. The same is true during high wind conditions. The idea of boats being close together, bow to bow, is an impossible arrangement and will cause chaos and mayhem, with boats crashing into one another during fast moving tides and windy conditions.

In all my years of boating in Newport Harbor, I have never been aware of any safety concerns created by the current mooring system. Occasionally a mooring ball which is not attached to a catch line drifts into the fairway, but this is a problem which is easily addressed, and can hardly be considered a safety problem.

Please abandon this unproductive concept.

Thank you, Chris Bliss (C75)

Christopher Bliss Bliss Photography 949-887-9737 www.NewYorkPictures.com

Sent from my IPad

On Oct 26, 2022, at 3:00 PM, Blank, Paul < PBlank@newportbeachca.gov > wrote:

# **Re: Important Information Concerning Your Mooring**

Dear BLISS, CHRISTOPHER,

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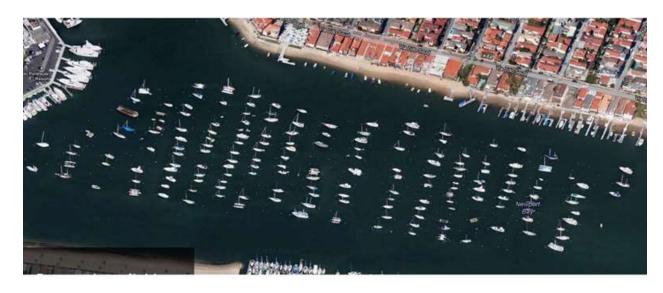
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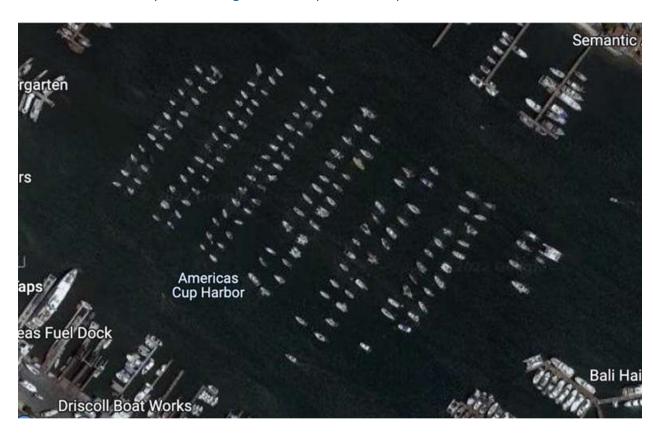
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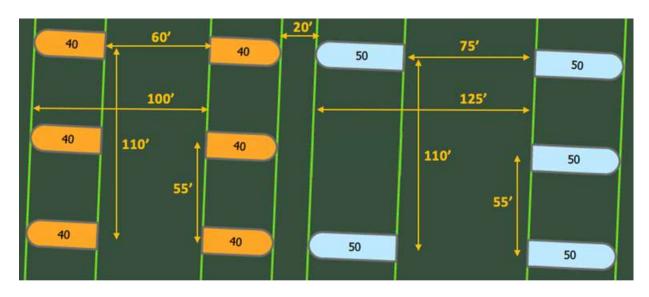


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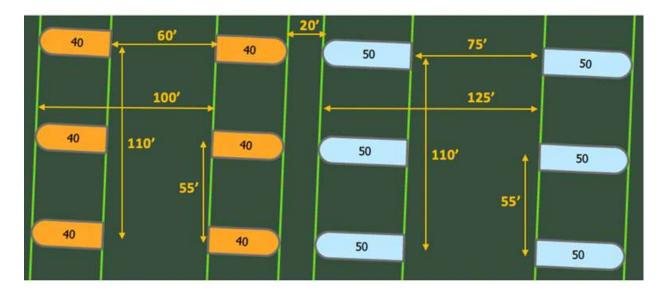


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Thank you for your support in maintaining Newport Harbor as a modern and most spectacular venue for residents and visitors to enjoy year-round. Your voice counts, so please let us know what you think.

Best regards,

Harbor Commissioner and Vice Chairman ibeer@newportbeachca.gov



From: Beer, Ira

Sent: October 27, 2022 10:53 AM covebound2@aol.com To: Cc: Harbor Feedback

Subject: Re: Feedback on Proposed Redesigned Mooring Fields

Hello Ms. Franke,

Thank you proving your feedback and input. Your concerns are taken very seriously. Technically, every boat will need to move somewhat to get proper spacing and alignment between rows, boats and fairways. Every attempt will be made to keep the new location of vessels as close to the current location (including end-ties where practicable). However, there is no assurance of that outcome due to sizing differences of rows. In your case, I believe there to be a high probability your new location may result in an end-tie close your current location.

Please do not hesitate to let me know if you have any additional comments. Thank you.

Best regards,



From: Harbor Feedback < Harborfeedback@newportbeachca.gov >

Date: Thursday, October 27, 2022 at 9:38 AM To: "Beer, Ira" < IBeer@newportbeachca.gov>

**Subject:** FW: Feedback on Proposed Redesigned Mooring Fields



From: SARA FRANKE <covebound2@aol.com>

Sent: October 27, 2022 9:30 AM

To: Harbor Feedback < Harborfeedback@newportbeachca.gov >

Cc: mail@newportmooringassociation.org

Subject: Feedback on Proposed Redesigned Mooring Fields

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi, thank you for sharing the proposed redesign of the mooring fields. As the holder of mooring D-047, I request and urge decision makers to assure the following:

- 1. Current mooring lengths (mine is 40 feet) will NOT be reduced but may be increased by the new design.
- 2. Holders of OUTSIDE/END moorings (mine is an outside/end mooring) will continue to have OUTSIDE/END moorings after the redesign is completed, in as close the same location as currently situated.

I paid a premium for my mooring being an outside/end mooring. I also paid a premium for the location (close to the guest dock and parking). I also incurred a large cost to make my mooring 40 feet in length.

THANK YOU for accommodating these requests. I appreciate the opportunity to provide input.

Sara Franke - D-047

From: rican franco <joerican9@hotmail.com>

**Sent:** October 27, 2022 10:47 AM

To: Blank, Paul

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Paul!

This is the problem I have with this project.

1<sup>st</sup> Presently all boats are facing the wind, in the proposed plan this is not the case. Could you image the stern of your boat facing the wind? Instead of enjoying the day with family and friends, we will NOT be sheltered from the wind, therefore why should I be on my boat. It just doesn't make any sense.

2<sup>nd</sup> Most boaters are up in age and this new plan will NOT allow us to single-handedly moor our boats...."It's just way too close" The wind will be a real problem. I'm 65 years old and I think I'm in pretty good shape.

On many occasions I had to climb up the side of my boat in order to access the bow thrusters in order not to collide into my neighbor's boat. This will be a big problem and the Lawsuits will be coming.

3<sup>rd</sup> I'm on my boat every Friday, Saturday and Sunday and I've seen it all. I've been boating since I've been 18 years old and the thought of adding additional mooring is

troubling. On the weekends I'm not able to pull up to a restaurant to have dinner with friends and family. It's just way too many boats. These electric rental boats crashed into my boat twice. They have

NO experience on the water and they are not familiar with boating rules. Over the Christmas Holiday last year, it was a parking lot of boats out on the marina. It was a HUGE problem.

# 4<sup>th</sup> PARKING PARKING PARKING..... This is a HUGE problem.

- Where are these additional boaters going to park?
- The Balboa Yacht Club has a waiting list.
- How are new boaters going to get to their boats?
- How about their guest?
- Where is their guest going to park?
- The shoreline homes will be boxed in with cars from all sided.
- Where are boaters going to store their dingey?
- Are new boaters going to bring trailers with their dinghy's? Where are they going to park?

These are some of the problems I faced before I purchased my mooring and after. Purchasing the mooring was the easy part.

Paul, please give this careful consideration. Americas Cup moorings are surrounded on 3 ½ sides, much different situation. Our Newport beach Boaters need to be carefully considered in this new plan. We love

Newport Beach and we need to keep it safe for all ages. Not all changes are good.

Thanks Paul, your staff is very respectful, I appreciate them.

Thank you for reaching out to me.

•

From: Blank, Paul <PBlank@newportbeachca.gov> Sent: Wednesday, October 26, 2022 10:08 PM

To: 'JOERICAN9@HOTMAIL.COM' <JOERICAN9@HOTMAIL.COM>

Subject: Sent on behalf of Commissioner Ira Beer: Important Information Concerning Your Mooring

### **Re: Important Information Concerning Your Mooring**

Dear FRANCO, JOSEPH,

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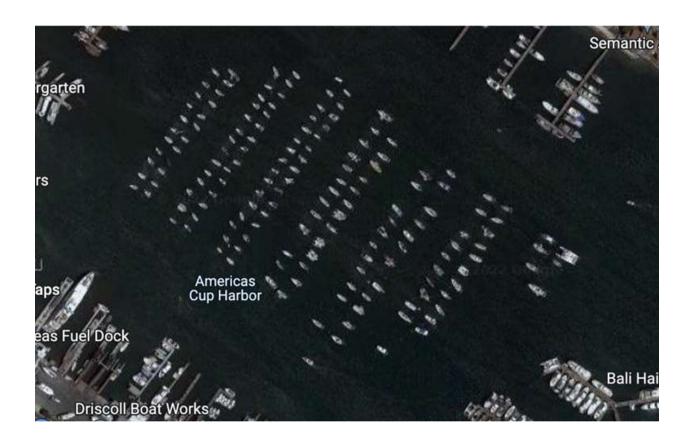
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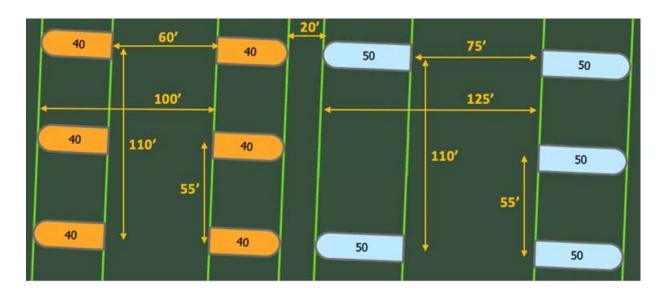
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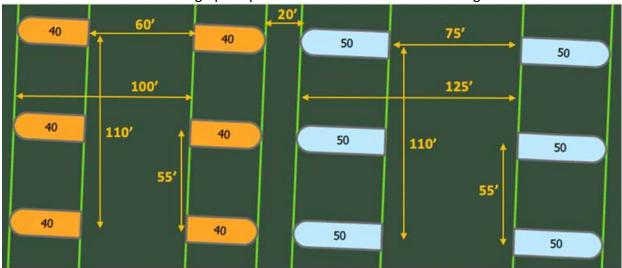


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Thank you for your support in maintaining Newport Harbor as a modern and most spectacular venue for residents and visitors to enjoy year-round. Your voice counts, so please let us know what you think.

Best regards,

# Ira Beer Harbor Commissioner and Vice Chairman ibeer@newportbeachca.gov



From: SARA FRANKE <covebound2@aol.com>

**Sent:** October 27, 2022 9:30 AM

To: Harbor Feedback

**Cc:** mail@newportmooringassociation.org

**Subject:** Feedback on Proposed Redesigned Mooring Fields

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi, thank you for sharing the proposed redesign of the mooring fields. As the holder of mooring D-047, I request and urge decision makers to assure the following:

- 1. Current mooring lengths (mine is 40 feet) will NOT be reduced but may be increased by the new design.
- 2. Holders of OUTSIDE/END moorings (mine is an outside/end mooring) will continue to have OUTSIDE/END moorings after the redesign is completed, in as close the same location as currently situated.

I paid a premium for my mooring being an outside/end mooring. I also paid a premium for the location (close to the guest dock and parking). I also incurred a large cost to make my mooring 40 feet in length.

THANK YOU for accommodating these requests. I appreciate the opportunity to provide input.

Sara Franke - D-047

From: M Woods <mwoods928@gmail.com>

Sent: October 26, 2022 9:35 PM
To: Blank, Paul; Harbor Feedback

**Subject:** Re: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mr. Blank

I have read your letter and i have some concerns:

- 1. I own this mooring, since this is my property. Do you have the legal right to move or alter my mooring? If so, how? I do not believe that you have the authority to move my mooring to accommodate others.
- 2. Your email states that the adjustments will allow you to add some additional moorings. I was informed that the plan is to add 100 or more additional moorings.
- 3. With that said I already have a difficult time finding parking to get to my mooring, especially on the weekends. The city has not provided sufficient parking as it is. How will the addition of 100 or more moorings affect the already horrible parking situation? I already have a difficult time when I choose to go to a restaurant or for dinner or the market, because if I move my car. I know that there is a very good chance I will not be able to secure parking when I come back. There are times I have driven back and forth looking for a parking space. There are times I have had to park blocks away to get to my boat. My guests have had an awful time finding parking when I have had them visit my yacht. Again how is this new configuration going to improve this already horrific parking nightmare. Those who are handicap and have difficulty walking long distances have no support in the area. It is obvious that the city has not provided adequate parking for the boaters handicapped or not.
- 4. On the weekend especially a holiday weekend the harbor is almost in grid lock like the 405 freeway. How will another 100 boats make that any better?
- 5.The addition of 100 or more moorings will also diminish the value of my mooring. Because you have increased the number of moorings it has increased the supply which lowers the value of my property. Simple economics, will I be reimbursed for the drop in value of my mooring?
- 6. The diagram you have above with the 50 foot vessels looks like you are now looking to place 3 boats in the space of 2. This would therefore decrease my privacy on my boat.
- 7. The harbor is pretty windy as you know. Now my boat is facing into the wind. If the design calls for boats facing each other therefore the rear of my boat could be into the wind. This would make sitting on the aft of my boat unbearable.

I do not believe that this is good for the harbor or for my personal use of my mooring. I am not in agreement of this expansion of the harbor mooring configuration.

On Wed, Oct 26, 2022 at 3:14 PM Blank, Paul <PBlank@newportbeachca.gov> wrote:

#### **Re: Important Information Concerning Your Mooring**

Dear WOODS, MICHAEL,

As you may be aware, the real history of Newport Beach Harbor began in the late 1800's when the first commercial vessel steamed into the harbor declaring a *new port* between San Diego and Los Angeles. However, it was not until 1936 when the Harbor was thoroughly dredged. This opened the pathway for recreational boating in Newport Harbor and led to what is arguably one of the greatest developments and destinations in California and in America today.

The mooring fields in the harbor were initially designed with well-defined rows that left much open water space between boats in the same row and allowing for fairways to be adequate in size for safe navigation by all mariners.

Over the past 20 to 30 years the original design of the mooring fields has been lost with so many boats of different sizes in different rows. This has resulted in the mooring field footprints to be far from where they used to be and in need of organization to improve safety and efficiency.

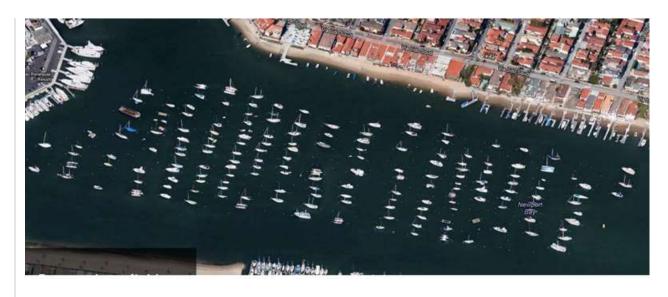
In 2017, the City of Newport Beach ended its contract with the OCSD Harbor Patrol for mooring administration and code enforcement. This resulted in the formation of a new Harbor Department run by the City of Newport Beach. One of the primary objectives adopted and unanimously approved by the Newport Beach City Council at that time was:

"Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields."

Over the past 3 years, the Ad-hoc Committee assigned to meet the above objective (which has since become an integral part of the Harbor Commission's Open Water Initiative), with the help of City staff along with many experienced Newport boaters, commercial harbor maintenance experts, and engineers hired by the City of Newport Beach, have designed an improved mooring configuration that we are happy to present to you for your comments, feedback and input.

The first image below shows the J & H mooring fields in Newport Harbor with about 200 boats in a congested space that takes up about 30 acres of prime water space. The second image below shows America's Cup Harbor in San Diego with about 180 boats and open fairways with more space between boats in the same row, yet only covering about 15 acres. The more efficient design of double rows allows for 90% of the boats in 50% the space with more room between boats and in fairways.

Current View of Newport Harbor J & H Fields



Current View of San Diego's America's Cup Harbor

90% of the Moorings in 50% Space

Improved Navigation and Open Water Space

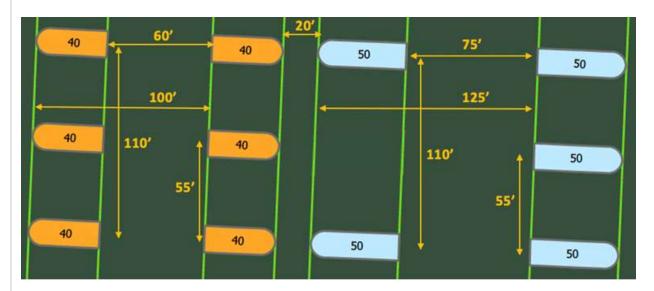


The two images below illustrate some of the benefits of the proposed new design. The first image shows the open water space that will be available to a 50' boat when approaching their mooring. The second image shows the boat after moored. Currently, on average a boater has a fairway width of less

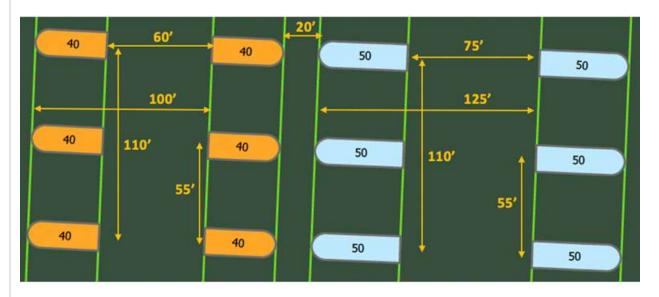
than the LOA of the boat, which does not meet the Newport Beach Harbor Design Standards for marinas, and the distance of the boats moored port and starboard are 20' - 30' apart and in many cases no more than a beam's width between boats. As you can see below, the new configuration provides about double the space between boats in the same row than exists today (55' on center) and increases the average fairway widths for safer navigation. The opposing boats in the double row configuration will be about 20' apart at the shared mooring anchor (or row) location as shown, but there is about double the space to maneuver in every other direction.

New Double Row Mooring Design

# Showing open space approaching a 50' mooring



Showing open space after secured to a 50' mooring



This new design is expected to greatly improve safety and navigation and provide existing mooring permittees with an improved experience when securing lines to and from their mooring. Additionally,

due to the efficiency of the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. Lastly, by cleaning up and organizing the rows, the new design will add to the aesthetics of the harbor, which is long overdue.

Some of the benefits to you as a mooring permittee are as follows:

- No upfront cost to existing mooring permittees. If approved as is, the City of Newport Beach will pay all costs for the improvements.
- This current proposed initiative will have no change to current mooring permittee transferability of permits as per Title 17 of the Civil Code.
- Moorings will still be substantially the same configuration with either 2 mooring buoys and a spreader line will be required to prevent mooring buoys from drifting into the fairways, or alternatively, mooring permittees may request to have their mooring equipped with a single mooring buoy and a sand line to retrieve the opposing anchor line (like what is used in Catalina).
- Mooring Permittees will experience the same or lower maintenance costs as today.
- There will be greater average distances in rows between boats for safer mooring.
- There will be substantially wider fairways on average than exist today for safer navigation.
- Relocation of moorings will only be to a location within the same mooring field, and every consideration will be made to accommodate like-for-like locations and special requests, where practicable.
- Improved public access and increased open water space through the mooring fields for both human-powered and motor-powered craft.
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Best regards,

Ira Beer Harbor Commissioner and Vice Chairman ibeer@newportbeachca.gov



From: Robin Chacko <robinjc@icloud.com>

**Sent:** October 26, 2022 9:29 PM

To: Harbor Feedback

Cc: Blank, Paul

**Subject:** Fwd: Sent on behalf of Commissioner Ira Beer: Important

Information Concerning Your Mooring

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Paul,

Thank you and Ira for providing much needed clarification. This sounds nothing like I imagined, and the value to the harbor is clear.

Can you confirm there is no cost to implementation and no additional cost to the current fee structure for the owners? Will new kinds of fees be tacked on?

Good work, Robin.

Begin forwarded message:

From: "Blank, Paul" < PBlank@newportbeachca.gov>

Date: October 26, 2022 at 15:18:09 PDT

To: robinjc@icloud.com

Subject: Sent on behalf of Commissioner Ira Beer: Important Information

**Concerning Your Mooring** 

## **Re: Important Information Concerning Your Mooring**

Dear CHACKO, ROBIN JACOB,

As you may be aware, the real history of Newport Beach Harbor began in the late 1800's when the first commercial vessel steamed into the harbor declaring a new port between San Diego and Los Angeles. However, it was not until 1936 when the Harbor was thoroughly dredged. This opened the pathway for recreational boating in Newport Harbor and led to what is arguably one of the greatest developments and destinations in California and in America today. The mooring fields in the harbor were initially designed with well-defined rows that left much open water space between boats in the same row and allowing for fairways to be adequate in size for safe navigation by all mariners. Over the past 20 to 30 years the original design of the mooring fields has been lost with so many boats of different sizes in different rows. This has resulted in the mooring field footprints to be far from where they used to be and in need of organization to improve safety and efficiency.

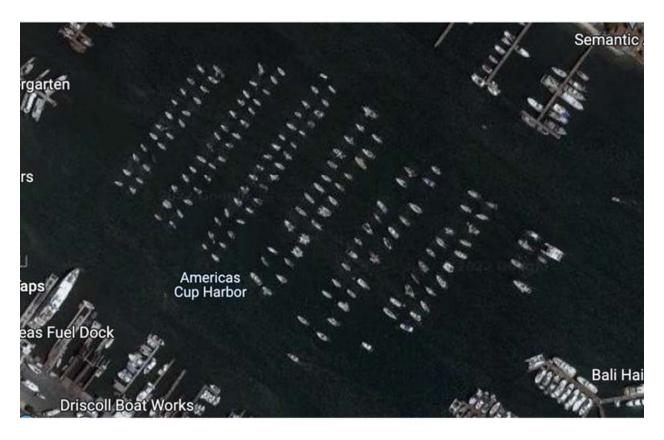
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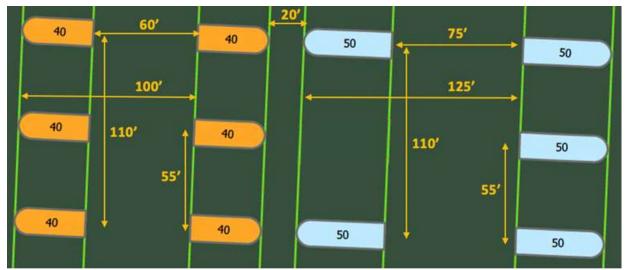


Current View of San Diego's America's Cup Harbor 90% of the Moorings in 50% Space Improved Navigation and Open Water Space

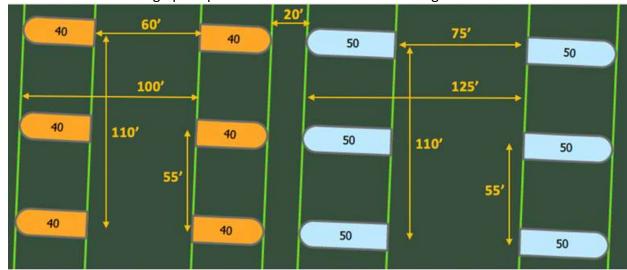


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- mooring buoy and a sand line to retrieve the opposing anchor line (like what is used in Catalina).
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- 7. Relocation of moorings will only be to a location within the same mooring field, and every consideration will be made to accommodate like-for-like locations and special requests, where practicable.
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Best regards,

#### Ira Beer

Harbor Commissioner and Vice Chairman <a href="mailto:ibeer@newportbeachca.gov">ibeer@newportbeachca.gov</a>



From: Tony <drt@etchiropractic.com>
Sent: October 26, 2022 8:09 PM

To: Harbor Feedback Cc: Tony Fedoryk

**Subject:** Mooring organization

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Good evening,

In regards to the proposed new mooring layout I have a few concerns.

My first one is getting on and off the mooring if I end up stern to the wind. My boat has a lot of windage (if that is a word) and I currently approach bow into the wind and while on the mooring I take the wind across the bow. If I were turned around I would have great difficulty getting on and off the mooring and I would shift considerably while moored. I purchased that mooring permit with that in mind. Mooring B-51

My second concern would be loosing my current end tie position. Again, my boat is hard to handle in the wind and it would most certainly eliminate my ability to single man it safely on and off the mooring.

Privacy is my third and maybe even first concern. Our reason for choosing a mooring over a slip was a greater sense of separation and privacy. Sharing a can would change how we enjoy our time on board.

Fourth would be a sand line. Forget how dirty the boat will get. I don't have the muscle to pull it over in windy situations and I have a solid structure that doesn't allow me to walk it back by myself and even with help I would need to remove side windows to pass it back. Having a decent length above water spreader line and long hook gives my speed an advantage to retrieve them pulling a line up from under the boat and around my screws is concerning. Thank you for all the work and thought into improving our harbor. When it comes to this matter I am in opposition, if it passes I may end up having to sell my boat.

You may receive two copies of this email. I am going to send it from my hotmail account as well as my emails frequently get blocked.

Thanks again,
Tony Fedoryk
Daytripper
Mooring B-51
Dr. Tony Fedoryk
ET Chiropractic
20341 Irvine Ave. Unit D1
Newport Beach CA, 92660
Phone (949)398-6353
Fax (949)398-6354

From: Feral Cat <waynetpowell@gmail.com>

**Sent:** October 26, 2022 6:54 PM

To: Harbor Feedback

Subject: Moorings

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello and thank you for your dedication to making Newport Beach a desired destination.

I attended the last Harbor Commission meeting. I listened intently to presentations.

Commissioner Beer gave a lengthy and detailed report. He introduced a new to this harbor, stainless steel screw anchors as a new way of anchoring moorings. I was in the crowd and could audibly hear many reasons why his proposal wouldn't work, here in Newport Beach specifically.

I noticed that the pictures of current conditions of the moorings, the front rows here ARE NOT STRAIGHT! Actually, not many of the FRONT (of majority of boats) are straight.

#### SUGGESTION...

Start with setting your new anchors at the ends of the front rows, connected by a cable or chain on the bottom that your two (2) moorings service providers can use as a guide when placing the individual weights of moorings in service. This new line will be straight and maintenance is between the City and only the two providers. This can be done sequentially as desired through the entire harbor and get the rows straight and managed.

Now, the city can manage whole rows together for placement and conformity in boat sizes. For the folks who need to extend their moorings, if the line doesn't have room... The City has other locations that can handle the new Boat size as close as possible to original location. This will allow a system to keep lines straighter and minimize the moving parts.

Very difficult to type words on a cellphone and make reader see actual plan. If anyone sees potential merit in something like this, I can be available to discuss further.

Wayne Powell 204 Main Street - Unit 755 Newport Beach, Can.

waynetpowell@gmail.com

Confidential, Mobile Device Communication

From: Dan <dn50963@gmail.com>
Sent: October 26, 2022 5:26 PM

To: Harbor Feedback

**Subject:** Mooring

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Harbor Department,

Thank you for sending out the ail regarding the changes to be voted in November.

My highest concern is the transferability of the moorings. I just paid \$60k to transfer the mooring into my name a little more than a year ago. I am not sure what stated in Title 17 Civil Code but if I no longer able to transfer the mooring to any interested party (not just relatives) then my investment is down the drain. This is not fair for most of current permit holders as we all spent the money expecting to get it back when we no longer needed it. I think of it as a deposit. Please keep transferability the way it is.

If you really have to take away this option, I would hope that you consider the option to buy back the transferability from all current mooring tenant at the current rate of \$1,000/ft. If I get my money back, I will just rent the mooring just as any new tenants.

If either of the above option is offered, I will totally support the other changes proposed.

Regards, Dan Nguyen From: Costel Falcusan <costel@3dmachineco.com>

**Sent:** October 25, 2022 12:18 PM

To: Harbor Feedback

**Subject:** Mooring Field Improved Utilization Report

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

#### Hello,

My mooring is J-113 and I have been very happy with it since I bought it.

I would absolutely welcome some cleaning up of the field into neat rows, however I have a couple of serious concerns about the single can/sand line combo:

- 1. I have a catamaran and I am currently on an <u>end</u> mooring, with no problems getting on or off. Will I be able to keep an end mooring position?
- 2. It is <u>considerably</u> more difficult to tie up using a sand (mud) line, as compared to the current 2-can system.
- 3. The boat gets very dirty from the mud and you are going to have to use your precious fresh water to rinse the mud off every time you come in.
- 4. You are a lot more likely to get the line stuck in your propeller while pulling on the mud line. That is dangerous!
- 5. If you happen to be one of the 50% 'unlucky' owners that have to tie up with the prevailing wind on their stern, I can foresee a lot of collisions wile tying up.
- 6. The little critters in the mud that like to hang on to lines. I am not sure what they are but they look like small shelled spiders with a vicious sting. I am currently set up with a floating line, but when I first got my mooring I used to let the lines rest on the bottom of the bay when my boat was out. Big mistake! I got my fingers bit a couple of times and within 15minutes my hand got numb, with the numbness going up towards my elbow. Not a pleasant experience!
- 7. Sharing an anchor between two cans—it's just too close to be 10 feet to the bow of the other one when tying up, especially with wind on your stern.
- 8. As far as saving money by not having to pay the maintenance for the second can, I would gladly spend it in exchange for not having to deal with the mess of the mud line. It's money well spent!

In conclusion, I agree that having equal length rows would look better and allow for more boats to be moored, however that can be done without the inconvenience and danger of the single can/sand line system.

Please keep the two can system!

Thank you and please let me know if you have any questions!!!

Costel Falcusan GM/VP 3D Machine Company, Inc. costel@3dmachineco.com www.3dmachineco.com 714-777-8985 x302 714-394-7227 cell This email is confidential and intended solely for the use of the individual(s) to whom it is addressed. The information contained in this message is privileged and confidential and protected from disclosure. If you are not the author's intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing, or copying of this email is strictly prohibited. If you have received this email in error please delete all copies, both electronic and printed, and contact the author immediately.

From: Beer, Ira

**Sent:** October 21, 2022 5:12 PM

To:kathryn777Cc:Blank, PaulSubject:Re: Moorings

Hello Ms. O'Neal,

Great advice. Thank you for your input and I assure you it will be considered in our final recommendation. It would be great if you could attend the next Harbor Commission meeting on November 9, 2022 at 5pm where this will all be discussed in detail. I hope to see you there.

Have a nice weekend.

Best regards,



**From:** kathryn777 <kathryn777@aol.com> **Date:** Friday, October 21, 2022 at 3:47 PM **To:** "Beer, Ira" <IBeer@newportbeachca.gov>

Subject: Re: Moorings

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr Beer,

Thank you very much for your timely response. I must admit the information I have received "on the water" has been contrary to your proposal. I appreciate your thorough explanation.

Please permit me one piece of advice: if this proposal goes forward a significant amount of time should be allowed between notification and implementation. The reason is there will be a mass exodus from the harbor (not me) for two reasons. First, some people just don't like change and, secondly, many boat owners are getting older and dealing with the new configurations would not be worth it. In my row alone, all but one boat owner is in the mid to late seventies and boat ownership has become physically challenging. I think giving the make-up of the harbor time to settle a bit would be wise.

Again, thank you for your response and concern.

Ms O'Neal

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Beer, Ira" < IBeer@newportbeachca.gov>

Date: 10/21/22 10:47 AM (GMT-08:00) To: kathryn777 <kathryn777@aol.com>

Cc: "Blank, Paul" < PBlank@newportbeachca.gov>

Subject: Re: Moorings

Hello Ms. O'Neal,

Thank you for reaching out with your question. I am providing two images (below) that show the proposed re-design layout in a location in the C field. The first image shows the open water space that will be available to a 50′ boat when approaching their mooring. The second image shows the boat after moored. Currently, on average a boater has a fairway width of less than the LOA of the boat, which does not meet the Newport Beach Harbor Design Standards (even for slips in a marina), and the distance of the boats moored port and starboard are 20′ – 30′ apart and in many cases no more than a beam's width between boats. As you can see below, the new configuration provides about double the space between boats in the same row than exists today (55′ on center), and increases the fairway widths for navigation by no less than 50% and in many cases the fairway width is almost double the current size. The opposing boats in the double row configuration will be about 20′ apart at the shared mooring anchor (or row) location as shown, but there is about double the space to maneuver in every other direction.

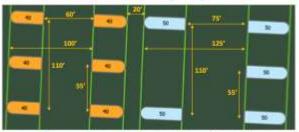
This is design is expected to greatly improve safety and navigation and provide existing mooring permittees with an improved experience when tying to and from their mooring. Additionally, due to the efficiency of the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. Lastly, by cleaning up and organizing the rows, the new design will add to the aesthetics of the harbor, which is long overdue.

Please do not hesitate to let me know if you have additional comments, feedback or questions.



# Safety and Improved Navigation With Double Row – Two Point Moorings

# New Double Row Mooring Design - C Field

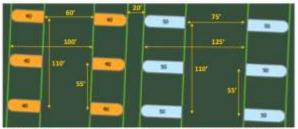


- When approaching a 50' mooring, a boater will have a 75' wide fairway (1.5 x its LOA) and open space
  of approximately 100' x 125' to grab the mooring line and secure the vessel.
- A boater can safely move left or right a distance up to 50' when abandoning an attempt to retrieve the mooring line. A boat tied to a mooring should not be able to encounter adjacent boats in the same row.
- Even with all this extra room, boaters must know how to properly operate their vessel and are responsible to match their ability with present conditions in an open an active mooring field.



# Safety and Improved Navigation With Double Row – Two Point Moorings

## New Double Row Mooring Configuration - C Field



- When approaching a 50' mooring, a boater will have open space of approximately 100' x 125' to grab
- . the mooring line and secure the vessel.
- A boater can safely move left or right a distance up to 50° when abandoning an attempt to retrieve the mooring line
- Even with all this extra room, boaters must know how to properly operate their vessel and are responsible
  to match their ability with present conditions.

# Best regards,



**From:** kathryn777 <kathryn777@aol.com> **Date:** Friday, October 21, 2022 at 10:16 AM **To:** "Beer, Ira" <IBeer@newportbeachca.gov>

**Subject:** Moorings

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Beer,

Apparently there are changes afoot with mooring configurations. I have a simple question that I can't find the answer to. Please tell me how close boats are together. Thanking you in advance for your time.

Ms. O'Neal

Sent from my Verizon, Samsung Galaxy smartphone

From: Beer, Ira

**Sent:** October 21, 2022 12:22 PM

To: cwtillman@cox.net

Subject: Re: Comments on Harbor Commission Consideration of

Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and

**Mooring Size Exchanges Requests** 

Hello Mr. Tillman,

Thank you for your comments and input. I assure you all your concerns are being considered very seriously. We are looking at options to address these (and other) concerns. Any new design will be expected to improve safety and navigation and provide existing mooring permittees with an improved experience when tying to and from their mooring. Additionally, due to the efficiency with the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. This will allow a small subset of people who cannot afford the high entry fee for a mooring permit to get on a waiting list and perhaps be able to enjoy boating on Newport Harbor when they otherwise could not.

This item has been placed on the agenda for review, discussion, public comment and possible recommendation at the next Harbor Commission meeting scheduled for November 9, 2022. I encourage your comments and hope you will be able to attend.

Best regards,



From: "cwtillman@cox.net" <cwtillman@cox.net>

Date: Friday, October 21, 2022 at 10:53 AM

To: Harbor Commission < Harbor Commission@newportbeachca.gov >

**Subject:** Comments on Harbor Commission Consideration of Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within

the Fields and Mooring Size Exchanges Requests

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Harbor Commissioners,

Please accept that attached comments regarding the proposed mooring plan, as discussed at the last public meeting.

Best regards,

Craig Tillman (949) 388-5700 From: cwtillman@cox.net

**Sent:** October 21, 2022 10:54 AM

To: Harbor Commission

**Subject:** Comments on Harbor Commission Consideration of Recommendations

Resulting from Commission Objective 2.3 to Improve Navigation Safety,

Allow for Additional Moorings Within the Fields and Mooring Size

**Exchanges Requests** 

Attachments: Comments for Harbor Commission Re Mooring Proposal.pdf

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Harbor Commissioners,

Please accept that attached comments regarding the proposed mooring plan, as discussed at the last public meeting.

Best regards, Craig Tillman (949) 388-5700 Newport Harbor Commission Newport Beach, California VIA EMAIL

RE: Harbor Commission Consideration of Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

Dear Harbor Commissioners,

Please consider the following comments and suggestions, respectively submitted, regarding the above referenced discussion item, presented during your October 12, 2022 meeting.

- (1) Most active mooring permittees are using a spreader line to safely accomplish egress and ingress to their mooring location. As pointed out during the meeting, many permittees anticipate significant problems in using their moorings, especially during adverse periods of tide or wind, given the revised proximity to other boats and necessity for a sand line as suggested in the present proposal.
- (2) Yes, the concept of moving to a "conservation mooring" in which a helix anchor along with a chain float used in lieu of a weight block to keep the mooring chain off the bottom to effect better preservation of the bay bottom and promote eel grass growth is a great idea. Indeed, an overwhelming majority of mooring permittees are good stewards of the tidelands and would embrace this solution. It should be noted that "bunching boats" and increasing density of the mooring fields will obscure sunlight and have the net effect of inhibiting overall eelgrass populations. Compared to fixed docks and the vessels tied to them, the current two-point mooring system allows for freer movement thus making it a more positive solution for the eel grass health and the environment overall. It should be noted that mooring maintenance of a helix set-up will be more costly relative to the current mooring set-up, as divers will be required to inspect and replace chain. Has the commission considered this extra burden to mooring permittees? Nonetheless, we would be in favor of two-point conservation moorings, assuming the engineering and testing can qualify them, to replace the existing two-point weighted moorings. Overall mooring field organization would likely be better preserved as that alternative would eliminate the problem of dragged weights during high wind or current events. In addition, the conservation mooring would help keep existing fairways clearer when a mooring is not occupied (and not employing spreader lines) by reducing tendency of the mooring ball to wander with tide currents.
- (3) The Board's focus and interest in increasing free navigation space seems to focus solely on vessels that are not human powered. Indeed, the current configuration of the mooring fields provide a natural buffer for the operation of human powered vessels like paddleboards, kayaks as well as small sailing vessels. The current mooring fields provide physical protection from wayward engine-powered vessel operators and their wakes. The same can be said for marine

- life, like dolphins which are often spotted inside mooring fields as they seek refuge from busy boat traffic corridors.
- (4) As this proposal seeks to increase mooring capacity by an additional 100 vessels, but does not consider how this intensification of harbor usage will increase demands in other harbor facilities. Specifically, accessing moorings will become more problematic as public docks, dingy storage areas and private marinas have no additional capacity to accommodate additional permittees that wish access to their vessel this is already the case for the exisiting mooring population. Where will all those additional users park their cars? Will this not have a negative effect on homeowners in the harbor area? Homes closest to the water have limited parking as it is. As you may know this is a non-trivial expense for mooring users now and should be accounted for in any plan or proposal. It's like building a new high-density housing subdivision without making provisions for parking or better roads for access.
- (5) The current mooring configuration promotes the ability to sail up to a mooring, without use of power, thereby encouraging greener activities in the harbor. The proposal would largely eliminate this opportunity for greener vessel operations.
- (6) The proposal as presented during the meeting talked a great deal about the aesthetics of the current mooring fields, comparing them to that of the America's Cup Harbor in San Diego. It may be a matter of personal taste, but the aesthetics in San Diego's harbor can be likened to that of a big parking lot, highly compact and decidedly ugly. In Newport Beach, the current aesthetic is more random, allowing for more space between boats and thus providing a pleasing random backdrop for harbor users. We understand that from an ariel view, neat rows of boats may seem appealing, but from the water, we think it would essentially create an industrial look.
- (7) As a frequent user of both harbors, it's clear that Newport Beach Harbor and America's Cup harbor are not comparable from a wind and tide current standpoint. This underlines the incompatibility of the proposal for sand line moorings with a shared mooring ball in Newport Beach harbor.
- (8) It also seems that closer arrangement of vessels will amplify problems of seals hauling out on boats, essentially allowing these marine mammals more opportunity to congregate closer to each other. Mooring permitees already have significant responsibility for dealing with seal haul outs please don't increase the difficulty of discouraging this activity.

It was unfortunate and unproductive that the Harbor Commission spent so much time lecturing the public attendees on reasons they disliked the NMA at the last meeting. In our view, this was not the appropriate forum for that. Most of the public attendees were present to hear for the first time the actual proposal that was being made and judge its merits for themselves. Yet they were subject to a long and condescending preamble.

Every mooring permittee is required to provide the Harbormaster with detailed contact information, including email contacts and mailing addresses. It should be possible for the Commission, when considering a proposal that affects the usability and overall value of mooring permits, to directly notify every mooring permitee of (1) upcoming meetings where this such proposals are on the agenda, and (2) provide details of the proposal as a pre-read for upcoming discussions. A simple email would do. Such action would signal the Commission's willingness to truly have a collaborative and constructive conversation with all interested and affected parties.

Best regards,

Craig Tillman

(949) 388-5700

From: Beer, Ira

**Sent:** October 21, 2022 10:47 AM

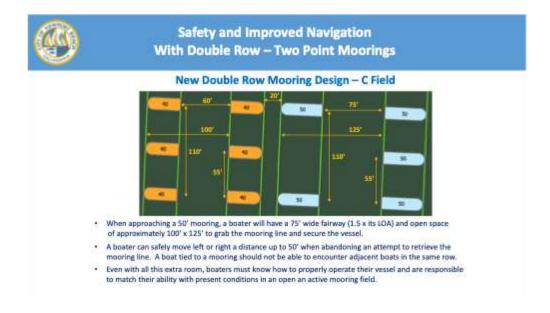
To:kathryn777Cc:Blank, PaulSubject:Re: Moorings

Hello Ms. O'Neal,

Thank you for reaching out with your question. I am providing two images (below) that show the proposed re-design layout in a location in the C field. The first image shows the open water space that will be available to a 50′ boat when approaching their mooring. The second image shows the boat after moored. Currently, on average a boater has a fairway width of less than the LOA of the boat, which does not meet the Newport Beach Harbor Design Standards (even for slips in a marina), and the distance of the boats moored port and starboard are 20′ – 30′ apart and in many cases no more than a beam's width between boats. As you can see below, the new configuration provides about double the space between boats in the same row than exists today (55′ on center), and increases the fairway widths for navigation by no less than 50% and in many cases the fairway width is almost double the current size. The opposing boats in the double row configuration will be about 20′ apart at the shared mooring anchor (or row) location as shown, but there is about double the space to maneuver in every other direction.

This is design is expected to greatly improve safety and navigation and provide existing mooring permittees with an improved experience when tying to and from their mooring. Additionally, due to the efficiency of the new design it will open up greatly needed water space for all mariners in the harbor and allow for the addition of some new moorings as well. Lastly, by cleaning up and organizing the rows, the new design will add to the aesthetics of the harbor, which is long overdue.

Please do not hesitate to let me know if you have additional comments, feedback or questions.





# Safety and Improved Navigation With Double Row – Two Point Moorings

## New Double Row Mooring Configuration - C Field



- . When approaching a 50' mooring, a boater will have open space of approximately 100' x 125' to grab
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- Even with all this extra room, boaters must know how to properly operate their vessel and are responsible to match their ability with present conditions.

## Best regards,



**From:** kathryn777 <kathryn777@aol.com> **Date:** Friday, October 21, 2022 at 10:16 AM **To:** "Beer, Ira" <IBeer@newportbeachca.gov>

**Subject:** Moorings

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Beer,

Apparently there are changes afoot with mooring configurations. I have a simple question that I can't find the answer to. Please tell me how close boats are together. Thanking you in advance for your time. Ms. O'Neal

Sent from my Verizon, Samsung Galaxy smartphone

From: Beer, Ira

**Sent:** October 19, 2022 7:06 PM

To: gerald saba
Cc: Blank, Paul

**Subject:** Re: Mooring reconfiguration

Hello Mr. Saba,

Thank you again for your comments and input. As mentioned we are looking at options to alleviate your (and others) concerns. You appear to be a very experienced boater.

At the present time there is no intent to change or modify provisions of Title 17 that would terminate the transferability for existing permittees or the transfer recipient of an existing permittee. Only the *new* moorings that may be added to the existing mooring fields will not be subject to transferability under the proposed changes. These *new* moorings may be offered to the public without the need to make a large investment into acquiring a mooring permit. This will allow others who may not be able to afford such a large investment to enjoy boating on Newport Harbor. That said, the market for moorings, supply and demand can all change in the future as you must be aware. Any of those factors, and many others, including any future legislation or changes to Title 17, could adversely affect the value and transferability for your mooring and for other existing mooring permittees. As you made reference to your retirement assets, I have no input for you, but will quote Bernard Baruch, an acclaimed financier and former FDR presidential advisor who once said, "You can't go broke by taking a profit".

Please do not hesitate to let me know if you have additional questions, concerns or comments. Your input is appreciated.

Best regards,



**From:** gerald saba <gwsaba@yahoo.com> **Date:** Monday, October 17, 2022 at 5:38 PM **To:** "Beer, Ira" <IBeer@newportbeachca.gov>

Subject: Re: Mooring reconfiguration

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Oct. 17, 2022

Dear Commissioner Beer,

To answer your question, yes I do use a spreader line on my mooring in H field. I have always used it to pick up the stern line after securing the bow. However, as I have gotten older and weaker, I intend to

make the spreader line heavier so that I can utilize it to secure the stern if it starts to get away from me in the wind/current.

A second concern of mine, and my family's, is transferability. Per the discussion at the last meeting, it is our understanding that we will not lose our existing transferability even if we get reassigned to another can or another field. As retired teachers, we are counting on that asset. Are we correct in this understanding about retaining our transfer rights?

Thank you for your efforts to make Newport Harbor a safer boating experience.

Sincerely,

Jerry Saba

On Sunday, October 16, 2022 at 05:29:20 PM PDT, Beer, Ira <ibeer@newportbeachca.gov> wrote:

Hello Mr. Saba.

Thank you for your feedback and input. I really appreciate it.

I believe many boaters in Newport Harbor share your feelings about the sand line moorings at Catalina being the favorite for many reasons. I do share your concerns and believe we have some solutions that I look forward to sharing with you after they have been properly tested.

I love the Viking line and is what I owned most of boating life. Do you use the spreader line on your mooring in the A Field, or are you able to grab the line at the mooring ball? I am just curious.

The Harbor Commission will be meeting on this subject again at the November 9, 2022 meeting. I hope you will be able to attend.

Best regards,



**From:** gerald saba <gwsaba@yahoo.com> **Date:** Saturday, October 15, 2022 at 5:47 PM **To:** "Beer, Ira" <IBeer@newportbeachca.gov>

**Subject:** Mooring reconfiguration

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

October 15, 2021

Dear Commissioner Beer,

My name is Jerry Saba and I have a 40 ft. Viking on Mooring H-810 and an inflatable dingy on P-089. My wife and I attended the Harbor Commission Meeting on October 12. Besides being long-term boaters, using this offshore can for over 40 years, I also worked at Balboa Boat Yard for 10 plus years. During that time, I often had to pick up boats from all the mooring fields. In so doing, I feel that the J and H fields were the most congested and dangerous. On several occasions I complained to the Sheriff's Harbor Department about my concerns of the dangerous conditions in these fields. Therefore, I am extremely happy to hear that you have taken on the challenge to make these mooring fields safer and easier to navigate.

I, however, do have concerns about the proposed plan for a new mooring system. Firstly, as someone mentioned at the meeting, the muddy bottom in Newport Harbor is a concern in sand line usage. A friend of mine, who was a long-time liveaboard in Avalon Harbor and an experienced sand-line user, set up a similar system when he moved his boat to Newport Harbor. He tried using it in the J-field, and quickly realized that the muddy bottom made the sand line too slippery and impractical. He no longer uses that system.

Secondly, in my 150 or more trips to Catalina, almost exclusively, I recall the wind to be on the bow in front of the mooring ball. In the last 2 months in Newport, we have experienced the wind to be out of the west, the southwest, the south, and the east, sometimes hitting us abeam or from astern. From my understanding of the new mooring system being proposed, I have serious concerns about how difficult it will be to pick up the mooring in some of these wind conditions. If the proposed system is still deemed to be a viable option, I would suggest testing it at the beginning of the H field, or in the F field, where there is more space between moorings. As the Catalina sand-line system is my favorite, I wish it could work in Newport, but I have my doubts.

We appreciate your dedication to this issue, and the time and effort you obviously have invested in making Newport Harbor a better boating venue, and your willingness to hear our opinions. Feel free to contact me if you so desire.

Sincerely,

Jerry Saba

From: Beer, Ira

**Sent:** October 19, 2022 6:37 PM

To: nigelb@att.net Cc: Blank, Paul

**Subject:** Re: catching a mooring in the wind

Hello Mr. Baily,

Sorry for my delayed reply. I appreciate your comments and sharing the common orientation of most boats in the J & H Fields. As mentioned previously, we are looking at different options to alleviate your (and others) concerns. Stay tuned...

Thank you again and please feel free to reach out anytime with comments or if you want an update. The Harbor Commission will meet on this issue again next month at the Nov 9<sup>th</sup> meeting. Hope to see you there.

Best regards,



From: "nigelb@att.net" <nigelb@att.net>
Date: Monday, October 17, 2022 at 5:55 PM
To: "Beer, Ira" <IBeer@newportbeachca.gov>
Subject: RE: catching a mooring in the wind

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thank you for responding and quickly. I'm sure you have many messages to respond to. It is much less challenging with the 2 mooring ball system to approach into the wind, put it in neutral when I'm close enough to the wand attached to the spreader line that I can nab it with a hook if necessary and once I have the spreader line on board and the wind is starting to carry the boat astern I can drop the loop over the forward cleat and walk the spreader line back to secure the stern. I just don't know how it would work with the new system. My other concern is if my particular mooring location puts the wind on my stern it seems I'm going to have figure out how to grab a mooring line on the bow with the wind pushing me towards the boat ahead of me and try to walk the messenger line back to the stern cleat. I've recently experienced high winds that have made mooring the boat by the old system problematic, with the new system nearly impossible. Much of my problem is with my circumstances since my wife who used to be my first mate and a very able helmsman has Alzheimer's and is no longer able to be more than a passenger, so I am essentially single handing. Further one of her few joys in life is being on the water, so boating is an important part of our lives together. I have always been a team player and willing to adjust to new ideas but I see so many concerns with the new mooring system, primarily if I am no longer bow to the wind. You will note with almost no exceptions that all the boats in J and H are moored bow to the wind. I'm over 80, and physically fit, but sprinting forward or sternward needs to be done with caution as I'm not as nimble as I once was. If a video was available showing a boat owner approaching a mooring set up as in San Diego, to see mechanically how it is done. It would be easy to see from such a video how mooring a vessel with wind either on the bow or stern would be affected. Thanks again for your speedy response. Nigel Bailey

From: Beer, Ira < IBeer@newportbeachca.gov>

**Sent:** Sunday, October 16, 2022 5:49 PM

To: nigelb@att.net

Subject: Re: catching a mooring in the wind

Hello Mr. Bailey,

Thank you for your detailed feedback and input. I really appreciate it.

Your concerns are taken very seriously. It seems to me the primary concern is not being able to grab the messenger (or spreader) line as you do now. I can see how it may be more challenging to retrieve the line at the mooring ball vs a spreader line. Currently with the 2 mooring balls and a messenger line, once you grab the spreader line you are in a good position and if there were a boat 20 to 30 feet off your bow mooring it should not be of concern as you would be held in place by the messenger line. Do you agree?

I like the idea of a step-by-step process no matter the solution decided upon.

Best regards,



From: "nigelb@att.net" < nigelb@att.net>
Date: Friday, October 14, 2022 at 11:43 AM
To: "Beer, Ira" < <u>IBeer@newportbeachca.gov</u>>
Subject: catching a mooring in the wind

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

My name is Nigel Bailey, I spoke at the meeting. As a mooring holder for many years (H310 currently and a mooring in the J field before that) and through ownership and use of 5 boats, 3 from 27 to 30 feet and 2 at 45 feet, one power, the rest sail, I can attest to the difficulty of catching a mooring single handedly, in a heavy (32000 pounds) underpowered (70 hp) vessel. I need to approach it, slowly, when close enough, bring the boat as close as possible to a stand-still, put it in neutral, engine running, sprint forward with a hook and grab the wand, attached to the line between moorings, pull it in, hook it to the bow cleat, then walk the line between moorings back to the stern with the objective of dropping the loop in the stern line over the stern cleat. Sometimes if there is a cross wind it takes all my strength to pull the stern towards the loop in the stern line. I have no concern that the vessel will move forward

since I'm always headed into the wind as all other moored boats around me are and if anything will drift sternward, that drift halted when the bow line becomes taut. In a high wind it is very difficult to accomplish the objective of securing the vessel to the mooring with the current arrangement. With the proposed mooring arrangement with vessels using a common bow mooring with another vessel bow to bow, If I have the bad fortune of facing the opposite direction with stern to the wind with the risk of drifting forward into the boat sharing the mooring, I would assume I would need to secure the bow, then with the engine at an idle in reverse, walk the messenger line back to the stern where I can find the stern line to drop it over the stern cleat. If I have the bad luck to have sufficient wind on my stern and have to rev the engine to stay away from the vessel sharing the mooring I take the risk of prop walking away from the stern tie up. Also allowing the prop to be turning while in close proximity to lines under water amps up the risk of a wrap, now I'm drifting with an unresponsive engine and no control as to direction. Every sailors nightmare. I am unfamiliar with San Diego Harbor and the mooring field is that you use as a model but I suspect they are in a sufficiently protected area where they aren't subject to the winds we often experience. If they are, I guess I need training on the process of securing the vessel to the mooring with a 20 to 40 knot wind on my stern, and another stationary vessel 30 feet off my bow and in my direct line of drift.

It would help all of those affected by the proposal to know the step by step process of securing a vessel to the proposed mooring system, especially with a wind on the stern, If it is as I described, it seems problematical at best. Finally with plans of a catamaran being our next vessel it is important to me that we stay on an end mooring, as I understand Catamarans can only be moored on an end. I paid a premium for my location and am hoping not to end up on the inside.

From: Beer, Ira

**Sent:** October 17, 2022 11:55 AM

**To:** Avery, Brad; Blom, Noah; Brenner, Joy; Dixon, Diane; Duffield,

Duffy; Muldoon, Kevin; O'Neill, William

**Cc:** Finnigan, Tara; Harp, Aaron; Leung, Grace; Oborny, Shirley; Rieff,

Kim; Miller, Chris; Jung, Jeremy; Blank, Paul; Biddle, Jennifer

**Subject:** Recent item discussed at the Oct 12, 2022 Harbor Commission

meeting

Dear Honorable Mayor and City Councilmembers,

To diffuse the misinformation delivered to the good citizens, mooring permittees and users of Newport Harbor, at last week's Harbor Commission meeting I provided a detailed response to a letter that went out by the NMA to many residents, stakeholders and City officials, which you may have received. For your perusal, my summarized presentation notes used for the delivery of my response to that letter during the October 12, 2022 Harbor Commission meeting are posted below at the end of this email.

The reconfiguration of the mooring fields is critical for safety, aesthetics, and improved navigation. The new configuration will also result in greatly improved public access through and adjacent to the mooring fields, while also providing an opportunity to add additional *new* moorings intended to be city owned, non-transferrable, and not require an average \$50,000 investment paid by a private party directly to existing mooring permittees for a 50' mooring (as example). The public can simply apply for these *new* mooring permits by lottery followed with a waiting list as is similarly done at Catalina and just about everywhere else along the California coast. This will provide for a fair and more affordable boating experience for many of those who could not otherwise enjoy boating on our Harbor with their families and friends.

The following Presentation Summary has only been provided to those of you on this email. Please feel to reach out to me with any comments or questions. I would also like to express my sincere gratitude for all the heartfelt dedication and support to our beautiful harbor you each provide individually and collectively.

## HC Meeting Oct 12, 2022 – Presentation Notes

Good evening, ladies and gentlemen and thank you for attending this Oct 12, 2022 HC meeting. Some you here tonight may have written letters related to this agenda item. I have read every letter and carefully considered what was written. I also read a rather disturbing letter dated Oct 10, 2022, and sent by the NMA Board to its members, mooring permittees, the HC, the Mayor of NB and City Council members. As some of you may wish to make a public comment this evening as it pertains to the proposed mooring reconfiguration that will be discussed shortly, I would like to share facts related to the allegations set forth in the NMA letter to which the basis of your public comments of record may be based.

### Address concerns from letters

## 1. NMA Letter states:

The HC is proposing to move your boat across the harbor. Further stated "this is a proposal to radically change Title 17 of the City Code allowing the HC without your approval to move any boat...to some other location in the harbor.

I believe this statement to be false and misleading. There is nothing in what was agendized or that will be presented tonight that proposes to move any boats across the harbor. Furthermore, the City of NB has always maintained the right to move any permittee's vessel temporarily or permanently. See Title 17 section 17.60.040 paragraph j., which states: the Permittee does..."Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or the Harbormaster... Title 17 need not be changed to provide the City with the right move boats, that right already exists.

## 2. NMA Letter states:

- This is a Proposal to Terminate Transferability.

I believe this statement to be false and misleading. There is nothing in what was agendized or that will be presented tonight suggesting to terminate transferability of any existing mooring permits.

## 3. NMA Letter states:

The proposed changes to Title 17 have been pushed forward under a guise of a potentially dangerous new mooring system as if they were slips and not in open water...obvious danger to life and limb and does not seem to be understood by the HC.... (For the record, α guise, quoted from the NMA letter is defined by Google as providing an appearance, or manner of presentation, typically concealing the true nature of something.

I believe these statements to be false and misleading and the allegations are without basis of fact and have no merit; and frankly is disrespectful and insulting to this body of commissioners that have all been carefully selected and approved by vote of the City's honorable Mayor and City Councilmembers.

Fact: The proposed mooring reconfiguration is used in other harbors including San Diego Harbor successfully for more than 40 years. According to the current administrator in charge of the large 2-point mooring field in San Diego's America's Cup Harbor, to his knowledge there have been no incidents or danger to life and limb during his 25 years associated with administrating this particular mooring field including the time he was the administrator of the Port of San Diego. He further commented that the America's Cup Mooring Field is subject to exposure from large wakes and swells from the harbor entrance. Additionally, during the tsunami of

recent years, the surge and fetch was substantial and there was no incident. Newport Harbor is one of the most protected harbors along the coast and mariners are fortunate to be provided with such protection from storm surges, rough seas and wakes from large ocean-going vessels. This efficient mooring design has been engineered and designed to withstand the natural elements that may exist in our harbor and is not "an obvious danger to life and limb" and provides substantially more room between vessels in the same row and 50% to more than 100% more width in every fairway than currently exists, which you will soon see in the presentation I will be presenting.

## 4. NMA Letter further states:

 "The HC has not met with the NMA on any of this" (repeat) and could possibly be voted on after only providing a few days' notice which almost no one ever sees...

Perhaps the NMA board member who wrote this should refresh their memory, read the agenda or come to HC meetings so they would see and know what was going on. If I was an NMA member I would expect that of my board members.

In fact; The HC has met with the NMA and has actively engaged in dialogue over the past 4 years that I am aware of. Specifically, this matter has been agendized for public comment at approximately 8 HC meetings, 2x in 2018; 3x in 2019, 1x in 2021 and 2 x over the past 6 months. There was also 1 Zoom meeting in 2020 during Covid. During each of the last 30 HC meetings over the past 2-1/2 years status updates to this very important initiative defined under HC Objective Functional Area 2.3 has been provided and were open for public comment and remain on record for public access. The Objectives are defined in writing, adopted by City Council and are also posted on the City website. Most recently, 4 months ago at the June 8<sup>th</sup> HC meeting this item was properly noticed and agendized and a full presentation (very similar to what you will see tonight) was provided. Members of the NMA Board and NMA permittees were present. The formal PowerPoint presentation shown at the meeting was provided to the NMA the next day via email.

Later in June the NMA requested information about the meeting that related to project economics and proposed mooring rate increases. An email was sent to the NMA by me with a copy to the HC and the NB City Council on June 28, 2022 stating: — "The purpose of the mooring initiative discussed (at the June 8th HC meting) and defined in item 2.3 of the Harbor Commission Objectives is to evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. Economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective.

I would be happy to meet with you and the NMA board in person or via Zoom to discuss what was presented and the items related thereto. Please let me know. Otherwise, I hope you will watch for when

this topic is agendized at future Harbor Commission meetings as I and the Harbor Commission value your comments and any input you feel compelled to share. Thank you."

No response from the NMA to meet and discuss the presentation was ever received.

September 26, 2022 – I took the liberty to send another email, I quote: "Attached herewith please find a copy of the initial engineering study for the mooring field reconfiguration. Should you have any questions, comments, or feedback, please do not hesitate to respond back to me." I further quote..."Should you wish to discuss any of the information provided, or any other aspects of the project, please do not hesitate to let me know as I am happy to meet with you and/or the NMA board prior to the next scheduled Harbor Commission meeting where this item will likely be agendized for public comment."

As you know, this project is a part of the Harbor Commission's Open Water Initiative intended to improve safety, navigation, create more moorings for public use and increase the usable space for mariners in Newport Harbor. I look forward for the opportunity to share any of the details with you, your board, and its members."

No response from the NMA to meet and discuss the City Engineering outlining the mooring initiative was ever received.

**September 30, 2020** – Yet another is sent "Please find attached herewith the most recent updated version of the Mooring Anchor Calculations Report. The edits were very minor and were primarily editorial in nature. Please only reference this current report in any future correspondence or discussion. **Please let me know if you have any questions.** 

No response from the NMA to meet and discuss the updated City Engineering Report outlining the mooring initiative was ever received.

There has been no response and no request for information or request to meet and discuss this initiative despite an ongoing open invitation to do so.

The NMA statement in their letter dated 2 days ago that states "The HC has not met with the NMA on any of this". Clearly this is statement is false and I ask the NMA members and recipients of the letter to take strong exception to its contents and allegations.

I find the statements contained in the NMA letter to be totally unconscionable. Taking up valuable time at a public meeting to respond to false statements is frankly not productive time spent and does not benefit the boating community or the Harbor Commission's open water initiative for improvements to the mooring fields and navigation within the harbor, which all NMA members and mooring permittees may benefit from.

In my opinion, the NMA board members should be held accountable and held responsible for any misinformation that has been disseminated on their behalf to mooring permittees of Newport Harbor, the HC, the Mayor and City Council members of the City of Newport Beach, many of whom have taken their valuable time to be here tonight. Accordingly, I was compelled

to provide a detailed account of the truth so the public can base their individual opinions on **actual facts** and perhaps the NMA members will take a more proactive approach in finding leadership that will resemble honesty, integrity and the willingness to work and participate with this Commission toward achieving great progress for all stakeholders of our beautiful harbor.

I encourage all those present that intend to offer a public comment on this matter to carefully consider the facts just presented and the information that will be discussed in the following presentation.

#### Start Presentation...

# **Finish Presentation with Summary:**

Outline for Proposed Reconfiguration – adjustments to certain items in the Agenda Packet based on public comment received to date

- 1. Clarifies regardless of a helical anchor or a standard weighted anchor solution, existing weights, chains and hardware will be reused where possible
- 2. Clarification of City's responsibility
- 3. Clarification that future requests for relocation will only be considered within the same field and only if the proposed new space is occupied by a permittee who was relocated to a larger mooring as a result of the proposed reconfiguration. Example: When rows are reassigned some boats will result in rows larger than currently permitted for.
- 4. Clarify the 10 prior extension requests have been included in the new design and the Harbormaster has discretion to approve or reject such temporary extension based on safety, navigational or other hazards.
- 5. Clarify there is no intended change for transferability of moorings to existing permittees or their transferees to what is currently set forth in Title 17.

Invite the HC comments at this time.

Followed by public comments.

## Best regards,



From: Michael Gauthier <doghouse53@gmail.com>

**Sent:** October 14, 2022 3:51 PM

To: Harbor Commission
Subject: J-22 Newport Harbor

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Regarding the redesign of mooring fields; I would like to start by saying I was impressed with your presentation at the meeting the other evening. I like the concept of tidying up the mooring rows and understand how that could result in more moorings. I went home with that in mind, and surveyed my own situation. After careful consideration I have decided this system would not work for me at all. Depending on which direction the wind is coming, dictates my approach to my mooring. I have been in the harbor for 12 years and really love my situation. I think that trying to have to come in the other direction would definitely raise my Insurance premium. I personally think the current system is excellent. It just needs to have some realignment. If we had a sandy bottom like Catalina this system might work. But as for pulling up, what I would consider mud lines, would be a real drag. I sincerely hope you would consider abandoning this new plan. And simply just tidying up the current design. Thank you for your consideration. Michael Gauthier Sent from my iPhone

From: John Fradkin < john.fradkin@gmail.com>

**Sent:** October 13, 2022 5:34 PM

To: Harbor Commission

**Cc:** Dept - City Council; Miller, Chris; Blank, Paul

**Subject:** Biggest problems with Ira Beer's Mooring Reconfiguration Plan

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Commissioner Beer,

The following reflects my own personal opinion of the biggest problems with your Mooring Reconfiguration Plan. It does not reflect the opinion of the entire Board of the Newport Mooring Association at this time, however there is no reason to think that opinion would be materially different from mine. In the interests of timeliness, I am giving you my opinion now. I know that you mean well and have spent a lot of time on this project. However I don't think your fellow Harbor Commissioners or the City Council should feel compelled to support your proposal just because you spent a lot of time on it.

Your proposal compromises on safety and future costs in order to achieve better aesthetics and to achieve bigger fairways and add some new moorings. Is that a good tradeoff? I don't think it is. As I have stated before, I believe that your proposal will result in more boats coming in contact with one another than is the case now, and that there will be more finger crush injuries at the very least. I am sure of this.

The most basic problem is that your design creates upwind and downwind moorings with the bows of the two boats sharing an anchor in very close proximity. The downwind moorings are going to be very unpopular as they will be very hard to use. This was immediately apparent to myself and some of the more experienced boat drivers such as the professional tugboat operator who spoke quite eloquently about it. Attempting to moor at a downwind mooring in a strong westerly breeze in combination with a strong ebbing tide is going to be very challenging and skippers are going to get themselves in trouble.

Based on your comments last night, I don't think you fully grasp the impacts of wind and tide, the importance of spreader lines, and the subtle intricacies involved in safely putting a vessel onto a mooring in a crowded field of double moorings in Newport Harbor. The most basic thing that all mooring permittees are used to doing when they attempt to moor their vessel is that they steer their boat directly into the wind at slow speed. The second thing that all mooring permittees on the double moorings are used to doing is grabbing the center of their spreader line and quickly attaching it to a midships cleat as soon as their vessel is in position to do so. Once the center is hooked up, then they quickly attempt to get the bow and stern hooked up. Time is of the essence when they are doing this. If not done quickly, the boat will often get sideways due to wind or current and a new approach may be needed before contact is made with the adjacent moored vessel. With the single row system in place now, they can extricate themselves from a compromised twisted situation by going either forward or backwards. With your new mooring configuration proposal, there are multiple problems. Half of the permittees will no longer be able to head into the wind on their approach. This is probably the single biggest problem with your configuration as you've taken away their ability to do the familiar upwind approach. There's now no spreader line so they are going to have to hook up the bow first and then try

to muscle a slimy sand line onto their stern cleat. This will prove to be difficult in many instances. While they are struggling with this, wind and tide may have gotten their boat sideways. The stern is getting very close to an adjacent vessel. . .can't go forward, can't go backwards. . .Boom, contact.

You asked for solutions. Well here is my stab along with a brainstorming idea for you to ponder on.

- 1. Abandon the double row configuration. Stick with the single row setup so that you give all skippers the ability to do their normal and familiar upwind approach.
- 2. Abandon the idea of using helical anchors. I don't doubt that they would work from an engineering standpoint, but having the city hire divers to make those connects and disconnects is going to be ridiculously expensive in the long run. The current system of being able to lift the weight and the entire mooring system onto the deck of a barge and the ability to inspect it carefully in broad daylight is just such a great simple system that it doesn't need fixing.
- 3. H & J fields are admittedly somewhat unsightly and could look a lot better. Move moorings and make the rows much better aligned. Perhaps try to have two obvious fairways in the center of those fields.
- 4. Abandon the idea of creating new moorings. There is no shortage. That is just in your mind. We could debate this forever, but mooring permits were the same price in the open market 20 years ago. If there was a shortage, they would have gone up in value. 20% of them are currently vacant. If the City made the costs and rules less restrictive on sub-permitting, many of those moorings would have boats on them. That's how you get new boaters onto moorings without them having to buy a permit and you don't piss off all the permittees that bought their permits.
- 5. Here's the brainstorming idea that would demand a bit of study -- try to make all moorings single point moorings which are so superior to the double point moorings in every way. They are easier to use, easier on the vessels due to less loads, easier to service, etc., etc. Everyone loves the single point moorings. I think with some minor movements of both moorings and perhaps mooring field boundaries, many fields could become single point fields. It hasn't been studied. I think the waterfront homeowners would like this change as their view would be changing all the time. The view from a vessel on a single point mooring changes all the time too, and this is another very cool and underappreciated benefit to them. H & J fields would work but they are currently so dense that there would have to be far less moorings there. Perhaps moorings could be pulled out of there and relocated to another underutilized part of the bay ?? I think the G field could be extended substantially.

Regards,

John Fradkin Mooring Permittee From: Rich Luttrell <richluttrell@cox.net>

**Sent:** October 13, 2022 4:27 PM

To: Beer, Ira Cc: Blank, Paul

**Subject:** Newport Harbor mooring project

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Beer,

Thank you for the information last night and assuring the existing permit holders that transferability will be kept as it is today. Since you did not mention the A mooring field last night I assume that will be one of the last mooring fields to be updated?

I had an idea that might help the permit holders get over their concerns of the new system. Maybe you could have some captains from America's Cup harbor in San Diego have a person onboard take a video of the captain pulling into their mooring with running commentary from the captain on the conditions and the steps they perform to secure their vessel. It would be even better if there could be multiple videos from various size sailboats or powerboats in various conditions (i.e. headwind, downwind, side wind and outgoing or incoming tides). Since everyone has a video with their iPhones it should be a pretty easy ask for captains down in San Diego to send some content.

My main concern with the new mooring plan has always been the combination of wind and tide. It's almost always manageable for me to secure my boat alone on my mooring, but when wind and tide combined on certain occasions it can be excessive and make things difficult in the A mooring field. Lastly, it'd be nice to know how the sand line would work with our muddy bottoms and how we can minimize the mud getting on the boat or our hands/clothes, etc. I am well acquainted with using the sand lines at Whites Cove with polypropylene lines, but I would like to understand better how it will work with chains in the Newport Harbor.

Thanks for your support and I hope it is a successful project for all.

Regards,

Rich Luttrell Balboa Yacht Club member From: Blank, Paul

Sent:October 12, 2022 12:01 PMTo:nicky102andrews@gmail.comSubject:Fwd: Moore reconfiguration

Mr. Andrews:

Thank you for your thoughtful input on this important matter.

Your feedback will be included in what the Harbor Commissioners review when this matter is heard.

Best,



Paul Blank Harbormaster pblank@newportbeachca.gov 949-270-8158

From: Nicky102 < nicky102andrews@gmail.com > Date: October 12, 2022 at 11:13:24 AM PDT

To: Dept - City Council < CityCouncil@newportbeachca.gov>

**Subject: Moore reconfiguration** 

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I have been a live aboard in Newport Harbor for over 6 years. I bought my Mooring in the specific location that suited my needs. I now live in a wonderful community of live boards. We are like extended family that look out for each other and our boats. I want you to imagine what it would be like if your city decided to move your house. I'm sure you can imagine how unsettling it would be to have your life uprooted without any control. I love where I live and the people around me that make me feel safe and secure. I hope you will take into consideration the devastating effects that this will have on those of us that call this Harbor home. Aside from that the repositioning that you are suggesting is going to make a moving a boat very dangerous. It's difficult to get on the mooring when the conditions are good and you have the room, but

rarely are the conditions conducive to an easy on and off situation. What you are suggesting is going to cause great difficulty and the likelihood of damage. I don't think you have taken into consideration the extreme winds that we experience out there and the effect that it has on the boats. I have seen in every season, in every year, boats coming loose from their mornings and colliding with neighboring boats. You're also talking about adding more mornings and impacting an already overburdened situation at the public docks and the parking! More boats, more people, more activity on the bay and on the streets of the already crowded peninsula.

Thank you in advance for your consideration and attention to my concerns.

Dick Andrews J 210

From: Wade Womack <wade@orangecoastla.com>

**Sent:** October 11, 2022 4:45 PM

To: Harbor Feedback: Harbor Commission

Cc: Blank, Paul

Subject: Comments on Agenda item #3 for 10/11/22

Attachments: June 8.png

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

# Dear Harbor Commission,

It is concerning that staff or a Commissioner is recommending significant revisions to Title 17 based on a proposed mooring plan that has not been presented properly to the public for a thorough review and public input. To the best of my knowledge the mooring plan was posted online **after** the June 8<sup>th</sup> Harbor Commission meeting "Update on Objectives". Therefore, the public did not receive the benefit of the normal 5 days to review prior to the Harbor Commission meeting. Nor was the proposed new mooring system posted as an agenda item for full Harbor Commission Discussion. The public deserves an opportunity to thoroughly review this significant change to our harbor that will likely cost the city tax payer hundreds of thousands of dollars and impact us all in so many ways.

This is a "cart before the horse" situation whereby the Harbor Commission will be considering revisions to Title 17 prior to the City Council approving significant funding for this proposed mooring system change. Not to mention, the proposed mooring system change will require Coastal Commission approval and other environmental reviews such as an EIR. This new mooring plan is simply an idea that has not been vetted. Why are changes to the Harbor Code being suggested on a plan that may not gain city council approval.

The Harbor Commission should postpone this agenda item and schedule a stand alone agenda item for the mooring system change only. This would allow the public to provide thoughtful input for Harbor Commission consideration before considering these changes to Title 17.

Thank you, Wade Womack

P.S. Please show my attached slide during my comments at the October 12<sup>th</sup> Harbor Commission meeting. Thank you

05-11-2022 Harbor Commission Regular Meeting Draft Minutes

05-11-2022 Harbor Commission Draft Minutes Secretary Scully Comments

05-11-2022 Harbor Commission Draft Minutes\_Chair Kenney Comments

05-11-2022 Harbor Commission Draft Minutes Commissioner Marston Comments

## 6) PRESENTATIONS

- 1) Recognition of Harbor Department Staff for the Que Vida Fuel Spill
- 2) Recognition of Chair Kenney for his Service to the Harbor Commission

## 7) CURRENT BUSINESS

 Update on Objective 2.3 Summarizing the Configuration Guidelines to Improve Navigation Safety and Allow for Additional Moorings Within the Fields

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to "Establish policies for modifications to mooring sizes". At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal which will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer's efforts, process and research. Commissioner Beer seeks input from the full Commission and public to further refine his recommendations.

## Recommendation:

- 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
- Provide direction to Commissioner Beer on further development of recommendations.

# Staff Report

Additional Material Presented at Meeting\_Vice Chair Beer
Presentation 06-08-2022

## 2. Update on Objective 4.3.2 Commercial and Nonprofit Harbor Census

Among the Harbor Commissions Objectives for 2022 is further research and enumeration of visitors to and users of Newport Harbor. The Commission subcommittee responsible for Objective 4.3.2 has conducted research and documented their findings.

This report and presentation will update the Harbor Commission on subcommittee's process and research. The subcommittee seeks input from the full Commission and public to further refine their research methods and recommendations.

From: Jerry LaPointe < jerrytlapointe@gmail.com>

**Sent:** October 11, 2022 4:29 PM

To: Harbor Commission
Subject: Title 17 Redline Changes

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I am writing as a Newport Beach Resident and Mooring Permittee. I have had the opportunity to read the staff's redline of Title 17. The takeaway is that the Harbor Commission is using the yet unproven/unapproved mooring realignment that Commissioner Bear is proposing, as an opportunity to make changes to the Title 17 to impede or **stop mooring transfers** in the future. The changes reference "new mooring permits" but does not define it. The language is broad and a risk to my ability and others to transfer in the future as has been done since the mooring were added to the harbor a 100 years ago.

I request that the Harbor Commission take this off of the Agenda until stakeholders have an opportunity to understand and provide input of any proposes changes.

Jerry LaPointe 949-697-0685

Sent from my iPad

From: John Fradkin < john.fradkin@gmail.com>

**Sent:** October 11, 2022 2:25 PM

**To:** Harbor Commission; Dept - City Council

Subject: Comments on Proposed Reconfiguration of Moorings in Newport Harbor

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

# RE: PROPOSED CHANGES TO MOORINGS IN NEWPORT HARBOR

Email Harbor Commissioners: <u>HarborCommission@newportbeachca.gov</u>

Email City Council Members: CityCouncil@newportbeachca.gov

## Dear Harbor Commissioners:

I respectfully request a postponement for agenda item #3 on Wednesday October 12<sup>th</sup>. This is a major radical change that will at a minimum require extensive study and input from the stakeholders. Adding it to the agenda as an item that could possibly be voted on with virtually no input is most concerning. I see major problems with this new plan.

I would characterize my knowledge of the offshore moorings in Newport Beach to be extensive. I am 63 years old, I grew up in Newport Beach, and I've been playing on the harbor since I was 7. For over 20 years I kept a large sailboat on a single point mooring in the Harbor, I have watched and helped others moor boats on double point offshore moorings many times, and I have raced small dinghies and keelboats around and through the mooring fields hundreds of times and so I am very familiar with the challenges of navigating through them. I have also been on the board of the Newport Mooring Association since 2009. In short, I am somewhat of an expert on how the offshore moorings in Newport Beach are safely used and my opinion should matter. My opinion is that I do not like this new proposal as it compromises on safety and adds unnecessary complexity to a proven system that has worked very well over many years.

I am not opposed to some changes to the offshore double mooring fields. I think that the rows could be better aligned visually and I think that it does indeed make sense to have all moorings in a row be basically the same size. Those are good achievable goals that I am fully supportive of. I also like the idea of the small submerged conservation buoys that help some of the mooring gear to not be on the bottom.

However changing the layout to the proposed double row system will be very problematic in Newport Harbor. Because of our harbor's shape, long and skinny with one inlet/outlet, our harbor is subject to strong tidal flows. Mr. Beer has mentioned that his proposed layout is patterned after the America's Cup Harbor in San Diego where

they do have a double row system in place that apparently works well and is pretty. However the shape of America's Cup Harbor in San Diego is such that there is almost no tidal current. With a double row layout as proposed, the bows of moored boats are very close to one another and in fact share a common anchor point. In a single row layout moored boats are further apart at their closest point. We should stay with a single row layout in Newport Harbor because the conditions are much more challenging than in America's Cup Harbor in San Diego. Boats are essentially often mooring in a flowing river, sometimes with a crosswind, and this can prove to be challenging. Let's not make it harder.

The following paragraph details the most significant obvious shortcoming from a safety and useability standpoint of the proposed new plan:

Often boats are moved on and off moorings by a single person, or by a knowledgeable person and a guest. When returning to a mooring, if alone or without experienced crew, the skipper will steer the boat to the mooring and pick up the spreader line midships staying close to the steering station. This is an important subtlety that allows the offshore double mooring fields to work well – the ability to pick up a spreader line midship and the ability to quickly secure the spreader line at a midship positioned cleat. Depending on wind and tidal current conditions, a skipper may often need to take quick action to avoid a mishap and it is common for even the most experienced skippers to need two or three tries to moor safely. When a vessel gets sideways due to wind and current, and the skipper determines that a new fresh attempt is the right decision, in the current mooring configuration the skipper can choose to either go forward or go in reverse to extricate himself and his vessel so that he can safely start a new mooring approach. It is usually very obvious which way to go because one end of his vessel will be pointing directly at an adjacent moored vessel and will be quite close to that vessel. Having both the forward and backward option is VERY important to safety. In the newly proposed system, with the double row configuration, a skipper caught in this situation will only be able to go in reverse because there is no forward option due to the proximity of the vessel moored close ahead (and sharing an anchor). If the skipper's stern is now close to an adjacent vessel, he is in a very compromised situation and his vessel is likely to contact either the vessel next to him or the vessel ahead of him. The newly proposed system, with an underwater sandline instead of a floating spreader line. will force a significant and much less safe change to his normal mooring approach maneuver. The skipper will now have to leave the steering station far behind and attempt to secure the mooring lines at the bow placing himself or herself within 20 feet of a boat directly in front of him. In a crosswind or an adverse current condition, he or she will have just seconds to pick up the mooring pennant line, grip the sandline, and muscle this slimy line onto a stern cleat. It will not be easy and will at times be impossible for a singlehander to accomplish this safely. It is suggested that at Catalina the system seems to work, but at Catalina there are single rows so the boat in front is a full 50 feet or more away similar to the current system in Newport Harbor and the boat is most likely not being singlehanded. On the single point moorings in Newport Harbor, this mooring approach technique is not problematic because all the boats are aligned in the same direction.

If I were designing the mooring fields from scratch, I would not want any double mooring fields as the single point mooring fields are so much better in every way. They are easier to use and easier on the vessel. The double point offshore mooring fields are by their very nature a compromise to increase density and now Mr Beer wants to further increase density in those fields?

The idea of using helical screw in anchors to replace weights is a VERY BAD IDEA. I don't know why this is even being considered. The current system of using weights that can be lifted up onto a barge where the ENTIRE mooring system can be easily inspected is a beautiful and simple system and should be retained. When it comes to most things related to the marine environment, simple is good. If helical screw anchors were to be used, divers would be required to make the attachments and disconnects. Divers are expensive at \$350/hour and OSHA requirements require that you have two of them at all times for safety. I have some experience diving at the bottom of Newport Harbor and I can tell you that visibility is close to zero at the very bottom. This will make adequate inspection of the attachment point of the helical screw anchor that stays in the bottom impossible. If you are required to inspect all of the rest of the gear every two years, it should be required to inspect the helical anchor too and that cannot be done adequately my opinion or to the same degree that you would be inspecting the rest of the mooring system. Helical anchors are for more specialized situations where weights would be too big to use. Why would the City of Newport Beach want to be responsible for the maintenance of helical screw anchors at the bottom of the bay? There will be potential liability if things go awry. This whole idea of using the helical anchors and making the City responsible for them is just an excuse to make the moorings a revenue source for the City. I am very opposed to this.

It appears that the Harbor Commission wants to give itself more power by granting itself the ability to adopt changes without getting City Council Approval: "Specifications for mooring equipment will be determined and adopted by the Harbor Commission instead of City Council as is currently required". This is a hugely bad idea. We are blessed to have two very knowledgeable City Councilmen who have more knowledge about all things pertaining to the Harbor than anyone on the Harbor Commission and now the Harbor Commission is proposing to make decisions without even involving them.

One of the things driving this new plan is that Mr Beer thinks that there is a shortage of moorings and that new ones need to be created and then given away by lottery. I do not believe there is a shortage of moorings. According to data sourced from the Harbor Department recently, there are 564 offshore moorings and on an average day 128 of them are vacant. Of those 128 vacant moorings, 97 of them have been vacant for 30 days or more and are therefore eligible to be sublet by the Harbor Department on a subpermit basis. That does not sound like there is a shortage to me. Anyone who wants to moor a boat in Newport Harbor could do so at any time on a subpermit basis. Maybe the 15 day subpermit limit should be changed to allow longer subpermitting without resubmitting paperwork and maybe the fees should be lowered on the subpermitting. That would get more boats onto moorings if that is really the goal

which I don't think it should be. We don't need any new moorings and it should not be a goal.

I also find the idea of creating new moorings and then giving them away by lottery to be very offensive to those of us who have played by the rules and purchased mooring permits in the open market. We did not invent those rules. We just followed them. Why should we be penalized? The City has sold mooring permits in the past. Why weren't those given away for free if you are going to give these new ones away.

Another goal of Mr. Beer is to "ensure safe navigation for all users of the harbor in and around the mooring fields, not just the mooring permittees". I would argue that already exists. Collisions and safety concerns are almost nonexistent within the current mooring field layout. Check the statistics. Spreader lines can cause a few problems to neophyte Duffy drivers and others, but people learn quickly from their mistakes and the spreader lines are unfortunately a necessary component to the already dense offshore double mooring fields. Mr. Beer thinks it is necessary to widen the fairways in the mooring fields. Why?

The Proposed Title 17 Changes Now Permanently Eliminates All Mooring **Extensions.** This is true even if a mooring that is 30 ft in length is currently in a row where all the other moorings are 50 feet in length. For over three years now some mooring holders have been waiting to replace their boats with a slightly larger boat. They have been told for three years to be patient and that the Harbor Commission is working on it. The current code which had been extensively revised after years of study provided for extensions up to 5 feet by the Harbormaster, but despite the code this has not occurred. The new idea is to find some type of newly created mooring somewhere in the harbor and possibly move the person's mooring to some other location. This is completely different than what the public was being told was occurring, and depends entirely on placing boats dangerously closer together, as noted above to "possibly" create a few additional moorings which might "possibly" be of the size that might match the person needs who would like a slightly larger boat on his or her mooring. At a minimum, questions should be raised as to why a person with a 30 foot mooring in a row of 50 foot moorings cannot put a 35 foot boat on his or her mooring and why there has been a 3 year delay in addressing that person's needs. The excuse has been that we are waiting for Mr. Beer's grandiose new mooring layout plan to take care of all mooring extension requests. Well now we've seen it. It's not very good and it certainly needs to be discussed and modified or thrown out altogether. In the mean time let's go ahead and approve those mooring extensions that make obvious sense. Let's give the Harbormaster back the power to make simple decisions that Title 17 already grants him. The Harbormaster should be the Captain of the Harbor. Let's let him do some of those things that the job title speaks to.

**Proposals Create Uncertainty Regarding Transferability** of Moorings. As recently as a month ago, the NMA and mooring holders have been repeatedly assured that transferability of moorings is not an issue and is not under reconsideration. This

followed an almost 10 year struggle that everyone thought was finally put to rest in 2017. The new proposals to change Title 17 do not distinguish adequately the rights of a person acquiring a mooring permit from an existing permittee from a new permittee acquiring one of the "possible" newly created moorings resulting from the implementation of the new proposed and dangerous Double Row Mooring Configuration Plan. If the Harbor Commission and the City are true to their word, the proposal needs to expressly state that the restrictions on transferability are related only to "moorings which did not physically exist prior to the date of the code change" which are referred to as "Newly Created Moorings" and to eliminate all ambiguity to state that persons who are transferees of existing moorings (i.e. moorings which are not Newly Created Moorings) have all of the same rights as did the transferor. The current proposed language is somewhat ambiguous as there should be better clarity on defining what is a new permit.

In conclusion and again, the public needs an opportunity to provide informed and thoughtful input for Harbor Commission consideration on this radical new mooring field layout proposal. I think I have given you some quality feedback and I am sure that many others will too. I respectfully request the commission postpone this item and place the new mooring system proposal on a future agenda as a standalone agenda item prior to proposing any revisions to Title 17. This would be a more logical sequence of events that will provide greater public input.

Thank you,

John Fradkin Mooring Permittee **From:** Terry Trombatore <terry.trombatore@gmail.com>

Sent: October 11, 2022 2:07 PM

To: Harbor Commission; Blank, Paul

**Cc:** Mail@yournewportmooringassocation.org

**Subject:** Proposals for Oct. 12, 2022 Meeting

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

It has been brought to my attention by the Newport Mooring Associate that the Newport Beach Harbor Commission is planning the the possible changes to the mooring fields, and I would like to express my concerns and objections to the proposals.

A proposal to move my boat within a few feet of the boat in front of me and eliminate the fairway, and put my boat right next to the boat in front of mine.

I don't know if any of the Harbor Commission or City Council members have a boat on a mooring in Newport Harbor and have had the experience of trying to moor a boat. I have a double mooring in the A field, which is more difficult to leave or approach than a single mooring. I have been on the mooring for over twenty five years have had several encounters while attempting to leave or moor my 40 foot sailboat that I have either made or nearly contacted the boats immediately adjacent to my boat. This is due to the current and wind conditions and the already close proximity of the boats to my left and right and in front and back as well. When I am successful in leaving my mooring, I need the fairway in front of my boat to make a sharp left or right turn to safely exit the mooring field into the main channel. Reducing the distance between the boat immediately in front of me and on both sides, would have a major impact on the ability to safely exit the mooring field. There would not be a safe way to exit the mooring field if this proposal is approved, and would increase the possibility of collisions when leaving or returning to the mooring. I invite Commissioner Beer and any others to come with me some day to take my boat off the mooring and return it, to fully understand the issues of safety and seamanship under the current conditions before proposing closing up the moorings with this proposal.

A proposal change to title 17 of the City Code to allow the Harbor Commission, without my approval, to move any boat you have on your mooring to some other location in the harbor, and for any length of time, be it a week or 5 years.

So what is the purpose of this proposal; maintenance, dredging, etc. This would cause chaos. I say work with the mooring permittees if there is a need to move a vessel for an extended period of time to make sure that they are comfortable with a move, and that the type of vessel is appropriate to be on a specific temporary mooring. Let's use some common sense here.

A proposal to possibly terminate transferability since the proposals to change title 17 do not distinguish the rights of a person acquiring a mooring permit, from the rights of a person who would acquire a "newly created" mooring.

Whether a person has an existing mooring or "newly created" mooring, at some point in time a permit transfer will be required. So why would transferability be terminated?

Terry W. Trombatore A-53 terry.trombatore@gmail.com 949 463-7333 Terry Trombatore terry.trombatore@gmail.com (949) 463-7333 From: Marlene Webster <marlene1024@gmail.com>

**Sent:** October 11, 2022 2:03 PM

To: Harbor Commission
Subject: Mooring proposals

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I have been a live aboard in Newport Harbor for over 10 years. I bought my Mooring in the specific location that suited my needs. I now live in a wonderful community of live boards. We are like extended family that look out for each other and our boats. I want you to imagine what it would be like if your city decided to move your house. I'm sure you can imagine how unsettling it would be to have your life uprooted without any control. I love where I live and the people around me that make me feel safe and secure. I hope you will take into consideration the devastating effects that this will have on those of us that call this Harbor home. Aside from that the repositioning that you are suggesting is going to make a moving a boat very dangerous. It's difficult to get on the mooring when the conditions are good and you have the room, but rarely are the conditions conducive to an easy on and off situation. What you are suggesting is going to cause great difficulty and the likelihood of damage. I don't think you have taken into consideration the extreme winds that we experience out there and the effect that it has on the boats. I have seen in every season, in every year, boats coming loose from their mornings and colliding with neighboring boats. You're also talking about adding more mornings and impacting an already overburdened situation at the public docks and the parking! More boats, more people, more activity on the bay and on the streets of the already crowded peninsula.

Thank you in advance for your consideration and attention to my concerns. I am not able to be at the meeting as I am out of town this week. Please remember this Harbor is our home and your proposals will have devastating effects on all of our lives.

Thank you Marlene Webster J27

Sent from my iPhone

#### **Protect Your Mooring Location and Mooring Value!**

Please show up to the Harbor Commission Meeting at 5pm on Wednesday November 9<sup>th</sup> at the City of NB Council Chambers: 100 Civic Center Dr Newport Beach

The Harbor Commission will be voting on a controversial and **INVOLUNTARY** mooring relocation plan **WITHOUT HOSTING ONE SINGLE PUBLIC STAKEHOLDER MEETING.** The plan involves moving mooring rows closer together (within 20 feet of the boat in front or behind your boat) and implementing a bow-to-bow/shared anchor system. The new system will make it more difficult to get on and off your mooring and 50% of mooring permittees will be forced to access their mooring in a downwind and unsafe fashion.

The only example the City has provided where a bow-to-bow mooring system is utilized is America's Cup Harbor which is tucked in behind Shelter Island in San Diego Harbor. America's Cup Harbor is perhaps the most protected marina in Southern California as it is almost fully encircled by land and lies within protected San Diego Harbor. It is a very protected "harbor within a harbor". It is obvious to an experienced mariner that the conditions in America's Cup Harbor do not compare to the prevailing wind and currents we experience in Newport Harbor rendering it a useless comparison.

**Even more concerning**, are the **PROPOSED REVISIONS TO THE HARBOR CODE (Title 17)** which will be voted on as well. The proposed revisions presented on October 12th will give the harbormaster unilateral authority to relocate your boat permanently without your consent and **AGAINST YOUR WILL and AT YOUR EXPENSE.** Below, in red, is just one of the problematic revisions to the harbor code that was presented on October 12<sup>th</sup>.

j. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster\_ including but not limited to increasing and improving the utilization and organization of the mooring fields, and agree that such relocation shall be at the permittee's expense; and

There are more equally concerning proposed revisions to the harbor code that broaden Harbor Commission authority, change how allowable boat lengths are determined and eliminate the possibility of mooring extensions. As they say: THE DEVIL IS IN THE DETAILS! and READ THE FINE PRINT!

The Newport Mooring Association **STRONGLY OPPOSES** the proposed mooring plan and harbor code revisions as presented on October 12<sup>th</sup> and makes the following requests:

- 1. Public Engagement/Stakeholder Meetings: Prior to making changes to the harbor code and mooring alignment, best practices call for the City to host a series of public stakeholder meetings in order for stakeholders to better understand where their boats will be involuntarily relocated and how it impacts their existing shoreline accessibility and safety. Brief updates at sparsely attended Commission meetings simply don't cut it.
- 2. **VOLUNTARY not INVOLUNTARY:** A pilot test of a new mooring system should be on a voluntary basis. We have a several NMA members that are willing to allow the city to test the new mooring plan with their boats on a voluntary basis. There is no need for the city to force a pilot test on permittees.
- 3. NO CHANGES TO HARBOR CODE at this time: By testing a new mooring system on a voluntary basis, there is no need to make unnecessary changes to the Harbor Code/Title 17 at this time.

Many of us are NB residents and local voters. Numbers Count! Spread the word to attend on November 9<sup>th</sup> and email your concerns directly to our elected City Council.

Additional Materials Received Item 6.3 Objective 2.3 Public Correspondence November 9, 2022 Harbor Commission Meeting

Hermosa Beach Office Phone: (310) 798-2400 San Diego Office

Phone: (858) 999-0070

Phone: (619) 940-4522

Chatten-Brown, Carstens & Minteer LLP

Douglas P. Carstens Email Address: dpc@cbcearthlaw.com

2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254 www.cbcearthlaw.com

November 8, 2022

## VIA E-MAIL (HarborCommission@newportbeachca.gov, harborfeedback@newportbeachca.gov)

City of Newport Beach Harbor Commission c/o Office of the City Clerk P.O. Box 1768 Newport Beach, CA 92658

> Re: Harbor Code Amendments to Mooring Procedures Require Coastal Development Permit; November 9, 2022 Harbor Commission Meeting Agenda Item 3

Dear Honorable Commissioners,

On behalf of the Newport Mooring Association - a Non Profit Corporation, we are writing to inform the Harbor Commission that a Coastal Development Permit application is required in order for the City of Newport Beach ("City") to proceed with its proposal to amend the City of Newport Beach Harbor Code (Municipal Code, Title 17, sections 17.25.020 and 17.60.040) in order to modify mooring procedures. The City's proposal to eliminate mooring extensions and conduct a pilot test constructing new moorings constitutes development under the Coastal Act, for which a Coastal Development Permit is required. Further, the proposal would encourage unsafe navigation by large vessels in the mooring fields, and would impede coastal views. Thus, we urge the Harbor Commission to advise the City that it may not proceed without obtaining a Coastal Development Permit from the California Coastal Commission.

# I. The Coastal Commission Has Original Jurisdiction Over the Mooring Fields.

The Coastal Act recognizes the importance of protecting recreational and commercial boating and fishing activities. (See Pub. Resources Code §§30224, 30234, 30234.5.) The City of Newport Beach's Local Coastal Program Land Use Plan ("LUP") also emphasizes the importance of maintaining access to moorings, with Policy 3.3.2-3 which states "Continue to

provide shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor."

Though the City has adopted a Local Coastal Program, the Coastal Commission retains original jurisdiction for developments in the tidelands, public trust, and submerged lands. (Pub. Resources Code §30519, subd. (b); see City of Newport Beach's Post LCP Certification and Appeal Jurisdiction Map, available at:

https://www.newportbeachca.gov/PLN/LCP/LCP Zoning/Maps/21 80 045 Permit and Appeal Jurs Maps/Offcial CNB PostCert Map.pdf.) Thus, any development in the mooring fields at Newport Harbor, which are submerged lands, require review and approval by the Coastal Commission in the first instance.

### II. The Proposed Revisions to the Harbor Code Eliminating Mooring Extensions Constitute Development and Require a Coastal Development Permit.

The proposed revisions to the Harbor Code (Newport Beach Municipal Code, Title 17) constitute development under the Coastal Act. Under the Coastal Act, development includes, inter alia, "change in the intensity of use of water, or of access thereto." (Pub. Resources Code §30106; Surfrider Foundation v. Martins Beach 1, LLC (2017) 14 Cal.App.5th 238, 250.) Under the existing Harbor Code, permittees may request mooring extensions for vessels longer than the assigned vessels, and extensions five feet or under may be granted by the Harbormaster without seeking approval from the Harbor Commission. (Newport Beach Municipal Code §17.60.040, subd. (M).) The proposed revisions to the Harbor Code drastically change this process by eliminating mooring extensions. (October 12, 2022 Harbor Commission Agenda Packet, pp. 59-60; November 9, 2022 Harbor Commission Staff Report, Attachment C, pp. 8-9.) These revisions will alter and impede the access of permitholders to moorings, thereby constituting development under the Coastal Act.

The proposed revisions state:

Requests for mooring extensions shall no longer be considered. Instead, requests for a longer or extended mooring will require relocating to a larger mooring. The mooring permittee making the request shall pay a fee for the relocation request and shall

bear all costs of relocating their vessel and the displaced vessel. Relocations will require payment of a fee and be contingent upon availability of a vacant mooring or another permittee in the same mooring field (or also an adjacent field in the case of moorings in the H and J fields) having a vessel in a mooring row that is designated for a length of at least 5-feet greater. In no event will relocations be considered for mooring lengths in excess of 5' of the current mooring length for the permittee making such request. Authority to approve relocation requests shall lie with the Harbormaster.

(November 9, 2022 Harbor Commission Staff Report, Attachment A.)

These revisions alter access to water because they will result in requests even for small, de minimus extensions to be considered as a request for *relocation* of a permittee's mooring. The location of a permittee's mooring is an important access consideration, because if a mooring is relocated far away from a permittee's dinghy location, it will be difficult for the permittee to access their mooring. Additionally, flipping any moorings where boaters have to now access the mooring in a downwind fashion will change access to and from moorings and make accessing a mooring more difficult as the operator will have less control. Finally, these revisions impose the cost of unnecessary relocations onto permittees and requires them to pay a relocation fee, which further impedes access to moorings and is contrary to LUP Policy 3.3.2-3 which requires provision of moorings as a source of "low-cost" access. These modifications to the public's access to moorings require review and approval by the Coastal Commission.

## III. The Proposed Phase I Pilot Test Constitutes Development and Requires a Coastal Development Permit.

As part of the City's plan to reconfigure the Harbor, the City plans to conduct an initial reconfiguration of C Field (Phase I), with a pilot test constructing 3 to 6 double mooring systems in one row to verify engineering and functionality. (October 12, 2022 Harbor Commission Agenda Packet, p. 86.) Under the Coastal Act, development includes "in or under water, the placement or erection of any solid material or structure; [or] construction . . . of any structure . . . ." (Pub. Resources Code §30601.) The construction of new moorings thus falls squarely within the definition of development, for

which a Coastal Development Permit is required. Construction of new moorings during the pilot test will require installation and placement of new shared anchors, shackles, chains, and buoys within the mooring fields. (October 12, 2022 Harbor Commission Agenda Packet, pp. 48, 78.) As described above, development within the mooring fields is subject to the Coastal Commission's original jurisdiction and thus requires a Coastal Development Permit. Accordingly, the City cannot proceed with the Phase I pilot test without a Coastal Development Permit.

## IV. The Proposed Mooring Reconfiguration Would Encourage Unsafe Navigation of Large Vessels in the Mooring Fields.

The mooring fields as currently configured provides protection from larger vessels. We are concerned that the proposed mooring reconfiguration, which provides for wide, up to 100-foot fairways, would encourage navigation of large vessels in the mooring fields. This would both obstruct coastal access and create a safety concern for permittees operating small vessels, as well as for paddleboarders, kayakers, and others operating small human-powered vessels in the safe haven of the mooring fields. This goes against the Chapter 3 policies of the Coastal Act, which protect such activities. (Pub. Resources Code §\$30211, 30220, 30224.) Marine life that frequent the harbor, such as dolphins, may also be impacted by the introduction of larger vessels. (See Pub. Resources Code §30230.)

The mooring areas in Newport Harbor are designated "Special Anchorages" by the Coast Guard. (33 C.F.R. §110.95; see 77 Fed. Reg. 22489, available at: <a href="https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf">https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf</a>.) Special anchorage areas "should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels." (33 C.F.R. §109.10.) Thus, fairways that accommodate large vessels should not be located within the mooring fields.

## V. The Proposed Mooring Reconfiguration Would Impact Harbor Views.

We are also concerned with City staff's questionable assertion that the mooring reconfigurations would greatly improve harbor views. (October 12, 2022 Harbor Commission Agenda Packet, p. 82.) The proposal to push mooring rows together will alter view corridors from the public boardwalk around Balboa Island (and other boardwalks in Newport Harbor). (See Pub.

Resources Code § 30251 ["The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."]) The plan will also alter homeowner views of the harbor. While under the proposed reconfiguration, views *may* be improved for some—those whose properties are fronted by a fairway—views may also be greatly worsened for others, including those whose properties are fronted by the proposed double-wide tandem rows of boats.

#### VI. Conclusion.

The proposed revisions to the Harbor Code present significant changes that would alter access to water and construct new moorings in the submerged mooring fields. The proposed mooring reconfiguration would encourage unsafe navigation of large vessels that impede coastal access for small-scale recreational boaters and others, and would obstruct coastal views. Accordingly, the proposed mooring plan constitutes development under the Coastal Act and appears to be in conflict with the Coastal Act. As such, it must be reviewed for approval by the Coastal Commission. We request that the Harbor Commission, in fulfilling its charge, advise the City of these issues prior to making any recommendation.

Sincerely,

Douglas P. Carstens Sunjana Supekar

Junjara Jupitron

From: Sunjana Supekar <sss@cbcearthlaw.com>

**Sent:** November 08, 2022 4:07 PM

**To:** Harbor Commission; Harbor Feedback

**Cc:** Doug Carstens

**Subject:** November 9, 2022 Harbor Commission Meeting; Comments re Agenda

Item 3

**Attachments:** 2022-11-08 Letter to Harbor Commission fnl.pdf

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Honorable Commissioners,

Please see attached a comment letter from the office of Chatten-Brown, Carstens and Minteer on behalf of the Newport Mooring Association regarding Agenda Item 3 for the November 9, 2022 City of Newport Beach Harbor Commission Meeting.

Thank you for your consideration of these comments.

Sincerely, Sunjana Supekar

--

Sunjana Supekar (she/her)

CHATTEN-BROWN, CARSTENS & MINTEER

2200 Pacific Coast Highway, Ste. 318

Hermosa Beach, CA 90254

Tel: 310-798-2400 Ext. 7

Fax: 310-798-2402

Email: sss@cbcearthlaw.com

Website: www.cbcearthlaw.com

Hermosa Beach Office Phone: (310) 798-2400

### Chatten-Brown, Carstens & Minteer LLP

Douglas P. Carstens Email Address: dpc@cbcearthlaw.com

**San Diego Office** Phone: (858) 999-0070 Phone: (619) 940-4522

2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254 www.cbcearthlaw.com

November 8, 2022

## VIA E-MAIL (HarborCommission@newportbeachca.gov, harborfeedback@newportbeachca.gov)

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Resources Code § 30251 ["The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."]) The plan will also alter homeowner views of the harbor. While under the proposed reconfiguration, views may be improved for some—those whose properties are fronted by a fairway—views may also be greatly worsened for others, including those whose properties are fronted by the proposed double-wide tandem rows of boats.

#### VI. Conclusion.

The proposed revisions to the Harbor Code present significant changes that would alter access to water and construct new moorings in the submerged mooring fields. The proposed mooring reconfiguration would encourage unsafe navigation of large vessels that impede coastal access for small-scale recreational boaters and others, and would obstruct coastal views. Accordingly, the proposed mooring plan constitutes development under the Coastal Act and appears to be in conflict with the Coastal Act. As such, it must be reviewed for approval by the Coastal Commission. We request that the Harbor Commission, in fulfilling its charge, advise the City of these issues prior to making any recommendation.

Sincerely,

Douglas P. Carstens Sunjana Supekar

Junjara Jupitron

**From:** Fred Fourcher <fred@bitcentral.com>

**Sent:** November 08, 2022 3:53 PM

To: Harbor Feedback

**Subject:** Document to be entered into the record for tomorrow's Harbor

**Commission Meeting** 

Attachments: Dear Chair Scully and Honorable Harbor Commissioners.docx

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Fred Fourcher, Chairman Bitcentral, Inc. fred@bitcentral.com Direct 949 417 4111 Cell 714 914 1000



#### Fred Fourcher 507 Larkspur Corona Del Mar, CA 92625

Dear Chair Scully and Honorable Harbor Commissioners,

I have lived in Corona Del Mar since 1979 and have had my offshore and onshore moorings since 1976. My offshore mooring and onshore mooring are on Balboa Island and adjacent to each other.

It is stated that the intent is to improve the harbor to the benefit of mooring permittees. What is being decided is if the City of Newport Beach can move our boat to a different mooring permanently without our permission and at our expense, is clearly not for the benefit of mooring permittees and has some other purpose. Mooring locations are picked for a reason, Permittees acquired permits in specific locations such as proximity to their house, yacht club or shore mooring. This major disruption will result in lawsuits and political fallout. The people who you are supposed to be serving will do whatever it takes to keep the current order in the harbor. This is simply a bad idea with massive un-intended consequences.

This proposal is deeply troubling because the Harbor Commission is usurping the decision-making responsibility from our Elected Officials. There is no reason to be revising the city harbor code for a pilot test of a questionable mooring system.

This proposal is not for the benefit of the Mooring Permittees. I along with others will mobilize to fight the Harbor Commission to keep this poorly conceived proposal from being implemented.

Fred Fourcher

From: Admin <mail@newportmooringassociation.org>

**Sent:** November 08, 2022 3:23 PM

To: Harbor Commission; Blank, Paul; harborfeedback@newportbeachca.org

Cc: NMA Email Board

**Subject:** Newport Mooring Association Comments and Concerns

Attachments: Newport Mooring Association's comments regarding the 11-9-22 Harbor

Commission Item 3 .pdf

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To the Harbor Commission -

Please find attached the Newport Mooring Association's comments regarding the November 9<sup>th</sup>, 2022, Newport Beach Harbor Commission Item #3 -Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchange Requests.

Thank you,

The Board of Directors
Newport Mooring Association
https://newportmooringassociation.org



November 8, 2022

NMA Comments regarding the November 9<sup>th</sup> 2022 Newport Beach Harbor Commission Item #3 - Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchange Requests

Dear Honorable Members of the Harbor Commission,

Please find the following documents for your consideration. For your convenience we provide the following table of contents:

1.	NMA concerns regarding the proposed Harbor Code revisions and plan	Page 2
2.	Summary list of recommendations regarding Agenda Item #3	Page 4
3.	Correspondence from Attorney Doug Carstairs identifying legal concerns	Page 5
4.	Letter from Master Mariner Captain James L. Haley detailing concerns	Page 10
5.	Harbor Commission Tracking Sheet with harbor code revisions and complete mooring plan presented to NMA and public for the first time October 12 <sup>th</sup>	Page 12
6.	Professional and timely email responses from the NMA to Harbor Commission	Page 13
7.	Follow-up email from L. Scott Karlin to Commissioner Beer 10-26-22 with attachments with specific recommendations to clarify language in Title 17	Page 18



November 8th, 2022

Dear Chair Scully and Harbor Commissioners,

Thank you for the opportunity to provide comments regarding November 9<sup>th</sup> Harbor Commission Agenda Item #6-3 (Objective 2.3) involving significant revisions to the harbor code and the initial stage (pilot test) of a plan to significantly change access to the mooring fields.

The NMA is extremely concerned that revisions to the harbor code are being considered in advance of an untested mooring plan concept. These specific proposed harbor code revisions were seen by the public, for the first time ever, on the October 12<sup>th</sup>, 2022, agenda. The proposed revisions to the harbor code (Title 17) were not developed in public and were not hashed out in any public stakeholder meetings. The revisions appear to have been developed in closed door subcommittee meetings with no public oversight or input. The proposed harbor code revisions would allow the harbormaster or the Harbor Commission, to move large numbers of boats or moorings to new locations in the name of "realignment" without any constraints or conditions, and without City Council approval. We have also heard concerns from many homeowners. We want to be good neighbors and are also concerned that this will have an impact not only on mooring holders, but also on residences and homeowners who may have their views altered now and, in the future, again without restrictions or City Council approval. Some homeowners may have a bit better view, some worse, but no one will know how this will play out now or in the future.

We are also concerned with the harbor code revision involving transferring certain mooring decision making authority from our elected City Council to the Harbor Commission. The City Charter appropriately differentiates the formal responsibility of the Harbor Commission as an advisory panel and the City Council as the formal decision-making body. Notably, the Council is comprised of individuals elected to serve their constituents and they are therefore responsible and accountable for their decisions.

The timing is also problematic. The granting of broader authority to the Harbor Commission and Harbormaster while they embark on a new mooring plan that has already been identified as problematic to the permittees will create another point of contention. Transparency, accountability, and collaboration should not be compromised during this phase.

As you may be aware, the complete mooring report, with the supporting engineering study on the holding power of the proposed anchor system was first presented for public review at the October 12<sup>th</sup>, 2022, Harbor Commission meeting. Numerous members of the public expressed concern regarding increased risk and the difficulty of use of the proposed "shared anchor" mooring plan that involves moving mooring rows closer together and the requirement for a mooring user to be forced to approach a mooring in a downwind manner given our prevailing westerly winds. Approaching a mooring in a downwind fashion is never recommended as it involves less control of a vessel, which in turn, increases risk.

Given we have not been presented with a revised plan since the October 12<sup>th</sup> Harbor Commission meeting, we find it difficult, if not impossible, to comment on what may be presented on November 9<sup>th</sup> as we have not seen any revisions to the mooring plan.

The NMA opposes a mooring plan that requires a mooring user to approach a mooring in a downwind manner (and depart a mooring in an upwind manner). The proposal presented on October 12th pushes the shared-anchor mooring rows close together which indicates there will only be "one way in" and "one way out". This is less safe compared to the current configuration that has sufficient spacing between rows which gives mooring users the option to approach and depart from either direction depending on wind and current.

We believe the shared-anchor mooring concept has not been adopted throughout Southern California because it is inherently risky. We are only aware of a shared anchor mooring system in use in SoCal location, America's Cup Harbor, which is a fully protected marina within in an already protected harbor that is protected by Point Loma adjacent to "Shelter" Island in San Diego. The conditions in America's Cup and Newport Harbor are not comparable.

The NMA respectfully requests the Harbor Commission put the Title 17 revisions and mooring plan revisions on hold and schedule public stakeholder meetings to allow for more robust community engagement and stakeholder input. We would like to point out that the Harbor Commission held numerous stakeholder meetings when revising the harbor code a few years ago. These informal public stakeholder meetings allowed for robust community engagement, thoughtful back-and-forth which resulted in stakeholder buy-in to harbor code revisions. In contrast, these revisions have been developed out of public view and without robust community and stakeholder engagement.

It is our understanding that the initial intent of Objective 2.3 was to straighten out a few mooring rows. We believe this can be accomplished through voluntary and incentivized relocations.

The NMA looks forward to collaborating with the Harbor Commission to improve Newport Harbor while preserving the established mooring access we enjoy today.

Sincerely,

The Board Of Directors
Newport Mooring Association
https://newportmooringassociation.org



#### **Summary List of Newport Mooring Association Recommendations:**

- 1. Postpone this agenda item in favor of public stakeholder meetings
- 2. Collaborate with the NMA on a voluntary mooring relocation plan to straighten out mooring fields.
- 3. The City can adjust a few moorings by a few feet at minimal cost to straighten out some mooring rows.
- 4. The City can better utilize existing vacant moorings by setting establishing a longer term boat storage rate for subleasing moorings. The current sublease rate is set high for visiting short term boaters. Establishing a lower rate for longer term users will generate significant revenue and better utilize existing vacant moorings.
- 5. The City should encourage mooring contractors to use GPS technology to make sure moorings are replaced in exact locations when they are lifted for service.
- 6. The City and NMA can collaborate to have biannual service of mooring hardware accomplished during the same general time period for the various mooring fields (ex. J field in February, H field in March). This will allow the contractors to make sure everything is lined up nicely and may save contractor and permittees in mobilization costs because they will be working the same mooring field for several days in a row.
- 7. If one objective is to create more "Open Water" then do not add more moorings and boats. This will create less "Open Water".

Hermosa Beach Office Phone: (310) 798-2400 San Diego Office Phone: (858) 999-0070

Phone: (619) 940-4522



Chatten-Brown, Carstens & Minteer LLP

Douglas P. Carstens Email Address: dpc@cbcearthlaw.com

2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254 www.cbcearthlaw.com

November 8, 2022

### VIA E-MAIL (HarborCommission@newportbeachca.gov, harborfeedback@newportbeachca.gov)

City of Newport Beach Harbor Commission c/o Office of the City Clerk P.O. Box 1768 Newport Beach, CA 92658

> Re: Harbor Code Amendments to Mooring Procedures Require Coastal Development Permit; November 9, 2022 Harbor Commission Meeting Agenda Item 3

Dear Honorable Commissioners,

On behalf of the Newport Mooring Association - a Non Profit Corporation, we are writing to inform the Harbor Commission that a Coastal Development Permit application is required in order for the City of Newport Beach ("City") to proceed with its proposal to amend the City of Newport Beach Harbor Code (Municipal Code, Title 17, sections 17.25.020 and 17.60.040) in order to modify mooring procedures. The City's proposal to eliminate mooring extensions and conduct a pilot test constructing new moorings constitutes development under the Coastal Act, for which a Coastal Development Permit is required. Further, the proposal would encourage unsafe navigation by large vessels in the mooring fields, and would impede coastal views. Thus, we urge the Harbor Commission to advise the City that it may not proceed without obtaining a Coastal Development Permit from the California Coastal Commission.

### I. The Coastal Commission Has Original Jurisdiction Over the Mooring Fields.

The Coastal Act recognizes the importance of protecting recreational and commercial boating and fishing activities. (See Pub. Resources Code §§30224, 30234, 30234.5.) The City of Newport Beach's Local Coastal Program Land Use Plan ("LUP") also emphasizes the importance of maintaining access to moorings, with Policy 3.3.2-3 which states "Continue to

provide shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor."

Though the City has adopted a Local Coastal Program, the Coastal Commission retains original jurisdiction for developments in the tidelands, public trust, and submerged lands. (Pub. Resources Code §30519, subd. (b); see City of Newport Beach's Post LCP Certification and Appeal Jurisdiction Map, available at:

https://www.newportbeachca.gov/PLN/LCP/LCP Zoning/Maps/21 80 045 Permit and Appeal Jurs Maps/Offcial CNB PostCert Map.pdf.) Thus, any development in the mooring fields at Newport Harbor, which are submerged lands, require review and approval by the Coastal Commission in the first instance.

#### II. The Proposed Revisions to the Harbor Code Eliminating Mooring Extensions Constitute Development and Require a Coastal Development Permit.

The proposed revisions to the Harbor Code (Newport Beach Municipal Code, Title 17) constitute development under the Coastal Act. Under the Coastal Act, development includes, inter alia, "change in the intensity of use of water, or of access thereto." (Pub. Resources Code §30106; Surfrider Foundation v. Martins Beach 1, LLC (2017) 14 Cal.App.5th 238, 250.) Under the existing Harbor Code, permittees may request mooring extensions for vessels longer than the assigned vessels, and extensions five feet or under may be granted by the Harbormaster without seeking approval from the Harbor Commission. (Newport Beach Municipal Code §17.60.040, subd. (M).) The proposed revisions to the Harbor Code drastically change this process by eliminating mooring extensions. (October 12, 2022 Harbor Commission Agenda Packet, pp. 59-60; November 9, 2022 Harbor Commission Staff Report, Attachment C, pp. 8-9.) These revisions will alter and impede the access of permitholders to moorings, thereby constituting development under the Coastal Act.

The proposed revisions state:

Requests for mooring extensions shall no longer be considered. Instead, requests for a longer or extended mooring will require relocating to a larger mooring. The mooring permittee making the request shall pay a fee for the relocation request and shall

bear all costs of relocating their vessel and the displaced vessel. Relocations will require payment of a fee and be contingent upon availability of a vacant mooring or another permittee in the same mooring field (or also an adjacent field in the case of moorings in the H and J fields) having a vessel in a mooring row that is designated for a length of at least 5-feet greater. In no event will relocations be considered for mooring lengths in excess of 5' of the current mooring length for the permittee making such request. Authority to approve relocation requests shall lie with the Harbormaster.

(November 9, 2022 Harbor Commission Staff Report, Attachment A.)

These revisions alter access to water because they will result in requests even for small, de minimus extensions to be considered as a request for *relocation* of a permittee's mooring. The location of a permittee's mooring is an important access consideration, because if a mooring is relocated far away from a permittee's dinghy location, it will be difficult for the permittee to access their mooring. Additionally, flipping any moorings where boaters have to now access the mooring in a downwind fashion will change access to and from moorings and make accessing a mooring more difficult as the operator will have less control. Finally, these revisions impose the cost of unnecessary relocations onto permittees and requires them to pay a relocation fee, which further impedes access to moorings and is contrary to LUP Policy 3.3.2-3 which requires provision of moorings as a source of "low-cost" access. These modifications to the public's access to moorings require review and approval by the Coastal Commission.

## III. The Proposed Phase I Pilot Test Constitutes Development and Requires a Coastal Development Permit.

As part of the City's plan to reconfigure the Harbor, the City plans to conduct an initial reconfiguration of C Field (Phase I), with a pilot test constructing 3 to 6 double mooring systems in one row to verify engineering and functionality. (October 12, 2022 Harbor Commission Agenda Packet, p. 86.) Under the Coastal Act, development includes "in or under water, the placement or erection of any solid material or structure; [or] construction . . . of any structure . . . ." (Pub. Resources Code §30601.) The construction of new moorings thus falls squarely within the definition of development, for

which a Coastal Development Permit is required. Construction of new moorings during the pilot test will require installation and placement of new shared anchors, shackles, chains, and buoys within the mooring fields. (October 12, 2022 Harbor Commission Agenda Packet, pp. 48, 78.) As described above, development within the mooring fields is subject to the Coastal Commission's original jurisdiction and thus requires a Coastal Development Permit. Accordingly, the City cannot proceed with the Phase I pilot test without a Coastal Development Permit.

### IV. The Proposed Mooring Reconfiguration Would Encourage Unsafe Navigation of Large Vessels in the Mooring Fields.

The mooring fields as currently configured provides protection from larger vessels. We are concerned that the proposed mooring reconfiguration, which provides for wide, up to 100-foot fairways, would encourage navigation of large vessels in the mooring fields. This would both obstruct coastal access and create a safety concern for permittees operating small vessels, as well as for paddleboarders, kayakers, and others operating small human-powered vessels in the safe haven of the mooring fields. This goes against the Chapter 3 policies of the Coastal Act, which protect such activities. (Pub. Resources Code §§30211, 30220, 30224.) Marine life that frequent the harbor, such as dolphins, may also be impacted by the introduction of larger vessels. (See Pub. Resources Code §30230.)

The mooring areas in Newport Harbor are designated "Special Anchorages" by the Coast Guard. (33 C.F.R. §110.95; see 77 Fed. Reg. 22489, available at: <a href="https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf">https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf</a>.) Special anchorage areas "should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels." (33 C.F.R. §109.10.) Thus, fairways that accommodate large vessels should not be located within the mooring fields.

### V. The Proposed Mooring Reconfiguration Would Impact Harbor Views.

We are also concerned with City staff's questionable assertion that the mooring reconfigurations would greatly improve harbor views. (October 12, 2022 Harbor Commission Agenda Packet, p. 82.) The proposal to push mooring rows together will alter view corridors from the public boardwalk around Balboa Island (and other boardwalks in Newport Harbor). (See Pub.

Resources Code § 30251 ["The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."]) The plan will also alter homeowner views of the harbor. While under the proposed reconfiguration, views *may* be improved for some—those whose properties are fronted by a fairway—views may also be greatly worsened for others, including those whose properties are fronted by the proposed double-wide tandem rows of boats.

#### VI. Conclusion.

The proposed revisions to the Harbor Code present significant changes that would alter access to water and construct new moorings in the submerged mooring fields. The proposed mooring reconfiguration would encourage unsafe navigation of large vessels that impede coastal access for small-scale recreational boaters and others, and would obstruct coastal views. Accordingly, the proposed mooring plan constitutes development under the Coastal Act and appears to be in conflict with the Coastal Act. As such, it must be reviewed for approval by the Coastal Commission. We request that the Harbor Commission, in fulfilling its charge, advise the City of these issues prior to making any recommendation.

Sincerely,

Douglas P. Carstens Sunjana Supekar

Junjara Jupilian

To: City of Newport Beach Harbor Commission

From: Capt. James L. Haley

79 Dapplegray Lane

Palos Verdes Peninsula, Ca. 90274

November 6, 2022

Dear Commissioners:

I have been asked by the Newport Mooring Association to give my expert opinion on the proposals contained in the published "Solution for Improved Safety and Utilization of Space and Adding New Moorings".

I have held a US Coast Guard License as Master Mariner since 1982, including First Class Pilotage, Unlimited Tonnage in Los Angeles and Long Beach harbors and employed as a pilot in the Port of Long Beach for the past 32 years. I have been admitted as an expert in numerous State and Federal courts as an expert in ship handling and navigation. I have also been a recreational sail and power boat owner for over fifty years and a frequent user of moorings in Southern California.

It is my opinion that any proposal that involves moving mooring rows closer together and forcing any vessels to approach or depart a mooring in a down wind fashion (relative to the prevailing winds) will create much greater risk of collision and injury and a less safe usage of the mooring arrangement.

It would be almost impossible to overstate the negative impacts of configuring moorings that are not approached as nearly bow into the prevailing winds as practical. The increased difficulty of approaching or departing any mooring or dock in a downwind direction would certainly increase risk of collision, allision, damage to boats and injury to boaters. All authoritative books on seamanship or boat handling are in emphatic agreement on this simple point. The vast majority of sail vessels and many power boats are single engined, and have very limited steering or maneuverability when moving astern. Departing moorings downwind would be as likely as approaches to result in boat collisions, allisions, damage and injuries.

The America's Cup harbor arrangement that has been offered as an example is not comparable to Newport for the simple reason that it is shielded from wind by the topography of Point Loma and protected from tidal currents by virtue of being land locked on three sides. Newport, by contrast is surrounded by low land masses that do little to protect the mooring fields from prevailing winds, and tidal currents flow unimpeded through the moorings as well.

The current proposal creates a less safe situation by moving alternate mooring rows within 20 feet of each other. Less space affords less reaction time and decreases space to maneuver to avoid collisions or allisions when boats inevitably experience a failed mooring attempt such as when the wind or current are greater than anticipated. Page 84 of the October 12<sup>th</sup> presentation indicates the distance between all mooring rows range from 41 to 65 feet with an average of 53ft in the "C" mooring field. In the new mooring plan, on page 85, it indicates alternate mooring rows will be moved closer and within 20 feet of each other. In my opinion, moving the mooring rows within 20 feet decreases the ability to safely maneuver, especially in the event of strong winds, a failed mooring attempt or mechanical failure.

Any changes to the existing mooring arrangement that has served the boating community quite well for decades should give the most serious consideration to the input of the current permittees. Their experience is the best source of knowledge about what works and what will create problems for them and their fellow boaters.

Please feel free to call me with any questions at (928) 713-6277

Sincerely,

Capt. James Haley

### HARBOR COMMISSION OBJECTIVES TRACKING SHEET—Excerpted for Objective #2.3

2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	2.3 Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. (Beer)	NMA NOTES REGARDING TIMELINE
January 12, 2022	Nothing to report.	
February 9, 2022	Nothing to report.	
March 9, 2022	Nothing to report.	
April 13, 2022	Vice Chair Beer discussed this objective in detail earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.	Presented no substantive details of mooring plan No harbor code revisions presented
May 11, 2022	The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.	Presented no substantive details of mooring plan No harbor code revisions presented
June 8, 2022	Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the Commission his draft plan for feedback.	Presented <u>slideshow</u> of mooring field redesign No harbor code revisions presented
July 13, 2022	Vice Chair Beer has received information from the engineering firm and will provide a more comprehensive update at next month's meeting.	No updates, engineering report "coming"
August 10, 2022	Vice Chair Beer noted that he is waiting on the final report from the City's contract engineer. Once he receives that he can verifiy the information and provide a report to the Commission.	Presented no substantive details of mooring plan No harbor code revisions presented
September 14, 2022	Vice Chair Beer will provide a complete report of this objective at the next meeting.	Presented no substantive details of mooring plan No harbor code revisions presented
October 12, 2022	Vice Chair Beer provided a complete report on Objective goal 2.3 for consideration by the Harbor Department.	FIRST PRESENTATION OF COMPLETE REPORT FIRST SUBMISSION OF HARBOR CODE REVISIONS
November 9, 2022		
December 14, 2022		

From: "megandelaney@lesses < megandelaney@lesses = 1 < megandelaney@lesses = 2 < megandelaney@le

Date: Monday, September 26, 2022 at 12:55 PM

To: "Beer, Ira" < <a href="mailto:IBeer@newportbeachca.gov">!Admin</a>

<mail@newportmooringassociation.org>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, "Miller, Chris" <CMiller@newportbeachca.gov>, "Jung,

Jeremy" < JJung@newportbeachca.gov>

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

Thank you, Ira!

Megan

From: Beer, Ira < <a href="mailto:IBeer@newportbeachca.gov">IBeer@newportbeachca.gov</a> Sent: Monday, September 26, 2022 11:46 AM

To: Admin < <a href="mailto:mai

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >; 'NMA Email Board'

<nmaboard@indigoharbor.com>; Miller, Chris <<a href="Miller@newportbeachca.gov">CMiller@newportbeachca.gov</a>; Jung, Jeremy

<<u>JJung@newportbeachca.gov></u>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hello Megan,

Attached herewith please find a copy of the initial engineering study for the mooring field reconfiguration. Should you have any questions, comments, or feedback, please do not hesitate to respond back to me. Should you wish to discuss any of the information provided, or any other aspects of the project, please do not hesitate to let me know as I am happy to meet with you and/or the NMA board prior to the next scheduled Harbor Commission meeting where this item will likely be agendized for public comment.

As you know, this project is a part of the Harbor Commission's Open Water Initiative intended to improve safety, navigation, create more moorings for public use and increase the usable space for mariners in Newport Harbor. I look forward for the opportunity to share any of the details with you, your board, and its members.

Best regards,



From: "Beer, Ira" < <a href="mailto:lBeer@newportbeachca.gov">lBeer@newportbeachca.gov</a>>
Date: Wednesday, July 6, 2022 at 11:06 AM

To: Admin < mail@newportmooringassociation.org>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, Harbor Commission

< Harbor Commission@newportbeachca.gov>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hi Megan,

Thank you for your kind words of congratulation on my reappointment and the acknowledgment of work surrounding the commitment in accepting such an appointment. It has been, and continues to be an honor to serve on the Harbor Commission.

As mentioned in my last email, the engineering study is not completed. However, it is well underway. While the financial aspect is yet another conversation, the engineering study when completed will be discussed at a regular Harbor Commission meeting and will be open to public comment as such time.

As for the offshore mooring appraisal, to the best of my knowledge that has not been completed yet, nor have I seen any drafts. As there is quite a lot of information required for the Harbor Commission to review when considering a recommendation of mooring rate increases, I expect that could be a while to compile the data and have it available for review and public comment, also at a Harbor Commission meeting in the future.

Please do not hesitate to let me know if you require additional information or have further questions.

Best regards,



From: Admin < mail@newportmooringassociation.org>

Date: Wednesday, July 6, 2022 at 1:42 PM
To: "Beer, Ira" < <a href="mailto:IBeer@newportbeachca.gov">IBeer@newportbeachca.gov</a>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, Harbor Commission

<a href="mailto:</a> <a href="mailto:HarborCommission@newportbeachca.gov">HarborCommission@newportbeachca.gov</a>

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

Hi Ira,

First, congratulations on your reappointment to the Harbor Commission. It's quite a responsibility, and we are glad and thankful when volunteers step up to shoulder this level of work.

I appreciate your response to my question. Just so I understand exactly, your proposal for the mooring field reconfiguration is only a concept at this time – that the engineering, financial and feasibility analysis have not been started at this time? We had assumed that much of those analyses had been completed. I think that assumption has caused some confusion among the membership.

As it relates to the mooring fee increase, yes, that <u>is</u> a separate topic and a question for the Harbor Commission. I apologize that you interpreted it as being connected with the mooring reconfiguration proposal. Can you or another Commissioner address that question? According to the Harbor Commission goals and other documents, we have assumed that the offshore mooring appraisal has been completed. And, as you know, this is a very explosive issue with all mooring permitees. Do you have any information on timing that you can share with us?

Thanks again for all your time and effort!

Megan

From: Beer, Ira < Beer@newportbeachca.gov>

Sent: Tuesday, June 28, 2022 2:34 PM

To: Megandelaney@ 'Admin' < mail@newportmooringassociation.org >; Harbor Commission

< HarborCommission@newportbeachca.gov>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >; 'NMA Email Board'

<nmaboard@indigoharbor.com>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hello Megan,

Thank you for your email. This project is still in a review stage. The assumptions in the draft proposal, while based on prior discovery, are subject to engineering review not yet completed. I appreciate the questions from your board set forth in the email received on June 14, 2022. I am however struggling to see how they relate directly to what was presented at the June 8, 2022, Harbor Commission meeting. The purpose of the mooring initiative discussed and defined in item 2.3 of the Harbor Commission Objectives is to evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. Economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective.

I would be happy to meet with you and the NMA board in person or via Zoom to discuss what was presented and the items related thereto. Please let me know. Otherwise, I hope you will watch for when this topic is agendized at future Harbor Commission meetings as I and the Harbor Commission value your comments and any input you feel compelled to share. Thank you.

Best regards,



From: "Megandelaney@ < Megandelaney@

Date: Monday, June 27, 2022 at 4:17 PM

To: 'Admin' < mail@newportmooringassociation.org >, Harbor Commission

< Harbor Commission@newportbeachca.gov>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board' < nmaboard@indigoharbor.com >

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

To Commissioner Beer and the Harbor Commissioners -

We haven't heard nay response to our email of June 14<sup>th</sup>. Can you give us any update you have on the harbor reconfiguration? What are your next steps?

Thank you,

The NMA Board of Directors

Looking out for the interest of all mooring owners

Newport Mooring Association

P.O. Box 1118, Newport Beach, CA 92659-1118

mail@NewportMooringAssociation.org

From: Admin < mail@newportmooringassociation.org>

Sent: Tuesday, June 14, 2022 3:30 PM

To: HarborCommission@newportbeachca.gov

Cc: Dept - City Council < Citycouncil@newportbeachca.gov >; NMA Email Board

<nmaboard@indigoharbor.com>

Subject: Mooring Reconfiguration Proposal and Mooring Fees

To Commissioner Beer and the Harbor Commissioners,

At the June 8<sup>th</sup> Harbor Commission meeting, Commissioner Beer presented his new mooring system proposal. The proposal involves realigning the mooring fields, installing a new anchoring system, and having a shared mooring on one end of the two-point mooring systems. To better understand the proposed changes to the mooring system, we would like to review any supporting documents for the presentation, and we have the following questions:

- Has this mooring reconfiguration been approved by City Management? Or is this still in a conceptual phase?
- What financial analysis has been performed revenues and expenditures, investment and payback - for the extensive capital and services outlay to implement this revised system? We have noted that this new project doesn't seem to appear in the proposed FY2022-23 budget document.
- 3. If the City pays for the new hardware, we believe the City will assume the liability when a boat breaks loose from any new system or when the new system causes damage to a vessel. If the City installs and owns the new system, what is the City's exposure for accidents caused by the new system? How will the City manage the assumption of liability?

- 4. We would like to review the engineering analysis on the specific hardware being proposed for the shared mooring system. The proposed solution is far more rigid with greatly reduced catenary (thus reduced shock absorbing potential) between a vessel and the mooring anchor to limit movement of the boats, and we are very concerned about the potential stresses on boat cleats and other attachments. We are also concerned with how the system will perform under the heavy Santa Ana winds we have in Newport Beach.
- 5. Does this project require any approvals from the Coastal Commission? Does it require an Environmental Impact Report? Does it require a Coastal Development Permit (CDP) to move forward? Have any of these documents been completed at this time?
- 6. What type of "proof of concept" or trial moorings for implementation is being considered? Has Commissioner Beer identified areas that will be implemented first? What is the proposed timeframe for the implementation?
- 7. Was there an incident or a series of accidents that prompted the safety concerns that drove this proposal? We are concerned that the shared moorings make it more difficult to get a vessel on and off the mooring, and as previously discussed, may cause other issues and potential damage to vessels.
- It should be noted that Commissioner Beer's earlier study from 2020 had identified a
  plan for a mooring realignment for safer fairways that now appears to have been
  abandoned for this far more complex reconfiguration.

Mooring Rate Increases - In addition to our questions on this new mooring configuration proposal, when we will next hear about the onshore/offshore mooring rates and appraisal? We assume that the offshore mooring appraisal has been completed. Our members are very concerned and want to be prepared to discuss the new proposed rates.

We would like to reiterate the NMA's willingness to work collaboratively on policy and procedures that affect our harbor.

Thank you,

The NMA Board of Directors

Looking out for the interest of all mooring owners

Newport Mooring Association

P.O. Box 1118, Newport Beach, CA 92659-1118

mail@NewportMooringAssociation.org

Wednesday October 26, 2022

City of Newport Beach Harbor Commission Paul Blank, Harbormaster

#### Dear Commissioner Beer:

I would like to thank you and Harbormaster Blank for meeting with Jerry LaPointe and me on October 20, for an initial preliminary meeting to answer some questions about the proposal to move almost all the offshore moorings and/or boats on the moorings. As mentioned at the meeting, this was intended to be an initial meeting to answer some questions to be followed by a second meeting with you, other commissioners, and the NMA.

At this initial meeting we asked for your personal assurance that any proposal to change Title 17 not be voted on at the November 9 Harbor Commission meeting, but instead postponed to allow the NMA and stakeholders to study the new proposal, and allow time for the City to send notice to all the stakeholders, including permit holders, followed by one or more stakeholder meetings. As stated previously, the NMA does not think it is appropriate to make any changes to Title 17 at this time. Certainly, a six boat trial test of a new concept in mooring layout and design does not require a Title 17 rewrite. Let's ask for volunteers instead of mandating that permittees cooperate. However, since Title 17 changes may need to happen eventually, we are hereby giving you our initial modifications to your earlier proposed language changes.

While the NMA does have a list of permittees, it is not as up to date or complete as the City's list,

While the NMA does have a list of permittees, it is not as up to date or complete as the City's list, and it is our personal view that a mailing should not be placed on the shoulders of the NMA. We also requested that you ask other Commissioners if the matter could be placed on the agenda as a discussion item only, and not as an item to be voted on. We asked that you let us know as soon as possible to avoid our having to notify as many people as possible that the proposals in current form would be voted on at the November 9 meeting.

At the meeting you indicated the proposed changes to Title 17 were being made and that there was a deadline for us to comment on the changes. You indicated that you would try to provide us with these changes on Friday October 21, although you were not sure if that could be done and you might only be able to provide your work notes outlining the changes. You requested that we provide our comments on the Title 17 proposed and revised changes by the end of the day, Wednesday October 26. At approximately noon on Monday Oct 24 (two days ago), you sent the Title 17 revised changes in a pdf file. Yesterday I attempted to "convert" that file and gather comments from a few people on the NMA Board in order to meet the deadline of today. We understand that it was difficult to provide us with the new proposed changes before they were sent, and we ask you to appreciate the fact that putting together our views in a day and a half on the proposed revised Title 17 changes sent in a pdf file format, with the need to consult with numerous people, most of whom are working full time, is a difficult task.

At this preliminary meeting, in addition to discussing the timing and need for stakeholder meetings after notice is mailed, we expressed concerns and asked questions about placing the bow of boats within 20 feet from the bow or stern of another boat. We discussed in general concerns over safety, the difficulty in securing a boat to a mooring with another boat so close even when using a spreader line to help. We asked questions about where each mooring would be relocated and the need for each permit holder to know where their mooring would be relocated. We asked about the best way

to keep multiple buoys attached to the same anchor or weight system as far apart as possible, and we asked about how to best study a theoretical reconfiguration in real life conditions. This is not intended to cover all the questions and matters discussed, but just a few that come to mind.

Again, with just a day and a half to provide some comments on the Title 17 changes, attached are some concepts. I have tried to put this in a format that is "readable" but it was difficult to work with the color coded pdf files that were sent to us.

I attempted to show our changes and modifications of your proposal by placing them in bold 14 point font with yellow highlight. Some of the words embedded in the highlight might have been in the original or in the proposed revisions.

To make it somewhat easier to follow the highlighted modifications, here is some background and additional comments. The letters refer to the corresponding Title 17 document letters.

Note: The version originally sent on Oct 26 to meet the deadline contained formatting errors, including some items that appear to be "strikeout" but are either embedded line of boxes that should have been removed and also at least one date error. Most of these embedded lines and boxes have been removed in the items noted as attachments.

#### 17.25.020

- **F. Safety, safety and safety.** The highlighted modifications attempt to make clear what should be otherwise obvious, that any new system or reconfiguration would first require proof of being safe without materially increasing the difficulty in getting on and off a mooring, particularly for elderly and disabled boaters and sailors under all wind, tide, and current conditions (over and above the existing level of difficulty in the same conditions). We do not think any responsible person would have difficulty with that concept, but without it being expressly stated in the code changes, when we are on the verge of a massive change in all parts of the harbor affected by winds and currents in a different way, this needs to be expressly stated and not just "implied".
- Much of the discussion that follows, but not all, concerns what we generally call the two-buoy type of mooring.
- **F. 2. Spreader lines.** Spreader lines are a good idea, but Harbormaster should be able to determine the different types of lines used. Spreader lines serve a number of functions in addition to warning other boaters of a mooring with a spreader line. They are often used to temporarily tie onto a cleat on a boat, and would need to be of the appropriate size for the cleat. There are much stronger lines of smaller diameter that float and last longer when exposed to the sun. The Harbormaster should be able to handle this.
- **G. Sand Lines.** If the use of sand lines (aka mud lines) is being considered in some situations, the Harbormaster should determine if the mud on which the line will sit for days is contaminated. If contaminated, when picking up the line, the contaminated mud will get on skin and clothes, and may cause heath concerns. We do not know if the City has tested the mud under all the mooring fields.

#### 17.60.040

**B. Issuance of Permit.** There is a lot of concerns about confusion in the documents between "existing moorings" and "newly created moorings". This is both a technical drafting issue, but is also a public relations and stakeholder issue. Some of the changes are just to clarify what appears to be the intent, in particular that transferability is not changing for existing permits, and a transferee after transfer will have the same right. To help make this clear, we have included definitions of New Moorings and Existing Moorings, among other ways to make it clearer.

# **B. 2. Permit Requirements**

#### J. Authorization to Move.

Currently, Title 17 allows when "necessary" to move boats (not moorings). Historically, that has been interpreted to mean moving boats on a temporary basis to accommodate maintenance, dredging, etc. The proposed new language still refers to moving boats (vessels) but adds that this can be done when not necessary, and includes the reconfiguration of the entire mooring fields when there have been zero instances of any reported accidents or other issues with the existing configuration over 100 years of mooring use. We understand that some members of the Harbor Commission have a vision of a tidier Harbor and may have an aesthetic vision that boats in perfect rows make a nicer water view. However others may differ on this and find the more natural view of boats swaying naturally in the harbor is the more pleasing view. No painter has ever painted boats lined up like in a parking lot, yet there are tens of thousands of paintings of boats sitting naturally in a harbor. The NMA does not think the current system needs to be radically changed. At the very least, there needs to be stakeholder meetings after a mailing describing proposed changes. There needs to be opportunities to be heard by all those impacted, and also extensive study of real world usage of the suggested new configuration before any changes are made to Title 17. If changes are ultimately made to Title 17 allowing for the future moving of boats or moorings, under some different plan of reconfiguration, then the same type of stakeholder meetings, safety, and accessibility studies should be a prerequisite of such major changes.

In the event that any Title 17 changes are made to allow for reconfigurations, despite the fact that it is not needed, we would address some of the conditions on what should be imposed to address safety, potential difficulty of use, accessibility for the old and disabled, and fairness of location. We have also tried to address what appears to be major confusion in the proposed language as it relates to moving boats vs moving moorings.

# Moving Boats vs Moving Moorings.

Much of the proposed language changes refers to moving boats or moving vessels. We believe this does not fit with any proposal that in effect is an attempt to move moorings into certain rows. Here are a few examples of the havoc that would result in referring to moving boats vs moving moorings. Permit holder Joe, who has a 50 foot mooring Z-12 (there is no Z field it is used as an example only), and Joe at one time had his 46 foot boat called Joes Dream on the mooring. Joe sold his boat and acquired a 34 foot sailboat, Joes Folly, to use to race in the Thursday afternoon races. Joes Folly is now on Z-12, but in three or four years, Joes knows he may give up sailboat racing given his age and he plans to put another 46 foot powerboat back on Z-12. Under the proposed authorization, the Harbormaster can move Joes Folly to some other, smaller mooring, and

move someone else's 50 foot boat onto Z-12. Under the proposed plan, as I understand it and which refers to moving boats, we could have the following scenario: Joe will pay for the 50 foot mooring (that he is not using), Joe will pay to maintain the 50 foot mooring (that he is not using), and Joe will have no say in how his new mooring is being maintained, as some other mooring permittee will be on his 50 foot mooring. However in a few years when he sell's Joes Folly, and buys a 46 foot trawler Joe's Last Boat, he will have not a place to put the retirement boat of his dreams.

Here's another example: Joe's uncle, Sam, owns the mooring next to Joe and he follows the harbor scuttlebutt closely. Right now his 40-foot mooring Z-11 is usually vacant, although he occasionally puts an old 16 foot skiff on it for occasional use. Hearing what is going on and planning to buy another boat a few years from now, he goes out and buys the cheapest 40 foot boat he can, just to have a "place holder" so he will have a place to put his new boat in three or four years, and no one will be moved in the meantime to his underutilized 40 foot mooring.

These are only two of a thousand different situations that could come up over time in the lifetime of a boater. People do change boats.

To avoid all of this confusion, the language addresses the issue directly and speaks directly about moving moorings and under what situations and conditions that would be appropriate. While the NMA believes there is clearly no need and no necessity to do that on a wholesale basis, there may be some areas in the harbor where it makes sense. With this in mind we have offered language that would address this and have added safeguards that would discourage potential abuse, while at the same time increasing safety, and avoiding creating difficulties of use and accessibility. The language allows for transparency and mandates the use of appropriate stakeholder meetings, and some checks and balances, including ultimate approval by the City Council.

#### **B.2.1** Transfer of Permit / Permit Requirements

These are mostly technical clarifications, to make clear the status of a transferee of an "Existing Permit" and the status of a second name on the mooring permit as having a different status that does not create a "transfer" and provides a method to remove the second named person.

# M. Request to Extend Mooring Length or Relocate to Larger Mooring.

Extensive changes were needed here, which are too many to summarize. These changes are made in an attempt to avoid some of the issues discussed above regarding moving boats vs moving moorings. For example, if a 50 foot boat on a 50 foot mooring is moved to a 60 foot row (by for example a private sale), or for realignment purposes a 50 foot mooring is placed in a 60 foot row, perhaps because it was on the end of a row and the only end of row mooring available is in a 60 foot row, the person with the 50 foot boat should not lose his or her mooring and be subject to relocation of boat or mooring. Moreover, if after a few years, the person with the 50 foot boat, sells the boat and asks to allow his new 52 foot boat to be on his mooring and asks for his 50 foot mooring, which is in the 60 foot row to be extended to a 55 foot mooring, he or she should at least be allowed to make the request, and the Harbormaster and/or the Harbor Commission should be allowed to address the request on a case by case basis so long as the boat will be well within the length limits of the row. The proposed changes take into account the different type of situations, and avoids the "move the boat only" without moving the mooring issues, discussed in detail above.

As a final note, because of the edits, re-edits, and conversions from pdf files to Word files, some of the internal numbers and cross references may need to be adjusted.

We of course would have preferred more than one and a half days to address the major proposed changes, as revised, to Title 17, and we are hopeful that we will have the time and opportunity to work with the Harbor Commission to come up with reasonable and appropriate changes through transparency and with safety, usability, and accessibility in mind.

Thank you for your kind attention,

L. Scott Karlin

and the

**Board of Directors** 

Newport Mooring Association https://newportmooringassociation.org

#### **Attachments:**

#### First Attachment:

# 17.25.020 Anchorage, Berthing and Mooring Regulations.

A. Location. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within designated areas. Any vessel which is berthed, moored or anchored at a place not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space. No vessels shall be moored or anchored in any part of any turning basin or channel unless secured both fore and aft except as provided in subsection (H) of this section. Every vessel moored or anchored in any part of the harbor outside of any turning basin or channel shall be so moored or anchored as to prevent such vessel from swinging or drifting into any turning basin or channel.

- 1. No person owning, leasing, occupying or having charge or possession of any vessel shall:
  - a. Berth or anchor the same in Newport Harbor except within the designated areas; or
  - b. Anchor a vessel in any of Newport Harbor's designated public anchorage areas or at any location on the open waters of the Pacific Ocean within five hundred (500) yards of a designated protected swimming area for a cumulative period of time that exceeds seventy-two (72) hours within any thirty (30) calendar day period. The Harbormaster may authorize, in writing, an extension to the seventy-two (72) hour time limit if the Harbormaster determines that given the particular circumstances an extension of time is reasonable and warranted.
- 2. Any vessel which is berthed, moored or anchored at a place in Newport Harbor not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas in Newport Harbor, consideration shall be given to the needs of

commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space.

B. Application of Chapter. The terms of this chapter, as they relate to moorings and buoys, shall apply to "on-shore moorings" which are moorings located landward of the pierhead line and to "offshore moorings" which are located bayward of the pierhead line, with equal force and effect.

#### C. Berthing.

- 1. Boats berthed at private or public piers shall not extend beyond the prolongation of the side property lines of the property or properties to which the pier is connected in accordance with Section 17.35.020.
- 2. Any boat berthed at a pier or slip shall not extend bayward beyond the end of the pier or slip by a distance of more than the maximum width of its beam. Between Bulkhead Station 256, beginning at Collins Avenue to Bulkhead Station 255, boats moored at a pier or slip shall not extend more than fifteen (15) feet bayward beyond the end of the pier or slip or more than the width of the beam of the boat, whichever is less.
- D. Permit Required. No person shall place, erect, construct or maintain a pier mooring or buoy in the waters of Newport Harbor over City-owned or controlled tidelands without first having obtained a permit pursuant to this title.
- E. Unauthorized Use of Mooring. No person shall use a mooring unless he or she holds a current and valid permit except with the permission of the Harbormaster for temporary use, as herein provided.
- F. Chains and Fastenings of. Helix Anchor Mooring System. Offshore moorings in the City's mooring fields which are designed to secure a boat with two anchors, one secured to the bow and one to the stern, may, at the direction of the City, consist of:
- in all wind, tide, and current conditions in the particular field and area where the boat will be moored, including the vessel safely being secured to the mooring without undue difficulty when approaching and leaving the mooring by persons of all ages and persons with disabilities consistent with the Americans with Disability Act and the California State Unruh and Disabled Person's Act ); or two separate anchor weights for each vessel, If moorings in a field are reconfigured to be closer to other moorings in a field either side to side or fore or aft, such reconfiguration shall first proven to be safe for the use of the moorings in all wind, tide, and current conditions in the particular field and area where the boat will be moored, including the vessel safely being secured to the mooring without undue difficulty when approaching and leaving the mooring by persons of all ages and persons with disabilities consistent

# with the Americans with Disability Act and the California State Unruh and Disabled Persons Act.

Mooring permittees shall be responsible for maintaining, repairing, and replacing <u>all anchor</u> <u>system components, including but not limited to, all-the-</u>chains, shackles, weights, lines, buoys and all other gear and equipment used in securing their vessels to the <u>mooring</u>.

If the City has installed a helical anchor system for use as the shared anchor mooring system, the City shall maintain, repair, and replace only the shared helical anchor at its cost.

- 1. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring.
- 2. All mooring lines on buoys (<u>excluding a Spreader Line as described below</u>) shall be so arranged that, when dropped, they will immediately sink.

All double or two-point moorings that are equipped with two mooring buoys for mooring to both bow and stern, are at all times required to have (i) a vessel properly tied to both mooring buoys, or (ii) a single 3/4" polypropylene line of a diameter approved by the Harbor Master for that sized boat and mooring, secured and connected to both the bow and stern buoys, or other floating line, or of another size or type approved by the Harbor Master. The line shall be no longer than five feet plus the length of the mooring and equipped with 9" long two-color buoys affixed in-place to the line that are no less than ten feet apart from each other, (the "Spreader Line"), and (iii) two lines that are appropriately sized and specified for attachment to each mooring buoy that will be secured one each to the port and starboard cleats at each the bow and stern at all times the vessel is occupying the mooring space, and (iv) maintained the Spreader Line keeping it clean from algae and other marine growth to prevent the line from submerging below the surface and not remaining easily visible to other approaching mariners.

G. Sand Line Moorings. With the approval of the Harbormaster, mMooring permittees may use a single buoy system for a two-point mooring by use of a Sand Line. A "Sand Line" is a line from one anchor line to the opposing anchor line. The Sand Line shall be properly weighted to immediately sink when dropped. The permittee must submit a Mooring Modification Request to the Harbormaster and shall include details of the modification (including diagrams, if requested)., The Harbormaster may approve the request based upon his or her determination that the modification will result in any safety or navigational concerns, and prior to approving said use of any sand line, the Harbormaster shall consider if the upper 12 inches of the bottom soil that the sand line will contact is contaminated which may make contact with the sand line in any place that which may come into contact with a person handling the sand line through the skin or by inhalation. If the Harbormaster becomes aware of such contamination, the

# Harbormaster shall report the information to both the Harbor Commission, the City Council and the City Manager.

- G. Buoy Markings. Mooring buoys shall be painted with the number allocated thereto by the Harbormaster to the mooring, the numeral(s) of which shall be at least three inches in height.
- H. Mooring, Anchoring and Vessel Condition Requirements.
  - 1. Mooring AnchoringAnchoring and Mooring. All vessels anchored on the open waters of the Pacific Ocean shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area. All vessels using moorings in Newport Harbor shall be firmly anchored to a mooring from bow and stern in such a manner as to prevent the vessel from swinging, turning or excessive drifting, except in areas designated by the Harbormaster as single mooring areas. Vessels in single mooring areas shall be tied from the bow. A vessel's Adjusted LOA shall not exceed the designated length of its mooring row. At no time may any portion of the vessel or object attached to the vessel extend into the fairway. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area.
  - h. Violation of the terms and conditions of other use or rental permits as granted by the Vessel Condition. Safety, Seaworthiness and Operability. Vessels assigned to a mooring by permit must be maintained in a safe, seaworthy and operable condition. If, based upon the appearance of the vessel, inspection by the City or other facts, the Harbormaster has cause to believe a vessel is not safe, seaworthy and operable, the Harbormaster shall give written notice to the permittee, in accordance with the service requirements of Section 1.05.030, requesting a demonstration that the vessel is safe, seaworthy and operable. The permittee shall, upon written notice specifying the date and time, demonstrate to the Harbormaster that the vessel assigned to the mooring is safe, seaworthy or operable. In the event that the Harbormaster determines that vessel is not safe, seaworthy or operable, the permittee shall:
    - a. Commence repairs within thirty (30) calendar days upon service of the written notice of such determination and complete repairs within ninety (90) calendar days of the commencement unless the Harbormaster, upon written request from the permittee specifying the reasons therefor, approves an extension of time to complete the repairs; or
    - b. Remove the vessel within thirty (30) calendar days of service of the written notice of such determination and request assignment of a different vessel that is safe, seaworthy and operable to the mooring within sixty (60) calendar days after the removal of the vessel. This section is not intended to apply to any brief period of repair common to most vessels. The Harbormaster may repeat his or her request to test operability and seaworthiness as needed.
  - 3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel shall maintain, permit, cause or allow to exist on such vessel any of the

2.

## following conditions:

- a. Promotion of a fire hazard, including, but not limited to, improper open fuel storage, deficiencies in the vessel's fuel storage tanks, inoperable electrical systems, storage of combustible or other flammable material that constitutes a fire hazard to any vessel;
- b. Retention of water that becomes stagnant, unsanitary, or polluted;
- c. Accumulation or storage of rubbish, trash, debris, rubble, containers, or boxes that are visible aboard the vessel or stored inside the vessel in such a way as to make the vessel inoperable for its intended use;
- d. Storage or securing a vessel in such a way that it impedes pedestrian travel on City beaches and tidelands;
- e. Contribution to hazards to public safety or health, such as, but not limited to: propagation of vermin, rats, insects, or unsanitary conditions from the accumulation of fecal materials;
- f. Maintenance in such nonseaworthy condition that the vessel is unsafe, unsightly or poorly maintained, including, but not limited to: broken windows, unsecured doors or hatches, excessive marine growth attached to the vessel, being inoperable for the vessel's intended use, partially destroyed or partially repaired for more than three continuous months, providing access to marine mammals, actively seeping hazardous or toxic material into the surrounding waters, or would present a physical danger to public safety personnel during emergency access;
- g. Operation of its mechanical or electrical systems creates excessive noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health or safety;
  - i. Allowance of repetitive, boisterous or unruly conduct by the vessel operator or occupants when that conduct:
    - i. Is offensive to a person of ordinary sensibility, and
    - ii. Continues after a written or oral request to terminate the conduct, or
    - iii. Is offensive to a considerable number of people;
  - j. Anchorage in an area controlled by the City without adequate anchor(s) rope or chain appropriate for the wind and sea conditions encountered in Newport Bay;
  - k. Inability of a vessel on a shore mooring to be self-righting on an incoming tide without flooding the vessel;
  - I. Attachment to a mooring in such a way that the vessel regularly drifts or impedes safe navigation in Newport Bay; or
  - m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay.

Violation of this subsection (H) is hereby declared to be a public nuisance. In the event that the City determines that a vessel is a public nuisance, the City may commence public

nuisance abatement as provided in this title.

- 4. If, based upon the appearance of the vessel, inspection by the City or Harbormaster or other facts, the Harbormaster determines that a sea lion has boarded a moored vessel, the Harbormaster shall issue and serve a notice of violation in accordance with Section 1.05.030 and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within seven calendar days of the notice of violation. If the Harbormaster determines that appropriate deterrent measures have not been taken within seven calendar days of the notice of violation, the Harbormaster may issue an administrative citation or take any other enforcement action authorized by this Code. In the event the Harbormaster issues an administrative citation, the permittee shall:
  - a. Take any and all necessary action to employ and maintain appropriate sea lion deterrent measures; or
  - b. Remove the vessel from Newport Harbor.

"Appropriate deterrent measures" shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of vessels assigned to a mooring. If the City is unable to reach the permittee within the seven calendar days, the Harbormaster may install temporary deterrent measures as needed and recover the City's cost of compliance.

- I. Maintenance. All moorings shall be kept in good and serviceable condition in the location assigned by the Harbormaster.
- J. Specifications. Specifications for the size of chains required on moorings, and weights of moorings, and all other mooring equipment shall be as adopted by resolution of the <a href="City Council Harbor">City Council Harbor</a>
  Commission. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring. All mooring lines on buoys shall be so arranged that, when dropped, they will immediately

sink. With a double mooring, however, it shall be permissible to connect two mooring lines with a spreader line having floats attached thereto to keep such line afloat when the mooring is unoccupied.

- K. Inspection of Moorings. Each mooring shall be lifted by the owner for inspection by the Harbormaster at least once every two years and shall be repaired, as necessary, so as to be in good condition before being replaced; provided, that the Harbormaster may require any mooring to be lifted at any time when deemed necessary to assure it is in good condition. If the permittee has such lifting performed by a marine contractor, then the Harbormaster may authorize such contractor to inspect the mooring on behalf of the Harbormaster and certify the results to the Harbormaster in writing. The permittee shall pay the costs of any inspection performed by a contractor on behalf of the Harbormaster.
- L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.
- M. Administration. The Harbormaster shall administer all provisions in this section.

## N. Reconfiguration of Moorings.

- 1. No plan, and no amended or modified plain, of reconfiguration of moorings within a mooring field shall be adopted or enacted without advanced notice first sent bmy mail, and if the City has email addresses, by emails to all stakeholders who may be affected by said plan followed by an opportunity for comments and two or more stakeholder meetings allowing for open and reasonable comments and discussions with the persons or agency whohow have the authority to adopt, or advise on the adoption or enactment of the plan. Stakeholders would include mooring permittees, residences located within 1,000 feet of the high tide line of any part of the mooring field(s) subject to the proposal, and other stakeholders thatey might be impacted by the proposals, including homeowner associations and other organizations whose members include other stakeholders such as the Lido Island Homeowner's Association, the Balboa Homeowner's Association, Newport Harbor Yacht Club, Balboa Yacht Club, and the other Yacht Clubs in Newport Harbor, If the plan is not adopted or enacted
- within 9 months of said stakeholder meeting, then any resubmission of the plan or similar plan, shall be subject to the same required stakeholder meetings before adoption or enactment.
- 2. Following said stakeholder meetings, any plan of reconfiguration of moorings within a mooring field that is advised by, adopted by, or enacted by the Harbor Commission or by the Harbormaster or any of its agents or committees shall be first subject to the approval of the City Council after first being placed on the regular agenda of the City Council that allows for public comment (not on the City Council's consent calendar).
- 3. Plan of reconfiguration of a-moorings as referred to above, shall include moving moorings to different areas within a mooring field or to a different mooring field, moving moorings closer together either to the side or in front or to the back, moving moorings which would have an affect (negatively or positively) on views from homes, residences, or street ends, within 1,000 feet

# of the high tide mark where moorings may be moved or relocated.

\_\_\_\_\_

# Second Attachment:

## 17.60.040 Mooring Permits.

- A. Permit Required. No person shall place, erect, construct, maintain, use or tie to a mooring in the waters of Newport Harbor over City-owned or controlled tidelands (i.e., an offshore mooring) or in the nearshore perimeter of Newport Harbor perpendicular to the shoreline (i.e., an onshore mooring) without first having obtained a mooring permit from the Harbormaster or having otherwise complied with this section. A mooring permit is in the nature of license for the temporary use of a specific location within Newport Harbor.
- B. Issuance of Permit—Conditions. The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit or mooring sub-permit to allow the mooring permittee or mooring sub-permittee to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel if the Harbormaster makes the findings set forth in Section 17.05.140(D)(1). In the event that the City is able to

and does create new Moorings on or after January 1, 2022 [ Error – Should be January 1, 2023], then the City may use such new Moorings (referred to herein as "New Moorings" for the purpose of long term rentals for recreational boat use or may issue a permit, similar to existing permits, for such use. If a Mooring permit is issued or a long term rental is issued each s shall be issued according to a lottery, followed by a waiting list. A mooring permittee may hold up to two mooring permits at any time. A mooring permittee that held or continues to hold more than two mooring permits prior to May 11, 2017, may continue to hold the mooring permits until the permits are sold, revoked, or otherwise transferred under this chapter.

#### 1. Exceptions.

a. The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, as noted in subsection (B)(3)(h) of this section. In addition, the Lido Isle Community Association ("LICA") has permits for onshore moorings on Lido Isle. These organizations shall hold their respective permits under the yacht club, or respective organization name, for the moorings identified by the City as under their respective control at the time of enactment of the ordinance codified in this section. The yacht clubs and LICA shall be solely responsible for managing moorings under their control and shall be permitted to assign moorings under their control to yacht club members and members of LICA, respectively. The yacht clubs and LICA shall keep accurate records of the name and address of the club members and community association members to which each mooring has been assigned and the corresponding length of each vessel. The yacht clubs and LICA may not sell or otherwise transfer the moorings under their control to a third party that is not a member of the yacht club or LICA. Mooring records and 24/7 emergency contact information shall be provided annually to the

Harbormaster by the yacht clubs and LICA on or before February 1st.

- b. Mooring of a Tender. A single vessel no longer than fourteen (14) feet in overall length to serve as access to and from the assigned vessel may be secured to the assigned vessel or may be secured to the offshore mooring in the absence of the assigned vessel. The vessel must be secured in such a manner so as not to intrude into the fairway or obstruct neighboring permittees. Notwithstanding the single vessel restriction, permitted live-aboards may secure up to two vessels no longer than fourteen (14) feet in overall length to the assigned vessel, to serve as access to and from the assigned live-aboard vessel.
- c. Multiple Vessel Mooring System Program. The Harbormaster may approve a multiple vessel mooring system in the single anchor mooring areas of Newport Harbor. An application and applicable fee, established by resolution of the City Council, for a multiple vessel mooring system shall be submitted in writing to the Harbormaster, who shall evaluate the application based upon standards established and the application shall be approved if the Harbormaster makes the findings under the applicable standards and those set forth in Section 17.05.140(D) (1).
- 2. Permit Requirements. Each mooring permit may be issued for up to two persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. Mooring permits shall be subject to the following conditions and requirements, with which mooring permittee(s) shall fully comply: To the satisfaction of the Harbormaster, the mooring permittee(s) shall:
  - a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current email address(es), if one exists, of the mooring permittee(s);
  - b. Agree to be responsible for permit rent, fees, maintenance and repair of mooring equipment;
  - c. The permit for joint ownership moorings shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the mooring permit;
  - d. Grant permission to the City to temporarily assign the mooring to another vessel when it is unoccupied through the issuance of a mooring sub-permit;
  - e. Agree to defend and indemnify the City and any other government entity with jurisdiction against any claims or losses arising out of, or related to the use of, the mooring permit except where the claim or loss arises from the sub-permittee's damage of the mooring, or out of the negligence and/or misconduct of a person assigned the mooring as a mooring sub-permittee under subsections (G) and/or (H) of this section;
  - f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;
  - g. Provide registration or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster;
  - h. Agree to pay fair market value rent, as established by resolution of the City Council, on a rent schedule established by the Harbormaster, which shall be similar to the schedule used to

collect rent from other tidelands users in Newport Harbor;

- i. Agree that the mooring permit does not provide any ownership interest in the underlying tidelands, which are held in trust by the City and owned by the people of the State of California;
- j. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster, including but not limited to increasing and improving safety or the utilization and organization of the mooring fields, and agree that such relocation shall be at the permittee's expense; and
- j. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster on a temporary basis in the interest of safety, dredging, public works project, or similar necessities at the City's expense, unless the boat owner, or operator, or mooring permittee is in violation of one or more regulations applying to boats or moorings, in which case said move shall be at the expense of both the boat owner and the mooring permittee.

Authorize the City, or its designee to relocate a mooring to a new location on a one-time basis only, within a mooring field, in accordance with a plan of reconfiguration first approved under the following conditions:

- 1. The plan of reconfiguration which includes the field has been approved by both the Harbor Commission and the City Council after proven safety of, lack of difficulty of use of, and accessibility of moorings affected by the reconfiguration, and after stakeholder meetings following reasonable notice by mail to the stakeholders both before and after the study and real life testing in different wind, current and tide conditions in representative areas each of the mooring fields.
- 2. The new location be as close as Possible to the old location, except as may be approved by the permittee,

- 3. The new location for moorings which historically did not have a permanent mooring assigned to another permittee behind or in front of it shall be a similar type of mooring, and the new location for beginning or end of row moorings shall also be either an end or beginning of row mooring, unless otherwise approved by the permittee, and moorings that are within the service area of shore boat service by a yacht club, such as BYC or NHYC, shall not be moved to a location outside the area of shore boat service.
- k. Agree to allow the Harbormaster, or his designee, to board the permittee's vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether said devices are discharging overboard in accordance with applicable laws.
- I. If a single mooring permit holder has requested, or will request, a second name to be added as a permit holder for the mooring, the original permittee who made the request will be the "Primary Permittee" and the second permit holder is the "Second Permittee." The addition of, or creation of, an additional permit holder does not result in a transfer of the mooring permit. The Primary Permittee, or his or her successor in interest, such as a person obtaining the permit by inheritance, shall have the right to remove the Second Permittee as a permittee. Following such removal, the Second Permittee shall remain liable for any violations of any City Code or regulations during the time the Second Permittee was a permittee.
- 3. Permittee/Transferee Qualifications. A mooring permit may be held only by a natural person(s) holding title to an assigned vessel. Mooring permits that were issued before << specific date or date of adoption of ordinance>>, including the subsequent transfer of such permit to another natural person(s), may be held by, or transferred to, only the following persons:
  - a. A natural person(s) holding title to an assigned vessel;
  - b. An executor or administrator carrying out the terms of a will or administering a probated estate that holds a mooring permit, but only for the period of time prior to distribution of the estate;
  - c. An inter vivos trust, family trust, or other similar type of trust estate holding a mooring permit, so long as all trustors are natural persons and the primary mooring permittee shall be the trustee of the trust;
  - d. An approved transferee whose vessel and/or mooring permit are subject to any of the

terms and conditions stated in subsection (E) of this section;"Immediate family," which shall mean the mooring permittee's spouse and heirs at law to the second degree of consanguinity;

- e. A marine contractor, or marine support service provider, holding a mooring permit used to provide current or ongoing harbor infrastructure and marine or fishing services (such as maintenance or dredging);
- f. Balboa Island Yacht Club for the purposes of youth education in boating and marine activities; Kerckhoff Marine Laboratories for the purpose of marine and oceanographic research; and American Legion Post 291 for the purpose of serving veterans and their families and supplying them with affordable access to boating and harbor activities; or similar marine educational entities; or
- g. The Balboa Yacht Club, Newport Harbor Yacht Club (collectively "yacht clubs") and the Lido Isle Community Association—only for those moorings assigned by the City within certain established mooring areas or locations, prior to January 13, 2011. These designated mooring areas may not be expanded. The boundaries of all mooring areas in Newport Harbor are graphically depicted by National Oceanographic and Atmospheric Administration (NOAA) Chart Number 18754. Yacht clubs shall be entitled to a maximum number of moorings identified in NOAA Chart Number 18754 that are located within the yacht club's established mooring fields and at a minimum the current number of moorings assigned to them as of January 13, 2011.
- C. Plans and Specifications Required. No mooring permit shall be issued for placing, erecting, constructing or maintaining a mooring or buoy unless such mooring or buoy is constructed:
  - 1. In accordance with standard plans and specifications approved by the Harbormaster and at a location approved by the Harbormaster; or
  - 2. In accordance with other plans and specifications for such mooring or buoy which have been submitted by the applicant, showing the construction of such proposed mooring or buoy together with the location thereof, and which meet the requirements established in this chapter and which have been approved by the Harbormaster.
- D. Late Fees. A late charge shall be added to all payments due but not received by the City by the due date in accordance with Section 17.05.120.
- E. Transfer of Permit. New Mooring Permits (permits for the use of a New Mooring as defined issued or in existence with the sole exception of mooring permits that were issued on or before January 1, 2022 [Error should be January 1, 2023) are transferable in accordance with the regulations set forth herein. above, (Moorings issued for the first time on or after January 1, 2022 [Error should say January 1, 2023] ) to a new permit holder "New Permit") Mooring permits are shall be non-transferable. Existing Permits, which are mooring permits to an existing permit holder or the holder's transferee, which permits were In the event an additional name is added to an Existing Permit does not change the

character of the permit which shall still be considered an Existing Permit under these regulations, and the periodic return and signing of a questionnaire or similar request for updated information regarding a mooring or vessel on the mooring, which may ask for an acknowledgement that the permittee has read the mooring regulations, is not, and does not result in the issuance of a New Permit.

before <<specific date or date of adoption of ordinance>>. including the subsequent transfer of such permit to another natural person(s), which may be transferred only to the persons specified in subsection (B)(3) of this section.

No mooring permittee shall transfer a permit for a mooring or buoy granted under the provisions of this chapter, except:

- 1. When transferred from a natural person to another member of his or her immediate family, which shall be defined for the purposes of this section as the mooring permittee's spouse and heirs at law to the second degree of consanguinity; or
- 1. Except when transferred to immediate family, a mooring permit may only be transferred under this subsection up to one time once in any twelve (12) month period, but additional transfers shall be allowed after that, but only once, in any twelve (12) month period.
- F. Procedures for Transfers. Permits shall not be transferred without the prior written approval of the Harbormaster. The Harbormaster may approve the transfer of a mooring permit under the procedures set out below:
  - 1. The mooring permittee(s) (or, if the permittee is deceased or incapacitated, the transferee) shall submit to the Harbormaster:
    - a. A completed mooring transfer form (on the form provided by the Harbormaster); and
    - b. Documentation that the proposed new mooring permittee (transferee) qualifies as a mooring permittee under subsection (B)(3) of this section.
  - 2. If transferee intends to purchase an assigned vessel but does not have title on the assigned vessel owned by the mooring permittee and transferor at the time of transfer, then:
    - a. Within sixty (60) days of a transfer, transferee shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the assigned vessel or, in the case of an onshore mooring, a photograph of the assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or
    - b. If such documentation is not received by the Harbormaster within the sixty (60) day period, then the vessel or the mooring may be impounded, and the mooring may be deemed vacant and assigned pursuant to subsections (G) and (H) of this section.
  - 3. If transferee intends to moor a vessel other than the assigned vessel and does not have title to

the vessel that will be moored at the time of transfer, then:

- a. Within sixty (60) days of an approved transfer, the transferee shall notify the Harbormaster that the assigned vessel has been removed from the mooring and before a new vessel may be placed on the mooring shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the new assigned vessel, or in the case of an onshore mooring, a photograph of the new assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or
- b. If the documentation is not received within sixty (60) days of a transfer, the mooring may be deemed vacant by the Harbormaster and the mooring may be assigned pursuant to subsections (G) and (H) of this section. The mooring may remain vacant until such time the permittee notifies the Harbormaster of their intent to assign their vessel to the mooring.
- 4. The transfer request shall be denied unless mooring permit rent, including late payment fees, is paid current; required mooring inspections are current; registration or documentation and insurance are provided; required maintenance and repairs are complete and there are no derelict

or unauthorized vessel(s) on the mooring; and the vessel is of appropriate length with the appropriate weights and chains.

- 5. The mooring permittee and transferee shall provide a written agreement to defend and indemnify the City of Newport Beach in any dispute with a third party over transferee's right to be the mooring permittee or in any dispute with a third party over the mooring permittee's right to transfer the permit.
- 6. Transfer Approval. Upon confirmation of compliance with this subsection, the Harbormaster must find all of the following conditions to approve the transfer of a mooring permit:
  - a. The mooring permittee no longer owns the assigned vessel or has retained ownership of the assigned vessel and has permanently vacated the mooring;
  - b. The transferee has met all the qualifications and conditions for issuance of a permit in subsection (B) of this section;
  - c. The transferor or transferee has reported to the Harbormaster the price paid for the mooring permit, and has paid to the City the required transfer fee; and
  - d. The transferor represents that the person did not discriminate against any transferee or prospective transferee because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.
- 7. The Harbormaster may approve a one-for-one exchange of moorings between two mooring permittees, subject to compliance with this subsection without any transfer fee imposed by the City.
- 8. The Harbormaster may approve the changing of an assigned vessel on the permit, subject to

the requirements of subsection (B) of this section, without any transfer fee imposed by the City.

- 9. Following an approved transfer, the Harbormaster shall list the transfer price of the mooring permit on a publicly available website hosted by the City, or on a third party's website under contract with the City to host information regarding mooring permit transfers.
- G. City's Authority to Assign Moorings through Use of Sub-Permits. With the exception of the Balboa Yacht Club, the Newport Harbor Yacht Club, and the Lido Isle Community Association's designated moorings, mooring permittee may not rent, assign, or transfer the use of the mooring to any other person. With the exception of moorings issued to mooring permittees described in subsection (B)(3)(g) of this section, the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:
  - 1. Deemed Vacant Moorings. The Harbormaster may assign deemed vacant moorings through the issuance of sub-permits at his or her own discretion. Sub-permits may be renewed upon availability. The mooring permittee may reclaim its mooring upon three days' prior written notice to the Harbormaster of its intent to return the assigned vessel to the mooring.

A "deemed vacant mooring" shall be defined as a mooring upon which:

- a. An assigned vessel has not been attached for thirty (30) consecutive days or more; or
- b. A vessel, other than an assigned vessel or approved sub-permittee vessel approved in accordance with subsection (H) of this section, has been attached for thirty (30) days or more; or
- c. Required documentation for an assigned vessel has not been provided for a transfer request pursuant to subsection (F) of this section.
- 2. Noticed Vacant Moorings. The Harbormaster may assign noticed vacant moorings through the issuance of a mooring sub-permit for any period of time, up to the reoccupation date on the mooring permittee's written notice, or the twenty-four (24) hour written notice per subsection (G)(2)(b) of this section. If the mooring continues to be vacant for thirty (30) days past the reoccupation date indicated on mooring permittee's notice, and there is no further written notice from mooring permittee, the mooring shall become a deemed vacant mooring.
  - a. Mooring permittee may provide written notice to the Harbormaster of its intent to vacate its mooring for fifteen (15) days or more. These moorings shall be "noticed vacant moorings." Written notice shall include the date the mooring permittee intends to vacate his/her mooring, and the date he/she intends to reoccupy the mooring with the assigned vessel.
  - b. If a mooring permittee provides written notice, the mooring permittee may reclaim the assigned mooring on the reoccupation date indicated in his/her written notice or, if the mooring permittee returns prior to or after the reoccupation date, upon twenty-four (24) hours' written notice to the Harbormaster.
- H. Procedures for Mooring Sub-Permit Issuance. Issuance of a mooring sub-permit shall be subject to the following conditions:

- 1. Provision of a written representation of the mooring sub-permittee's vessel length which shall be satisfactory to the Harbormaster;
- 2. The mooring sub-permittee agrees to be responsible for any damage to mooring equipment; to defend and indemnify the City of Newport Beach and the mooring permittee against any claims or losses arising out of, or related to, the mooring rental; to provide proof of insurance as may be determined by the City's Risk Manager; to provide registration or other proof of ownership; to provide an equipment damage deposit, all to the satisfaction of the Harbormaster; and authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster;
- 3. The repair of any damage to the mooring equipment shall be paid by the mooring sub permittee. If the mooring is damaged by a vessel assigned by the City, or the City's agent, the City shall arrange for the repair of the mooring with a qualified vendor and provide notice to the permittee of the occurrence and the arranged repair date. Should the sub-permittee fail to pay for the damage for any reason, the City will pay for the required repairs to the mooring, and then seek reimbursement from the sub-permittee. Also, the City shall make available a mooring without charge for the returning vessel of the mooring permittee until such time as their permitted mooring is repaired;
- 4. The mooring sub-permittee shall provide approved mooring lines which shall be removed at the end of the rental period;
- 5. A mooring sub-permit may be up to fifteen (15) days and may terminate at any time for any reason, and may be renewed based on availability. Upon return of the assigned vessel to the mooring, the Harbormaster will attempt to reassign the sub-permittee to another mooring. Mooring sub-permittees have no right of renewal or substitute moorings upon return of the assigned vessel, or upon termination of a mooring sub-permit for any reason. Mooring sub-permittees accept an indefinite term at their own risk. The decision by the Harbormaster to terminate a sub-permit shall be final and nonappealable;
- 6. The mooring sub-permit rent will be based on a rate established by resolution of the City Council; and
- 7. Mooring sub-permits are offered to the public on a first-come, first-served basis. City owned and operated moorings may be reserved in advance.
- I. Mooring Permit Transfer Nonrefundable Fee. The City shall charge the mooring permittee for the right to transfer a mooring permit under subsection (E) of this section in an amount equal to seventy-five (75) percent of the annual mooring rent as established by City Council resolution. This transfer fee represents a one-time nonrefundable transfer fee for the use of a mooring. A mooring permit transfer fee shall not be required if:
  - 1. The transfer is from the mooring permittee to the same mooring permittee as trustor of an inter vivos trust, living trust or other similar estate planning tool;
  - 2. The transfer is made under subsections (F)(7) and (8) of this section; or
  - 3. The transfer is made pursuant to under subsection (E)(1) (B)(3)(d)) of this section (immediate family).

J. Surrendered Mooring Equipment. If the mooring permittee sells, transfers, or otherwise no longer owns the assigned vessel and does not intend to apply for, or does not receive, approval to transfer the permit to another, the permittee may provide written notice to the Harbormaster of his or her intent to surrender the mooring permit; otherwise the provisions of subsection (G) of this section regarding a vacant mooring shall apply.

Once a mooring permit is surrendered, the mooring permittee shall remove the assigned vessel and/or the mooring equipment thirty (30) days after written notice of surrender of the permit, or, upon failure to remove the mooring equipment, title shall vest in the City and the City shall compensate the mooring permittee the fair value for the mooring equipment, less rent or fees owed, as provided in subsection (L) of this section.

#### K. Revocation of Permit.

- 1. The grounds and procedure for revocation of a mooring permit are set forth in Section 17.70.020.
- 2. Upon revocation of the mooring permit, it shall be the duty of the mooring permittee to immediately remove the mooring equipment and any moored vessel. If not removed within thirty (30) days of revocation of the permit, the mooring equipment shall vest in the City and may be auctioned by the City to another person or may be removed by the Harbormaster and the cost of mooring equipment removal shall be paid by the mooring permittee. Any moored vessel or equipment not removed within thirty (30) days may be impounded by the City and disposed of in the manner provided by law. City-incurred costs of removal of mooring equipment or any vessel moored thereto

may be charged against the permittee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel or mooring equipment.

3. During any revocation proceeding, if the mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbormaster.

L. Moorings Reverting Back to City. Should a mooring revert back to the City for any reason, whether through abandonment, surrender, failure to provide documents pursuant to subsection (F) of this

section, or for any other reason other than as set forth in subsection (K) of this section, the following shall apply:

- 1. The mooring permittee shall be entitled to recover all of the mooring permittee's mooring equipment within thirty (30) days of reversion;
- 2. If the mooring permittee does not recover his or her mooring equipment, the mooring permittee shall be entitled to payment from the City of the fair value of the mooring equipment as depreciated by use in an amount to be determined by the Harbormaster and as set in the City's master fee resolution, after any and all past due rent and fees, if applicable, have been satisfied; and
- 3. The mooring equipment may be publicly auctioned by the City, or the City's designated representative, or the mooring equipment may be used for other City purposes.

Request to Extend Mooring Length or to Relocate to Larger Mooring.

- 1. Review Authority. No mooring lengths shall be extended beyond the designated mooring length for any mooring row; or that will result in extending into or impeding upon any portion of the adjacent fairway(s) to the mooring or otherwise create safety concerns.
- 2. If a permittee requests or obtains an assignment of a smaller vessel to the mooring and the smaller vessel has a LOA that is equal to or less than the designated length for the row, neither the mooring or the vessel will not be subject to relocation because it is smaller than the designated length for vessels in its row.
- 3. Handling of Requests.
- **a.** Move to Different Mooring and Row. If an offshore mooring permittee wishes to moor a vessel that is or will be longer than the assigned vessel and which will extend beyond the designated mooring length for the mooring row, an application request to relocate the mooring shall be submitted to the Harbormaster for consideration and at his or her discretion, may approve the request to relocate to a larger mooring if an appropriate-sized mooring to be exchanged with a mooring in the same mooring field with the consent of the permittee of the other mooring. If the relocation is approved, the existing offshore mooring permit(s) shall be amended to reflect (i) the new assigned mooring location(s), and (ii). the extension of the vessel occupancy length to accommodate a longer vessel up to a maximum of five additional feet in accordance with this subsection, and up to the maximum length of the new row with the approval of the Harbor Commission.
- **b.** Extension within Conforming Row. If an offshore mooring permittee wishes to moor a vessel that is or will be longer than the assigned vessel and which will not extend beyond the designated mooring length for the mooring row where the mooring is located, **an** application request to extend the mooring shall be submitted to the Harbormaster for consideration and at his or her discretion, may approve the request to extend the mooring, and if approved, the existing offshore mooring permit(s) shall be amended to reflect **the extension of** the mooring length to accommodate a longer vessel up to a maximum of five additional feet in accordance with this subsection, and up to the maximum length of the new row with the approval of the Harbor Commission.

After review by the Harbormaster, applications for the relocation or

**extension of mooring length** in excess of five feet shall be submitted to the Harbor Commission for consideration and rendering of a decision. For applications requiring the approval of the Harbor Commission, the Harbormaster shall present to the Harbor Commission all relevant facts to support the findings included in Section 17.05.140(D)(1).

Example: Permittee A wants to replace Atlantis (40' LOA), which is in a 40' row, with Atlantis II (42' LOA). A larger mooring is required. Permittee B's Barnacle (41' LOA) is in a 45' row. Permittee C's Calypso (40' LOA) is in 45' row. All three moorings are in the same mooring field. A's mooring assignment can be switched with C, but not with B.

- 4. Application.
  - a. Filing and Review of Request. An offshore mooring permittee shall file a written request for mooring relocation **or extension** with the Harbor
     Department on a form prescribed by the Harbormaster, together with the filing fee required by the City's fee schedule adopted by resolution of the City Council.
  - c. Application Requirements. An application for a mooring **extension or** relocation shall include the following information in addition to such other information as may be required by the Harbormaster:
    - i. The full identification of the applicant and the vessel for which **an amendment to the existing offshore mooring permit or** the mooring relocation is sought, certifying that the applicant and the assigned vessel have complied with (or in the event the vessel identification is unknown, applicant will certify that such unidentified vessel prior to occupying the mooring space will comply with) all of the applicable United States Coast Guard license, inspection, and certification requirements, and certifying that the applicant has read and is otherwise familiar with all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title;
    - ii. Such plans and specifications as may be required by the Harbormaster for the proposed longer vessel to be accommodated at the new or extended mooring; and
    - iii. Detailed information regarding the vessel including make, model, year, LOA, beam, dimension, vessel ID, and if the vessel identification is not known at the time of making an application, the LOA and adjusted LOA (including bowsprits, swim steps, or stern-mounted dinghies) of the proposed vessel for which the applicant seeks approval. The LOA as published by the manufacturer of a particular vessel shall be used to determine the required mooring size of a particular vessel, and the size of the specification for the chains, weights, and tackle necessary to secure a vessel on a particular mooring for a permittee. Adjusted LOA shall be used to determine the maximum vessel length that can fit in any particular slip or side-tie.

- 3. **Action on Application.** Upon receipt of a completed application, the Harbormaster or the Harbor Commission, as applicable, may approve or conditionally approve the relocation an amendment to the offshore mooring permit to allow the extension of the vessel occupancy length (in the event of an application for an unidentified vessel only a conditional approval may be obtained) only after making the findings set forth in Section 17.05.140(D)(1) and making the following findings:
  - a. There have been no changes in the conditions or circumstances of the existing offshore mooring permit so that there would have been grounds for denial of the original offshore mooring permit or grounds for revocation thereof at the time an application for extension of the assigned vessel occupancy length is filed;
  - b. The proposed extension of the assigned vessel occupancy length Relocation will not:
    - i. Impede or obstruct the fairways or channels or prevent or obstruct the passage of other vessels between the rows;
    - ii. Impede, obstruct or prevent other mooring permittees from safely navigating in and out of adjacent moorings or moorings in other rows connected by the same fairway to the row of the permittee's vessel;
    - iii. Result in vessel(s) extending beyond the outer boundaries of the mooring area or row; or
    - iv. Violate the designated maximum vessel LOA for the row or mooring area in which the vessel will be moored.; or
  - c. The applicant and the assigned vessel have complied with all of the appropriate United States Coast Guard license, inspection, and certification requirements for the assigned vessel and all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title; and
  - 4. The applicant agrees to cover all costs associated with **modifying the length** or relocating to the longer mooring, including, but not limited to, any costs associated with relocating mooring anchors and tackle, and any costs associated with resizing mooring tackle to meet applicable mooring standards (e.g., chain size or anchor weights).
  - 5. Conditions of Approval., **Approval of a request for mooring extension or relocation** shall be conditional and contingent upon the following requirements:
    - a. The costs of extension and/or relocation shall be borne by the permittees making the request.
    - b. The mooring permittee must occupy the new extended mooring or new relocated mooring with the new vessel within twelve (12) months following the date of approval; and

- 3. For a mooring permit that is transferable, the mooring permittee may not transfer the permit or the mooring permittee's rights pursuant to a valid mooring permit, as amended, and such mooring permit and rights pursuant thereto shall not be sold or otherwise transferred until a period of twelve (12) months following the date of occupancy of the mooring with the new vessel. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of this section.
- 5. Noncompliance with this section will constitute grounds for the Harbormaster to rescind the relocation approval and terminate the amendment to the mooring permit. In the event that the Harbormaster terminates the amendment to the mooring permit issued pursuant to this chapter, Within thirty (30) days of written notice of such recission and termination, if the permittee has moved the new vessel to a different mooring, the permittee shall at its sole expense return its vessel and the displaced vessel to their respective previously-assigned mooring locations, if and when available, if it will not become available, to such other mooring locations as become first available and as deemed appropriate by the Harbormaster, and, the mooring permittee may thereafter continue to use the mooring in accordance with all of the terms and conditions of the original offshore mooring permit and subject to all of the terms and provisions of this title applicable to mooring permits. The Intentional Violation of subsection (M)(4)(a) of this section shall be

**From:** jerry mcgraw <pooinoroa@gmail.com>

**Sent:** November 07, 2022 3:16 PM

To: Harbor Commission; Dept - City Council; Mail@yournma.org

Cc: Blank, Paul

**Subject:** Mooring Re-configeration

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

We as stakeholders of mooring permits have had no workshop type meetings regarding Commissioner Beers mooring realignment proposal. As We can only voice3 minute statements at Commission meetings and neither ask or receive answers to questions, perhaps one of you or some staff would be kind enough to answer a few for me.

As it is stated there will be no "upfront" cost to the existing permittees, what is the projected cost to the City? Whose budget will it come from? How much has already been spent on an untested system for Newport Harbor? Whose budget?

If the City is responsible for maintenance of the Helix system are they going to pay for the chain attached to the Helix anchor and the diver to inspect it and install new chain if necessary?

With the Helix system, I'm guessing not assuming that weight will still be used for the other end of the mooring? If that is correct and the scope of the chain rode is reduced from 35' to 25' how much weight will be required for the weighted end? If more than the current minimum of 2000lbs. for a 50' mooring who is responsible for the cost. about \$1.00/lb. for the additional weight?

Why has the City not tested this system before trying to push it through the objections of the current mooring permittees? This could be easily done using the City's current sandline guest moorings. Such a test could be set up and current permittees could use their own vessels in varying weather conditions and provide feedback to the Commission. I don't believe it is necessary to do a beta test in one of the mooring areas at tax payers expense when there are City sandline moorings to be used.

In reading Commissioner Beer's proposal it appears a driving interest is to create more open space in the harbor and make moorings more affordable. If the city adds their proposed 96 new moorings throughout the harbor what are their proposed rental fees? Using the City's current guest rental of \$1.33 per foot per day for a 40' mooring is \$53.20/day or long term almost \$1600!!! Is that affordable? If a boater must use a larger mooring due to availability will they be charged for the larger mooring? That's the practice for the guest slips at Marina Park as you pay for a 40' slip, if your vessel is 44' you pay an additional charge. The moorings here in Newport have no shore boat service and the few public docks are already overcrowded and have time limits making shore trips difficult. What will happen when there are 96 more dinghies trying to find a place to park?

If the intent is to truly open more navigable space perhaps the two yacht clubs having single can swing moorings should also be changed to a double row configuration or is dealing with the yacht clubs to much of a political issue.

I have operated boats in his harbor for the past 68 years, including 27 years with the

sheriff's harbor patrol and it's predecessor the Orange County Harbors, Beaches & Parks retiring in 1999.

this included one night working in a 26' patrol boat with winds of 70 to 90 kts. here in Newport along with a number of times in winds of 30 kts plus never having a problem working in the various mooring areas. Today as a liveaboard in the harbor I never see the current Harbor services workers or sheriff's deputies out under any sort of extreme weather.

I feel this double row configuration is not in the interest of safe navigation but perhaps only a plan to fill the City's coffers.

Jerry McGraw Permitted Liveaboard H-032 From: Keith Garrison < keith@gbfenterprises.com>

**Sent:** November 07, 2022 4:02 PM

**To:** Harbor Commission; Dept - City Council

Cc: Mail@YourNewportMooringAssocation.org; Cheryl Nowak, President;

Tom Miller

**Subject:** Your Proposal Changes

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Gentle Persons,

I wanted to share my opinion as a mooring holder of more than 20 years that I feel you are railroading the current mooring holders into a reconfiguration that is not wanted by the majority of us. There should be transparency and and several public hearings where the proposed changes are discussed and voted on by all the mooring holders in the Harbor. So I urge you to call for open meetings and share publicly all of your discussions wit any engineering firms analyzing reconfiguring the mooring layout. You are elected and appointed to be working for us and it seems that we were no acknowledged or considered. Please let me know what positive actions are being considered to remedy this situation.

With best regards,

Keith

--

Keith Garrison - VP/Gen. Mgr.

GBF Enterprises, Inc.

2709 Halladay St.

Santa Ana, CA 92705

714-979-7131 Fax 714-979-1815









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From: larry reid <br/>birdsworking@msn.com>

**Sent:** November 07, 2022 9:39 AM

To: Dept - City Council; Harbor Commission
Cc: Newport Mooring Association; larry reid
Subject: Pre-Nov. 9, 2022 meeting comments
Attachments: council letter-revised for Nov 9.docx

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

I have attached a letter addressing some of my concerns about the upcoming agenda items to be presented this Wednesday. Please consider these as you try to make these major changes to the current Title 17 rules.

Sincerely,

Larry Reid

Permittee A-231 and P-047.

# OPEN LETTER TO THE DISTINGUISHED MEMBERS OF THE NEWPORT BEACH CITY COUNCIL

#### and

# HARBOR COMMISSION

Dear Council Members,

I am writing this letter in an effort to persuade you to head off the current direction of the Harbor Commission in its' effort to not only change the current rules concerning transferability of mooring permits, but also, in my opinion, the outrageous format presented to validate the increase in shore mooring rates. I will follow with a brief family history and comment on the mooring transfer issue and then conclude with a comment on the proposed lease rate increases.

My name is Lawrence Reid. I am a permittee for mooring sites, A-231 and P-047, both an offshore and on shore mooring. I have been so since 2013 when I acquired the permit rights via the open market subject to all requirements and conditions in place at that time. My family has been involved and concerned with Newport Harbor since my grandfather purchased a homesite on 6<sup>th</sup> Street in 1915 and built a cottage home there in 1917 and continue to be involved to this day. I personally solidified that involvement by finding a complimentary pair of moorings to settle into a "life on the water" situation.

At that time of my searching for two moorings, the management of the moorings fell under the jurisdiction of the OCSO. The "Golden Rule" of trying to purchase permit rights on the open market at that time was to make ABSOLUTELY sure that there was a remaining transfer option available to me after purchase. There were many mooring sites on the market that had already exhausted that option so the due diligence I invested was paramount to preserve that future transfer option for me. While not cheap, the verified confirmation and assurance from the OCSO that I had another transfer available made it doable.

Therefore, I urge you to strongly oppose any new proposal that negates the existing status quo of the ability to transfer permit rights on the private market to not only those permittees that had additional transfer rights conferred to them, but to all mooring permittees as a group.

To the current discussions on the rental rate increases for a shore mooring permit. As proposed, the shore mooring lease fees will be based off of prime commercial property lease rates as indicated in the current commercial tideland appraisal. On the surface, this is certainly not an example of an apple to apple comparison on so many different levels. Shore permittees are already being charged the most per square foot for tideland use when compared to residential dock, pier and commercial tideland rates. It is neither fair nor equitable to make any significant rate increase that does not take into consideration the disproportional fee considerations that the pier permittees do not have to pay for the use of the same tidelands, not to mention the revenue streams available to them for slip or side tie rentals without any restrictions.

When you consider the hoops that I as a shore mooring leasee has to go through, under the current formats, I receive no benefit from my lease. The Harbor Department can rent out my space if unoccupied

without notice for long periods of time but I can't sublet my mooring without "owning" the boat that is being used. I pay for all of the upkeep without any maintenance monies being set aside to assist in the upkeep. The City keeps it all. As far as insurance coverage goes, I have to indemnify the City whether my boat is on my mooring or not, the City requires the rental craft to indemnify the City prior to use but nowhere in the City Title does it require the transient boat to indemnify me. I am left again, holding a wet, empty paper bag.

Currently, we are now faced with some agenda items to be presented at the November 9, 2022 commission meeting. Unfortunately, I will not be able to attend in person. For the life of me I can't understand the massive effort being mustered to completely eviscerate the parity and quality of life that both the on-shore and off-shore permittees should expect.

What is the main push to change what has been the norm for almost forever? To think that a double off-shore mooring is going to improve the off-shore mooring lifestyle is ludicrous in my opinion. Who will pay for the added upkeep for the new common mooring ball? Why would you create a navigational hazard knowing the prevailing winds are from the west in the harbor. The current set-up allows for maximum maneuverability in ALL wind conditions? Now to consider the possibility that in order to use my offshore mooring I would need to first see if my boat has been moved to another part of the harbor for reasons that appear to be so flaky it makes me shudder.

I could go on and on, but let me close by saying, the Harbor Commission needs to quit treating the mooring permittees as the black sheep of the family and quit trying to legislate these ill-founded extra burdens on current permittees.

Thank you for your time and effort. It is not an easy job and you won't please everyone as you know. The current proposed changes need to be "deep sixed" immediately.

Sincerely yours,

Lawrence Reid

Permittee A-231 and P-047

From: Stacy Kline <stacykline@gmail.com>

**Sent:** November 07, 2022 8:26 AM

To: Dept - City Council
Cc: Harbor Commission

Subject: Concerns Regarding Proposed Changes to Newport Harbor Mooring Fields

& Title 17 of Newport Beach Municipal Code

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Esteemed City of Newport Beach Councilmembers,

My husband and I are long time Newport Harbor Mooring Permit Holders. We purchased our mooring permit in 2005, and we are deeply connected to this issue. We would like for our current and future City of Newport Beach councilmembers to understand why we are concerned about the proposed changes to the Newport Harbor Mooring Fields and Title 17 of the Newport Beach Municipal Code governing Newport Harbor.

We have several concerns regarding the proposed changes by the Newport Harbor Commission.

Protecting our Beautiful Newport Harbor

We understand the value of our exquisite harbor, its importance to our Orange County watershed and marine ecosystem, and its value to our local sailing and watersports community. To that end, we have paid our annual mooring permit fees, scheduled and paid for a biennial mooring overhaul, and have kept our 28' Bristol Channel Cutter in outstanding condition, demonstrating that we have been good stewards of our mooring for over 17 years.

■ Maintaining our Current Mooring Position

My husband and I chose our mooring in the C Mooring field near the Fernando Street dock, specifically for its location near our home. As you know, taking care of a sailboat, monitoring it for sea lions, and keeping it in seaworthy condition, takes constant effort, and having this particular mooring, so close to our home, in no small part has helped us to keep our sailboat in a state that we are proud to share in our Newport Harbor community. Forcing us to move our sailboat to a new mooring position is an unnecessary hardship, especially with regards to the attention we have paid to keep it in such good condition.

■ Maintaining a Safe and Navigable Mooring

The mooring field configuration changes proposed by the Newport Harbor Commission (bow-to-bow shared anchor set-up/bow-to-stern shared anchor set-up and only 20 feet separating the boats) is an unsafe configuration. Given the strong prevailing westerly/southerly winds in Newport Harbor and the strong tidal currents, this extremely close proximity between boats makes mooring extremely challenging and risky given the strong forces involved. Additionally, the Newport Harbor Commission's proposed "sand lines" are untenable in Newport Harbor. Our seafloor consists of muddy silt and any "sand line" on the stern would be covered with muck and unusable.

■ Mooring Extension Restrictions

Several years ago the city raised the annual fees for mooring permit holders considerably. Since our sailboat is only 28 feet on deck, we reduced our mooring from 45' to 30'. With the current mooring configuration, our sailboat fits comfortably and safely within its mooring footprint. However, our sailboat has a 8 foot bowsprit, and with the proposed close-quarters mooring configuration, our length overall (LOA) will render our mooring too small to accommodate our sailboat. We would gladly return our mooring length to its original 45' size, but we are no longer allowed to do so (not without a \$1250 appeals fee that has no guarantee of success). Had we been made aware back of the Newport Harbor Commission's proposed configuration plans back in June 2022, when the final opportunity to lengthen a mooring was offered, we would have requested the change back to our original 45' mooring permit length.

# → Mooring Transferability

As a school teacher and a small business owner, my husband and I are middle-class sailboat owners. Purchasing a mooring in 2005 for \$49,000, because we were told by Newport Beach City officials that it was the only way to secure a mooring in Newport Harbor, was no small investment. We were very grateful to acquire our mooring, and have proudly cared for the mooring and our sailboat ever since. Although much has been said about the cost of moorings, we have seen no increase in value whatsoever in 17 years of owning our mooring permit. As you can imagine, the proposed changes to remove our ability to transfer our mooring to a new permit holder is deeply concerning. We do not expect to gain anything monetarily from our mooring permit; however, the ability to recoup some of the expense of the initial purchase of this mooring permit is understandable to a councilmember. Several years ago Title 17 was settled law, allowing mooring transferability with reasonable restrictions regarding number of moorings allowed per year, and a transfer fee that serves to restrict the number of transfers annually. There is no reason to change Title 17 at this point, it will cause harm to current mooring permit holders who have consistently played by the rules, paid their fees, and kept their mooring and vessels in seaworthy condition.

Transparency of Mooring Field Planning for all Stakeholders

My husband and I were not made aware of the plans to significantly change the configuration of the mooring field of which we are permit holders, and the proposed changes to Title 17 and mooring permit transferability until the October 10, 2022, Newport Harbor Commission meeting. I spoke at this meeting, identified myself as a mooring permit holder, and asked that the mooring permit holders be involved in the planning process due to the significant impact our moorings have had on our lives. I mentioned that we had received no notifications about these plans via mail or email, and that I was startled to realize that there was to be a final vote to proceed during the meeting, rather than simply a discussion on these proposed plans. It is important that all stakeholders feel that "they are part of the solution" and that "things are not just happening to them".

We are planning on attending the next Harbor Commission meeting on Wednesday, November 9, 2022.

We are very grateful for your concern about this issue.

Best regards,

Stacy & Greg Kline Newport Beach, California From: Nicolas Jonville-Jonville Team/Keller Williams Realty

<nicolas@jonvilleteam.com>

**Sent:** November 04, 2022 1:38 PM

To: Beer, Ira
Cc: Blank, Paul

**Subject:** RE: Moorings in Newport Beach Harbor

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thank you Mr. Beer,

Mine is a 50' mooring.

Thank you for the clarification. The 20' seem very light bow to stern with the other boat. I like the option of the sand line... It might ease the access with more space while entering the mooring space.

In you original email, you mentioned the following:

- No upfront cost to existing mooring permittees. If approved as is, the City of Newport Beach will pay all costs for the improvements.
- This current proposed initiative will have no change to current mooring permittee transferability of permits as per Title 17 of the Civil Code.

but I have heard that there were conversations about charging the boat owner for the relocation cost.

Which is it please?

I am not sure I can attend the meeting... At what time is it please?

Thanks,

Nicolas Jonville

From: Beer, Ira < IBeer@newportbeachca.gov> Sent: Friday, November 4, 2022 12:43 PM

To: nicolas@jonvilleteam.com

**Cc:** Blank, Paul <PBlank@newportbeachca.gov> **Subject:** Re: Moorings in Newport Beach Harbor

Hello Mr. Jonville,

Thank you for your comments and input. I assure you that all your concerns are taken very seriously. One item mentioned may not be clear from the prior drawings is the increased space between boats in the same row (average about 50' on center) and the increased fairway widths (minimum 60' stern to stern between rows). This allows for an approach from either fairway under prevailing conditions.

I hope you will be able to attend the Harbor Commission meeting next Wednesday, November 9, 2022 where this initiative will be discussed in detail, and I am sure the commission would love to hear your input.

## Best regards,



From: Nicolas Jonville-Jonville Team/Keller Williams Realty < nicolas@jonvilleteam.com >

**Organization:** Nicolas Jonville-JonvilleTeam/Keller Williams Realty **Reply-To:** "Nicolas@JonvilleTeam.com" <nicolas@jonvilleteam.com>

Date: Friday, November 4, 2022 at 12:19 PM

To: Harbor Commission < HarborCommission@newportbeachca.gov>

Cc: "Nicolas@JonvilleTeam.com" < nicolas@jonvilleteam.com>

Subject: Moorings in Newport Beach Harbor

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

#### Hello!

Dear Harbor commissioners,

I am a mooring permittee in Newport Beach Harbor, in the A field, near the Balboa Pavilion.

I am very concerned and against the **1**- proposed reconfiguration of Newport Beach mooring field (example of America's Cup Harbor) and also **2**- strongly against the proposed revisions to the Harbor Code (I believe Title 17) making any relocation at the owner's cost and without consideration for owner's will regarding location.

#### Regarding #1-

- a- I have been a sailor for 40+ years, and the weather and conditions are completely different in the America's Cup Harbor. My boat used to be in San Diego area and I am very familiar with the set-up there. In Newport beach, the impact of wind and currents are much more prominent than in San Diego America's Cup harbor. They are much more challenging in Newport Beach. The new set-up with only 20' or so between two boats (aft or forward) is not reasonable and will likely turn into serious potential issues under medium to strong conditions (wind and current). We see boats dancing by far more than 20' at times with gusts and strong current It will most certainly result in damages and accidents, possibly injuries.
- b- The approach will be much more difficult for some of the boats that might have to enter their mooring space in windy conditions with the wind pushing the boat into the mooring, with another boat very close to their boat bow (20' or so). This makes it far more difficult and hazardous compared to going forward, against the wind most of the time (with the wind slowing the boat down), to set the forward mooring line first, upwind...the safest

- option, and allowed by the current lay-out. The current lay-out has far more than 20' from the bow to the other boat's aft.
- c- Any new set-up should be tested on a voluntary basis before any implementation to any larger scale.
- d- Again, the proposed changes will most likely result in damages and accidents, possibly injuries.

## Regarding #2-

**a-** All boat owners have acquired their mooring permit based on size, and location. Changing the rules by making the boat owners relocate at their cost and without their input/agreement on location is not appropriate, nor fair and any relocation should be with their approval and not at the mooring permittee's cost.

Thank you for your time and consideration. Looking forward to the discussion and appropriate decision. Best Regards,

Nicolas Jonville, Newport Beach mooring permit owner T: 760-207-7130

Nicolas@JonvilleTeam.com

From: Karl Drews <kdrews43@gmail.com>
Sent: November 04, 2022 12:32 PM

**To:** Harbor Commission; Dept - City Council

Subject: Title 17

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Harbor Commission and City Council,

My wife and I have been residents of Newport Beach and have had a license for an offshore mooring for 35 years. We oppose the proposed Title 17 for many reasons. The primary reason is the proposed mooring field is dangerous. With the impact of the wind and tides the boater needs to have the option of approaching the mooring from weather direction.

The proposed design does not allow that choice.

Regards,

**Karl Drews** 

From: Nicolas Jonville-Jonville Team/Keller Williams Realty

<nicolas@jonvilleteam.com>

**Sent:** November 04, 2022 12:19 PM

To: Harbor Commission

Cc: Nicolas@JonvilleTeam.com

**Subject:** Moorings in Newport Beach Harbor

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

#### Hello!

Dear Harbor commissioners,

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- b- The approach will be much more difficult for some of the boats that might have to enter their mooring space in windy conditions with the wind pushing the boat into the mooring, with another boat very close to their boat bow (20' or so). This makes it far more difficult and hazardous compared to going forward, against the wind most of the time (with the wind slowing the boat down), to set the forward mooring line first, upwind...the safest option, and allowed by the current lay-out. The current lay-out has far more than 20' from the bow to the other boat's aft.
- c- Any new set-up should be tested on a voluntary basis before any implementation to any larger scale.
- d- Again, the proposed changes will most likely result in damages and accidents, possibly injuries.

#### Regarding #2-

**a-** All boat owners have acquired their mooring permit based on size, and location. Changing the rules by making the boat owners relocate at their cost and without their input/agreement on location is not appropriate, nor fair and any relocation should be with their approval and not at the mooring permittee's cost.

Thank you for your time and consideration. Looking forward to the discussion and appropriate decision. Best Regards,

Nicolas Jonville, Newport Beach mooring permit owner T: 760-207-7130

<u>Nicolas@JonvilleTeam.com</u>

From: Donald Farley <dvfarley@att.net>
Sent: November 03, 2022 1:13 PM
To: Harbor Feedback; Beer, Ira

Subject: Proposed Changes to Mooring Fields J and H

Attachments: Newport Harbor Commissioners, 11-2-22a.pdf

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello,

Please consider the attached comments.

Thank you.

Don Mooring J54

Donald V. Farley 139 Carlin Lane Riverside, CA 92307 Phone/Fax (951) 683-1050 Cell/Voice Mail (909) 228-6970 e-mail: dvfarley@att.net

# Confidentiality Note:

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# Donald V. Farley 139 Carlin Lane, Riverside, CA 92507 Mooring J54

Newport Beach Harbor Commission (Harborfeedback@newportbeachca.gov) Ira Beer, Harbor Commissioner and Vise Chairman (ibeer@newportbeachca.gov)

November 2, 2022

# **COMMENTS REGARDING:** e-mail dated 10/26/2022, from Ira Beer "Important Information Concerning Your Mooring"

Newport Beach Harbor Commission, and/or Ira Beer,

## SUMMARY:

At first look, the proposed changes to mooring fields J and H seem desirable, however after further consideration, many of the proposed changes could have undesirable consequences, including impaired safety and functionality.

## COMMENTS AND CONCERNS INCLUDE:

In general, there is a prevailing wind direction through the harbor. Presently, moored, boats tend to be facing into the wind, which is desirable, and is easier and safer when boats are approaching a mooring. Furthermore, present spacing allows boats to leave a mooring by going forward into the wind (particularly desirable for sail boats). The proposed plan would have some boats with their stern to the wind, not desirable, and would require most boats to back from a mooring when leaving.

The examples shown for the proposed arrangement show only 40, and 50-foot moorings. Boats in the 30-to-40-foot range should be considered.

While it may be desirable to cleanup the alignment of moorings, that should be possible with the current arrangement, if mooring placement can be as precise as implied for the proposed plan. Also, to prevent mooring buoys from drifting into the fairways, spreader lines could be installed on current buoys.

The desire to add additional moorings is fine if it does not interfere with the functionality of existing moorings. Furthermore, there will never be enough moorings.

Though I have sailed in Newport Harbor for over 50 years and had a mooring there for more than 30 years, I would welcome a discussion with, and input from, others with more experience regarding the management of moorings.

Thank you for your consideration.

If you have questions or comments, please contact me at 909-228-6970 and/or dvfarley@att.net

Thank you for your consideration.

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Donald V. Farley

# OPEN LETTER TO THE DISTINGUISHED MEMBERS OF THE NEWPORT BEACH CITY COUNCIL

## and

# HARBOR COMMISSION

Dear Council Members,

I am writing this letter in an effort to persuade you to head off the current direction of the Harbor Commission in its' effort to not only change the current rules concerning transferability of mooring permits, but also, in my opinion, the outrageous format presented to validate the increase in shore mooring rates. I will follow with a brief family history and comment on the mooring transfer issue and then conclude with a comment on the proposed lease rate increases.

My name is Lawrence Reid. I am a permittee for mooring sites, A-231 and P-047, both an offshore and on shore mooring. I have been so since 2013 when I acquired the permit rights via the open market subject to all requirements and conditions in place at that time. My family has been involved and concerned with Newport Harbor since my grandfather purchased a homesite on 6<sup>th</sup> Street in 1915 and built a cottage home there in 1917 and continue to be involved to this day. I personally solidified that involvement by finding a complimentary pair of moorings to settle into a "life on the water" situation.

At that time of my searching for two moorings, the management of the moorings fell under the jurisdiction of the OCSO. The "Golden Rule" of trying to purchase permit rights on the open market at that time was to make ABSOLUTELY sure that there was a remaining transfer option available to me after purchase. There were many mooring sites on the market that had already exhausted that option so the due diligence I invested was paramount to preserve that future transfer option for me. While not cheap, the verified confirmation and assurance from the OCSO that I had another transfer available made it doable.

Therefore, I urge you to strongly oppose any new proposal that negates the existing status quo of the ability to transfer permit rights on the private market to not only those permittees that had additional transfer rights conferred to them, but to all mooring permittees as a group.

To the current discussions on the rental rate increases for a shore mooring permit. As proposed, the shore mooring lease fees will be based off of prime commercial property lease rates as indicated in the current commercial tideland appraisal. On the surface, this is certainly not an example of an apple to apple comparison on so many different levels. Shore permittees are already being charged the most per square foot for tideland use when compared to residential dock, pier and commercial tideland rates. It is neither fair nor equitable to make any significant rate increase that does not take into consideration the disproportional fee considerations that the pier permittees do not have to pay for the use of the same tidelands, not to mention the revenue streams available to them for slip or side tie rentals without any restrictions.

When you consider the hoops that I as a shore mooring leasee has to go through, under the current formats, I receive no benefit from my lease. The Harbor Department can rent out my space if unoccupied

without notice for long periods of time but I can't sublet my mooring without "owning" the boat that is being used. I pay for all of the upkeep without any maintenance monies being set aside to assist in the upkeep. The City keeps it all. As far as insurance coverage goes, I have to indemnify the City whether my boat is on my mooring or not, the City requires the rental craft to indemnify the City prior to use but nowhere in the City Title does it require the transient boat to indemnify me. I am left again, holding a wet, empty paper bag.

Currently, we are now faced with some agenda items to be presented at the November 9, 2022 commission meeting. Unfortunately, I will not be able to attend in person. For the life of me I can't understand the massive effort being mustered to completely eviscerate the parity and quality of life that both the on-shore and off-shore permittees should expect.

What is the main push to change what has been the norm for almost forever? To think that a double off-shore mooring is going to improve the off-shore mooring lifestyle is ludicrous in my opinion. Who will pay for the added upkeep for the new common mooring ball? Why would you create a navigational hazard knowing the prevailing winds are from the west in the harbor. The current set-up allows for maximum maneuverability in ALL wind conditions? Now to consider the possibility that in order to use my offshore mooring I would need to first see if my boat has been moved to another part of the harbor for reasons that appear to be so flaky it makes me shudder.

I could go on and on, but let me close by saying, the Harbor Commission needs to quit treating the mooring permittees as the black sheep of the family and quit trying to legislate these ill-founded extra burdens on current permittees.

Thank you for your time and effort. It is not an easy job and you won't please everyone as you know. The current proposed changes need to be "deep sixed" immediately.

Sincerely yours,

Lawrence Reid

Permittee A-231 and P-047

# Fred Fourcher 507 Larkspur Corona Del Mar, CA 92625

Dear Chair Scully and Honorable Harbor Commissioners,

I have lived in Corona Del Mar since 1979 and have had my offshore and onshore moorings since 1976. My offshore mooring and onshore mooring are on Balboa Island and adjacent to each other.

It is stated that the intent is to improve the harbor to the benefit of mooring permittees. What is being decided is if the City of Newport Beach can move our boat to a different mooring permanently without our permission and at our expense, is clearly not for the benefit of mooring permittees and has some other purpose. Mooring locations are picked for a reason, Permittees acquired permits in specific locations such as proximity to their house, yacht club or shore mooring. This major disruption will result in lawsuits and political fallout. The people who you are supposed to be serving will do whatever it takes to keep the current order in the harbor. This is simply a bad idea with massive un-intended consequences.

This proposal is deeply troubling because the Harbor Commission is usurping the decision-making responsibility from our Elected Officials. There is no reason to be revising the city harbor code for a pilot test of a questionable mooring system.

This proposal is not for the benefit of the Mooring Permittees. I along with others will mobilize to fight the Harbor Commission to keep this poorly conceived proposal from being implemented.

Fred Fourcher

# Donald V. Farley 139 Carlin Lane, Riverside, CA 92507 Mooring J54

Newport Beach Harbor Commission (Harborfeedback@newportbeachca.gov) Ira Beer, Harbor Commissioner and Vise Chairman (ibeer@newportbeachca.gov)

November 2, 2022

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Thank you for your consideration.

If you have questions or comments, please contact me at 909-228-6970 and/or dvfarley@att.net

Thank you for your consideration.

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Donald V. Farley



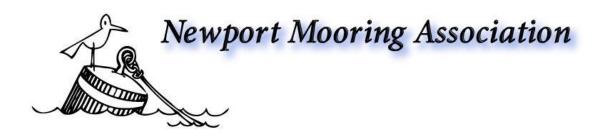
November 8, 2022

NMA Comments regarding the November 9<sup>th</sup> 2022 Newport Beach Harbor Commission Item #3 - Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchange Requests

Dear Honorable Members of the Harbor Commission,

Please find the following documents for your consideration. For your convenience we provide the following table of contents:

1.	NMA concerns regarding the proposed Harbor Code revisions and plan	Page 2
2.	Summary list of recommendations regarding Agenda Item #3	Page 4
3.	Correspondence from Attorney Doug Carstairs identifying legal concerns	Page 5
4.	Letter from Master Mariner Captain James L. Haley detailing concerns	Page 10
5.	Harbor Commission Tracking Sheet with harbor code revisions and complete mooring plan presented to NMA and public for the first time October 12 <sup>th</sup>	Page 12
6.	Professional and timely email responses from the NMA to Harbor Commission	Page 13
7.	Follow-up email from L. Scott Karlin to Commissioner Beer 10-26-22 with attachments with specific recommendations to clarify language in Title 17	Page 18



November 8th, 2022

Dear Chair Scully and Harbor Commissioners,

Thank you for the opportunity to provide comments regarding November 9<sup>th</sup> Harbor Commission Agenda Item #6-3 (Objective 2.3) involving significant revisions to the harbor code and the initial stage (pilot test) of a plan to significantly change access to the mooring fields.

The NMA is extremely concerned that revisions to the harbor code are being considered in advance of an untested mooring plan concept. These specific proposed harbor code revisions were seen by the public, for the first time ever, on the October 12<sup>th</sup>, 2022, agenda. The proposed revisions to the harbor code (Title 17) were not developed in public and were not hashed out in any public stakeholder meetings. The revisions appear to have been developed in closed door subcommittee meetings with no public oversight or input. The proposed harbor code revisions would allow the harbormaster or the Harbor Commission, to move large numbers of boats or moorings to new locations in the name of "realignment" without any constraints or conditions, and without City Council approval. We have also heard concerns from many homeowners. We want to be good neighbors and are also concerned that this will have an impact not only on mooring holders, but also on residences and homeowners who may have their views altered now and, in the future, again without restrictions or City Council approval. Some homeowners may have a bit better view, some worse, but no one will know how this will play out now or in the future.

We are also concerned with the harbor code revision involving transferring certain mooring decision making authority from our elected City Council to the Harbor Commission. The City Charter appropriately differentiates the formal responsibility of the Harbor Commission as an advisory panel and the City Council as the formal decision-making body. Notably, the Council is comprised of individuals elected to serve their constituents and they are therefore responsible and accountable for their decisions.

The timing is also problematic. The granting of broader authority to the Harbor Commission and Harbormaster while they embark on a new mooring plan that has already been identified as problematic to the permittees will create another point of contention. Transparency, accountability, and collaboration should not be compromised during this phase.

As you may be aware, the complete mooring report, with the supporting engineering study on the holding power of the proposed anchor system was first presented for public review at the October 12<sup>th</sup>, 2022, Harbor Commission meeting. Numerous members of the public expressed concern regarding increased risk and the difficulty of use of the proposed "shared anchor" mooring plan that involves moving mooring rows closer together and the requirement for a mooring user to be forced to approach a mooring in a downwind manner given our prevailing westerly winds. Approaching a mooring in a downwind fashion is never recommended as it involves less control of a vessel, which in turn, increases risk.

Given we have not been presented with a revised plan since the October 12<sup>th</sup> Harbor Commission meeting, we find it difficult, if not impossible, to comment on what may be presented on November 9<sup>th</sup> as we have not seen any revisions to the mooring plan.

The NMA opposes a mooring plan that requires a mooring user to approach a mooring in a downwind manner (and depart a mooring in an upwind manner). The proposal presented on October 12th pushes the shared-anchor mooring rows close together which indicates there will only be "one way in" and "one way out". This is less safe compared to the current configuration that has sufficient spacing between rows which gives mooring users the option to approach and depart from either direction depending on wind and current.

We believe the shared-anchor mooring concept has not been adopted throughout Southern California because it is inherently risky. We are only aware of a shared anchor mooring system in use in SoCal location, America's Cup Harbor, which is a fully protected marina within in an already protected harbor that is protected by Point Loma adjacent to "Shelter" Island in San Diego. The conditions in America's Cup and Newport Harbor are not comparable.

The NMA respectfully requests the Harbor Commission put the Title 17 revisions and mooring plan revisions on hold and schedule public stakeholder meetings to allow for more robust community engagement and stakeholder input. We would like to point out that the Harbor Commission held numerous stakeholder meetings when revising the harbor code a few years ago. These informal public stakeholder meetings allowed for robust community engagement, thoughtful back-and-forth which resulted in stakeholder buy-in to harbor code revisions. In contrast, these revisions have been developed out of public view and without robust community and stakeholder engagement.

It is our understanding that the initial intent of Objective 2.3 was to straighten out a few mooring rows. We believe this can be accomplished through voluntary and incentivized relocations.

The NMA looks forward to collaborating with the Harbor Commission to improve Newport Harbor while preserving the established mooring access we enjoy today.

Sincerely,

The Board Of Directors
Newport Mooring Association
https://newportmooringassociation.org



# **Summary List of Newport Mooring Association Recommendations:**

- 1. Postpone this agenda item in favor of public stakeholder meetings
- 2. Collaborate with the NMA on a voluntary mooring relocation plan to straighten out mooring fields.
- 3. The City can adjust a few moorings by a few feet at minimal cost to straighten out some mooring rows.
- 4. The City can better utilize existing vacant moorings by setting establishing a longer term boat storage rate for subleasing moorings. The current sublease rate is set high for visiting short term boaters. Establishing a lower rate for longer term users will generate significant revenue and better utilize existing vacant moorings.
- 5. The City should encourage mooring contractors to use GPS technology to make sure moorings are replaced in exact locations when they are lifted for service.
- 6. The City and NMA can collaborate to have biannual service of mooring hardware accomplished during the same general time period for the various mooring fields (ex. J field in February, H field in March). This will allow the contractors to make sure everything is lined up nicely and may save contractor and permittees in mobilization costs because they will be working the same mooring field for several days in a row.
- 7. If one objective is to create more "Open Water" then do not add more moorings and boats. This will create less "Open Water".

Hermosa Beach Office Phone: (310) 798-2400 San Diego Office Phone: (858) 999-0070

Phone: (619) 940-4522



Chatten-Brown, Carstens & Minteer LLP

Douglas P. Carstens Email Address: dpc@cbcearthlaw.com

2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254 www.cbcearthlaw.com

November 8, 2022

# VIA E-MAIL (HarborCommission@newportbeachca.gov, harborfeedback@newportbeachca.gov)

City of Newport Beach Harbor Commission c/o Office of the City Clerk P.O. Box 1768 Newport Beach, CA 92658

> Re: Harbor Code Amendments to Mooring Procedures Require Coastal Development Permit; November 9, 2022 Harbor Commission Meeting Agenda Item 3

Dear Honorable Commissioners,

On behalf of the Newport Mooring Association - a Non Profit Corporation, we are writing to inform the Harbor Commission that a Coastal Development Permit application is required in order for the City of Newport Beach ("City") to proceed with its proposal to amend the City of Newport Beach Harbor Code (Municipal Code, Title 17, sections 17.25.020 and 17.60.040) in order to modify mooring procedures. The City's proposal to eliminate mooring extensions and conduct a pilot test constructing new moorings constitutes development under the Coastal Act, for which a Coastal Development Permit is required. Further, the proposal would encourage unsafe navigation by large vessels in the mooring fields, and would impede coastal views. Thus, we urge the Harbor Commission to advise the City that it may not proceed without obtaining a Coastal Development Permit from the California Coastal Commission.

# I. The Coastal Commission Has Original Jurisdiction Over the Mooring Fields.

The Coastal Act recognizes the importance of protecting recreational and commercial boating and fishing activities. (See Pub. Resources Code §§30224, 30234, 30234.5.) The City of Newport Beach's Local Coastal Program Land Use Plan ("LUP") also emphasizes the importance of maintaining access to moorings, with Policy 3.3.2-3 which states "Continue to

provide shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor."

Though the City has adopted a Local Coastal Program, the Coastal Commission retains original jurisdiction for developments in the tidelands, public trust, and submerged lands. (Pub. Resources Code §30519, subd. (b); see City of Newport Beach's Post LCP Certification and Appeal Jurisdiction Map, available at:

https://www.newportbeachca.gov/PLN/LCP/LCP Zoning/Maps/21 80 045 Permit and Appeal Jurs Maps/Offcial CNB PostCert Map.pdf.) Thus, any development in the mooring fields at Newport Harbor, which are submerged lands, require review and approval by the Coastal Commission in the first instance.

# II. The Proposed Revisions to the Harbor Code Eliminating Mooring Extensions Constitute Development and Require a Coastal Development Permit.

The proposed revisions to the Harbor Code (Newport Beach Municipal Code, Title 17) constitute development under the Coastal Act. Under the Coastal Act, development includes, inter alia, "change in the intensity of use of water, or of access thereto." (Pub. Resources Code §30106; Surfrider Foundation v. Martins Beach 1, LLC (2017) 14 Cal.App.5th 238, 250.) Under the existing Harbor Code, permittees may request mooring extensions for vessels longer than the assigned vessels, and extensions five feet or under may be granted by the Harbormaster without seeking approval from the Harbor Commission. (Newport Beach Municipal Code §17.60.040, subd. (M).) The proposed revisions to the Harbor Code drastically change this process by eliminating mooring extensions. (October 12, 2022 Harbor Commission Agenda Packet, pp. 59-60; November 9, 2022 Harbor Commission Staff Report, Attachment C, pp. 8-9.) These revisions will alter and impede the access of permitholders to moorings, thereby constituting development under the Coastal Act.

The proposed revisions state:

Requests for mooring extensions shall no longer be considered. Instead, requests for a longer or extended mooring will require relocating to a larger mooring. The mooring permittee making the request shall pay a fee for the relocation request and shall

bear all costs of relocating their vessel and the displaced vessel. Relocations will require payment of a fee and be contingent upon availability of a vacant mooring or another permittee in the same mooring field (or also an adjacent field in the case of moorings in the H and J fields) having a vessel in a mooring row that is designated for a length of at least 5-feet greater. In no event will relocations be considered for mooring lengths in excess of 5' of the current mooring length for the permittee making such request. Authority to approve relocation requests shall lie with the Harbormaster.

(November 9, 2022 Harbor Commission Staff Report, Attachment A.)

These revisions alter access to water because they will result in requests even for small, de minimus extensions to be considered as a request for *relocation* of a permittee's mooring. The location of a permittee's mooring is an important access consideration, because if a mooring is relocated far away from a permittee's dinghy location, it will be difficult for the permittee to access their mooring. Additionally, flipping any moorings where boaters have to now access the mooring in a downwind fashion will change access to and from moorings and make accessing a mooring more difficult as the operator will have less control. Finally, these revisions impose the cost of unnecessary relocations onto permittees and requires them to pay a relocation fee, which further impedes access to moorings and is contrary to LUP Policy 3.3.2-3 which requires provision of moorings as a source of "lowcost" access. These modifications to the public's access to moorings require review and approval by the Coastal Commission.

# III. The Proposed Phase I Pilot Test Constitutes Development and Requires a Coastal Development Permit.

As part of the City's plan to reconfigure the Harbor, the City plans to conduct an initial reconfiguration of C Field (Phase I), with a pilot test constructing 3 to 6 double mooring systems in one row to verify engineering and functionality. (October 12, 2022 Harbor Commission Agenda Packet, p. 86.) Under the Coastal Act, development includes "in or under water, the placement or erection of any solid material or structure; [or] construction . . . of any structure . . . ." (Pub. Resources Code §30601.) The construction of new moorings thus falls squarely within the definition of development, for

which a Coastal Development Permit is required. Construction of new moorings during the pilot test will require installation and placement of new shared anchors, shackles, chains, and buoys within the mooring fields. (October 12, 2022 Harbor Commission Agenda Packet, pp. 48, 78.) As described above, development within the mooring fields is subject to the Coastal Commission's original jurisdiction and thus requires a Coastal Development Permit. Accordingly, the City cannot proceed with the Phase I pilot test without a Coastal Development Permit.

# IV. The Proposed Mooring Reconfiguration Would Encourage Unsafe Navigation of Large Vessels in the Mooring Fields.

The mooring fields as currently configured provides protection from larger vessels. We are concerned that the proposed mooring reconfiguration, which provides for wide, up to 100-foot fairways, would encourage navigation of large vessels in the mooring fields. This would both obstruct coastal access and create a safety concern for permittees operating small vessels, as well as for paddleboarders, kayakers, and others operating small human-powered vessels in the safe haven of the mooring fields. This goes against the Chapter 3 policies of the Coastal Act, which protect such activities. (Pub. Resources Code §§30211, 30220, 30224.) Marine life that frequent the harbor, such as dolphins, may also be impacted by the introduction of larger vessels. (See Pub. Resources Code §30230.)

The mooring areas in Newport Harbor are designated "Special Anchorages" by the Coast Guard. (33 C.F.R. §110.95; see 77 Fed. Reg. 22489, available at: <a href="https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf">https://www.govinfo.gov/content/pkg/FR-2012-04-16/pdf/2012-9006.pdf</a>.) Special anchorage areas "should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels." (33 C.F.R. §109.10.) Thus, fairways that accommodate large vessels should not be located within the mooring fields.

# V. The Proposed Mooring Reconfiguration Would Impact Harbor Views.

We are also concerned with City staff's questionable assertion that the mooring reconfigurations would greatly improve harbor views. (October 12, 2022 Harbor Commission Agenda Packet, p. 82.) The proposal to push mooring rows together will alter view corridors from the public boardwalk around Balboa Island (and other boardwalks in Newport Harbor). (See Pub.

Resources Code § 30251 ["The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."]) The plan will also alter homeowner views of the harbor. While under the proposed reconfiguration, views *may* be improved for some—those whose properties are fronted by a fairway—views may also be greatly worsened for others, including those whose properties are fronted by the proposed double-wide tandem rows of boats.

## VI. Conclusion.

The proposed revisions to the Harbor Code present significant changes that would alter access to water and construct new moorings in the submerged mooring fields. The proposed mooring reconfiguration would encourage unsafe navigation of large vessels that impede coastal access for small-scale recreational boaters and others, and would obstruct coastal views. Accordingly, the proposed mooring plan constitutes development under the Coastal Act and appears to be in conflict with the Coastal Act. As such, it must be reviewed for approval by the Coastal Commission. We request that the Harbor Commission, in fulfilling its charge, advise the City of these issues prior to making any recommendation.

Sincerely,

Douglas P. Carstens

Junjara Jupilian

Sunjana Supekar

To: City of Newport Beach Harbor Commission

From: Capt. James L. Haley

79 Dapplegray Lane

Palos Verdes Peninsula, Ca. 90274

November 6, 2022

Dear Commissioners:

I have been asked by the Newport Mooring Association to give my expert opinion on the proposals contained in the published "Solution for Improved Safety and Utilization of Space and Adding New Moorings".

I have held a US Coast Guard License as Master Mariner since 1982, including First Class Pilotage, Unlimited Tonnage in Los Angeles and Long Beach harbors and employed as a pilot in the Port of Long Beach for the past 32 years. I have been admitted as an expert in numerous State and Federal courts as an expert in ship handling and navigation. I have also been a recreational sail and power boat owner for over fifty years and a frequent user of moorings in Southern California.

It is my opinion that any proposal that involves moving mooring rows closer together and forcing any vessels to approach or depart a mooring in a down wind fashion (relative to the prevailing winds) will create much greater risk of collision and injury and a less safe usage of the mooring arrangement.

It would be almost impossible to overstate the negative impacts of configuring moorings that are not approached as nearly bow into the prevailing winds as practical. The increased difficulty of approaching or departing any mooring or dock in a downwind direction would certainly increase risk of collision, allision, damage to boats and injury to boaters. All authoritative books on seamanship or boat handling are in emphatic agreement on this simple point. The vast majority of sail vessels and many power boats are single engined, and have very limited steering or maneuverability when moving astern. Departing moorings downwind would be as likely as approaches to result in boat collisions, allisions, damage and injuries.

The America's Cup harbor arrangement that has been offered as an example is not comparable to Newport for the simple reason that it is shielded from wind by the topography of Point Loma and protected from tidal currents by virtue of being land locked on three sides. Newport, by contrast is surrounded by low land masses that do little to protect the mooring fields from prevailing winds, and tidal currents flow unimpeded through the moorings as well.

The current proposal creates a less safe situation by moving alternate mooring rows within 20 feet of each other. Less space affords less reaction time and decreases space to maneuver to avoid collisions or allisions when boats inevitably experience a failed mooring attempt such as when the wind or current are greater than anticipated. Page 84 of the October 12<sup>th</sup> presentation indicates the distance between all mooring rows range from 41 to 65 feet with an average of 53ft in the "C" mooring field. In the new mooring plan, on page 85, it indicates alternate mooring rows will be moved closer and within 20 feet of each other. In my opinion, moving the mooring rows within 20 feet decreases the ability to safely maneuver, especially in the event of strong winds, a failed mooring attempt or mechanical failure.

Any changes to the existing mooring arrangement that has served the boating community quite well for decades should give the most serious consideration to the input of the current permittees. Their experience is the best source of knowledge about what works and what will create problems for them and their fellow boaters.

Please feel free to call me with any questions at (928) 713-6277

Sincerely,

Capt. James Haley

# HARBOR COMMISSION OBJECTIVES TRACKING SHEET—Excerpted for Objective #2.3

2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	2.3 Evaluate the current mooring fields and provide a recommendation for new guidelines: that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. (Beer)	NMA NOTES REGARDING TIMELIN
January 12, 2022	Nothing to report.	
February 9, 2022	Nothing to report.	
March 9, 2022	Nothing to report.	
April 13, 2022	Vice Chair Beer discussed this objective in detail earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.	Presented no substantive details of mooring plan No harbor code revisions presented
May 11, 2022	The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.	Presented no substantive details of mooring pla No harbor code revisions presented
June 8, 2022	Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the Commission his draft plan for feedback.	Presented <u>slideshow</u> of mooring field redesign No harbor code revisions presented
July 13, 2022	Vice Chair Beer has received information from the engineering firm and will provide a more comprehensive update at next month's meeting.	No updates, engineering report "coming"
August 10, 2022	Vice Chair Beer noted that he is waiting on the final report from the City's contract engineer. Once he receives that he can verifiy the information and provide a report to the Commission.	Presented no substantive details of mooring pla No harbor code revisions presented
September 14, 2022	Vice Chair Beer will provide a complete report of this objective at the next meeting.	Presented no substantive details of mooring pla No harbor code revisions presented
October 12, 2022	Vice Chair Beer provided a complete report on Objective goal 2.3 for consideration by the Harbor Department.	FIRST PRESENTATION OF COMPLETE REPORT FIRST SUBMISSION OF HARBOR CODE REVISION
November 9, 2022		
December 14, 2022		

From: "megandelaney@lesses < megandelaney@lesses = 1

Date: Monday, September 26, 2022 at 12:55 PM

To: "Beer, Ira" < < !Beer@newportbeachca.gov >, 'Admin'

<mail@newportmooringassociation.org>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, "Miller, Chris" <CMiller@newportbeachca.gov>, "Jung,

Jeremy" < JJung@newportbeachca.gov>

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

Thank you, Ira!

Megan

From: Beer, Ira < <a href="mailto:lBeer@newportbeachca.gov">! Beer@newportbeachca.gov</a> Sent: Monday, September 26, 2022 11:46 AM
To: Admin <a href="mailto:mailt

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >; 'NMA Email Board'

<nmaboard@indigoharbor.com>; Miller, Chris <<a href="Miller@newportbeachca.gov">CMiller@newportbeachca.gov</a>; Jung, Jeremy

<<u>JJung@newportbeachca.gov></u>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hello Megan,

Attached herewith please find a copy of the initial engineering study for the mooring field reconfiguration. Should you have any questions, comments, or feedback, please do not hesitate to respond back to me. Should you wish to discuss any of the information provided, or any other aspects of the project, please do not hesitate to let me know as I am happy to meet with you and/or the NMA board prior to the next scheduled Harbor Commission meeting where this item will likely be agendized for public comment.

As you know, this project is a part of the Harbor Commission's Open Water Initiative intended to improve safety, navigation, create more moorings for public use and increase the usable space for mariners in Newport Harbor. I look forward for the opportunity to share any of the details with you, your board, and its members.

Best regards,



From: "Beer, Ira" < <a href="mailto:lBeer@newportbeachca.gov">lBeer@newportbeachca.gov</a>>
Date: Wednesday, July 6, 2022 at 11:06 AM

To: Admin < mail@newportmooringassociation.org>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, Harbor Commission

< Harbor Commission@newportbeachca.gov>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hi Megan,

Thank you for your kind words of congratulation on my reappointment and the acknowledgment of work surrounding the commitment in accepting such an appointment. It has been, and continues to be an honor to serve on the Harbor Commission.

As mentioned in my last email, the engineering study is not completed. However, it is well underway. While the financial aspect is yet another conversation, the engineering study when completed will be discussed at a regular Harbor Commission meeting and will be open to public comment as such time.

As for the offshore mooring appraisal, to the best of my knowledge that has not been completed yet, nor have I seen any drafts. As there is quite a lot of information required for the Harbor Commission to review when considering a recommendation of mooring rate increases, I expect that could be a while to compile the data and have it available for review and public comment, also at a Harbor Commission meeting in the future.

Please do not hesitate to let me know if you require additional information or have further questions.

Best regards,



From: Admin < mail@newportmooringassociation.org>

Date: Wednesday, July 6, 2022 at 1:42 PM
To: "Beer, Ira" < <a href="mailto:IBeer@newportbeachca.gov">IBeer@newportbeachca.gov</a>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board'

<nmaboard@indigoharbor.com>, Harbor Commission

<a href="mailto:</a> <a href="mailto:HarborCommission@newportbeachca.gov">HarborCommission@newportbeachca.gov</a>

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

Hi Ira,

First, congratulations on your reappointment to the Harbor Commission. It's quite a responsibility, and we are glad and thankful when volunteers step up to shoulder this level of work.

I appreciate your response to my question. Just so I understand exactly, your proposal for the mooring field reconfiguration is only a concept at this time – that the engineering, financial and feasibility analysis have not been started at this time? We had assumed that much of those analyses had been completed. I think that assumption has caused some confusion among the membership.

As it relates to the mooring fee increase, yes, that <u>is</u> a separate topic and a question for the Harbor Commission. I apologize that you interpreted it as being connected with the mooring reconfiguration proposal. Can you or another Commissioner address that question? According to the Harbor Commission goals and other documents, we have assumed that the offshore mooring appraisal has been completed. And, as you know, this is a very explosive issue with all mooring permitees. Do you have any information on timing that you can share with us?

Thanks again for all your time and effort!

Megan

From: Beer, Ira < Beer@newportbeachca.gov>

Sent: Tuesday, June 28, 2022 2:34 PM

To: Megandelaney@L 'Admin' < mail@newportmooringassociation.org >; Harbor Commission

< HarborCommission@newportbeachca.gov>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >; 'NMA Email Board'

<nmaboard@indigoharbor.com>

Subject: Re: Mooring Reconfiguration Proposal and Mooring Fees

Hello Megan,

Thank you for your email. This project is still in a review stage. The assumptions in the draft proposal, while based on prior discovery, are subject to engineering review not yet completed. I appreciate the questions from your board set forth in the email received on June 14, 2022. I am however struggling to see how they relate directly to what was presented at the June 8, 2022, Harbor Commission meeting. The purpose of the mooring initiative discussed and defined in item 2.3 of the Harbor Commission Objectives is to evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. Economics of the proposal and mooring rate increases were not a part of the discussion or the primary subject matter of the Objective.

I would be happy to meet with you and the NMA board in person or via Zoom to discuss what was presented and the items related thereto. Please let me know. Otherwise, I hope you will watch for when this topic is agendized at future Harbor Commission meetings as I and the Harbor Commission value your comments and any input you feel compelled to share. Thank you.

Best regards,



From: "Megandelaney@ < Megandelaney@

Date: Monday, June 27, 2022 at 4:17 PM

To: 'Admin' < mail@newportmooringassociation.org >, Harbor Commission

< Harbor Commission@newportbeachca.gov>

Cc: Dept - City Council < CityCouncil@newportbeachca.gov >, 'NMA Email Board' < nmaboard@indigoharbor.com >

Subject: RE: Mooring Reconfiguration Proposal and Mooring Fees

To Commissioner Beer and the Harbor Commissioners -

We haven't heard nay response to our email of June 14<sup>th</sup>. Can you give us any update you have on the harbor reconfiguration? What are your next steps?

Thank you,

The NMA Board of Directors

Looking out for the interest of all mooring owners

Newport Mooring Association

P.O. Box 1118, Newport Beach, CA 92659-1118

mail@NewportMooringAssociation.org

From: Admin < mail@newportmooringassociation.org>

Sent: Tuesday, June 14, 2022 3:30 PM

To: HarborCommission@newportbeachca.gov

Cc: Dept - City Council < Citycouncil@newportbeachca.gov >; NMA Email Board

<nmaboard@indigoharbor.com>

Subject: Mooring Reconfiguration Proposal and Mooring Fees

To Commissioner Beer and the Harbor Commissioners,

At the June 8<sup>th</sup> Harbor Commission meeting, Commissioner Beer presented his new mooring system proposal. The proposal involves realigning the mooring fields, installing a new anchoring system, and having a shared mooring on one end of the two-point mooring systems. To better understand the proposed changes to the mooring system, we would like to review any supporting documents for the presentation, and we have the following questions:

- Has this mooring reconfiguration been approved by City Management? Or is this still in a conceptual phase?
- What financial analysis has been performed revenues and expenditures, investment and payback - for the extensive capital and services outlay to implement this revised system? We have noted that this new project doesn't seem to appear in the proposed FY2022-23 budget document.
- 3. If the City pays for the new hardware, we believe the City will assume the liability when a boat breaks loose from any new system or when the new system causes damage to a vessel. If the City installs and owns the new system, what is the City's exposure for accidents caused by the new system? How will the City manage the assumption of liability?

- 4. We would like to review the engineering analysis on the specific hardware being proposed for the shared mooring system. The proposed solution is far more rigid with greatly reduced catenary (thus reduced shock absorbing potential) between a vessel and the mooring anchor to limit movement of the boats, and we are very concerned about the potential stresses on boat cleats and other attachments. We are also concerned with how the system will perform under the heavy Santa Ana winds we have in Newport Beach.
- 5. Does this project require any approvals from the Coastal Commission? Does it require an Environmental Impact Report? Does it require a Coastal Development Permit (CDP) to move forward? Have any of these documents been completed at this time?
- 6. What type of "proof of concept" or trial moorings for implementation is being considered? Has Commissioner Beer identified areas that will be implemented first? What is the proposed timeframe for the implementation?
- 7. Was there an incident or a series of accidents that prompted the safety concerns that drove this proposal? We are concerned that the shared moorings make it more difficult to get a vessel on and off the mooring, and as previously discussed, may cause other issues and potential damage to vessels.
- It should be noted that Commissioner Beer's earlier study from 2020 had identified a plan for a mooring realignment for safer fairways that now appears to have been abandoned for this far more complex reconfiguration.

Mooring Rate Increases - In addition to our questions on this new mooring configuration proposal, when we will next hear about the onshore/offshore mooring rates and appraisal? We assume that the offshore mooring appraisal has been completed. Our members are very concerned and want to be prepared to discuss the new proposed rates.

We would like to reiterate the NMA's willingness to work collaboratively on policy and procedures that affect our harbor.

Thank you,

The NMA Board of Directors

Looking out for the interest of all mooring owners

Newport Mooring Association

P.O. Box 1118, Newport Beach, CA 92659-1118

mail@NewportMooringAssociation.org

Wednesday October 26, 2022

City of Newport Beach Harbor Commission Paul Blank, Harbormaster

#### Dear Commissioner Beer:

I would like to thank you and Harbormaster Blank for meeting with Jerry LaPointe and me on October 20, for an initial preliminary meeting to answer some questions about the proposal to move almost all the offshore moorings and/or boats on the moorings. As mentioned at the meeting, this was intended to be an initial meeting to answer some questions to be followed by a second meeting with you, other commissioners, and the NMA.

At this initial meeting we asked for your personal assurance that any proposal to change Title 17 not be voted on at the November 9 Harbor Commission meeting, but instead postponed to allow the NMA and stakeholders to study the new proposal, and allow time for the City to send notice to all the stakeholders, including permit holders, followed by one or more stakeholder meetings. As stated previously, the NMA does not think it is appropriate to make any changes to Title 17 at this time. Certainly, a six boat trial test of a new concept in mooring layout and design does not require a Title 17 rewrite. Let's ask for volunteers instead of mandating that permittees cooperate. However, since Title 17 changes may need to happen eventually, we are hereby giving you our initial modifications to your earlier proposed language changes.

While the NMA does have a list of permittees, it is not as up to date or complete as the City's list,

While the NMA does have a list of permittees, it is not as up to date or complete as the City's list, and it is our personal view that a mailing should not be placed on the shoulders of the NMA. We also requested that you ask other Commissioners if the matter could be placed on the agenda as a discussion item only, and not as an item to be voted on. We asked that you let us know as soon as possible to avoid our having to notify as many people as possible that the proposals in current form would be voted on at the November 9 meeting.

At the meeting you indicated the proposed changes to Title 17 were being made and that there was a deadline for us to comment on the changes. You indicated that you would try to provide us with these changes on Friday October 21, although you were not sure if that could be done and you might only be able to provide your work notes outlining the changes. You requested that we provide our comments on the Title 17 proposed and revised changes by the end of the day, Wednesday October 26. At approximately noon on Monday Oct 24 (two days ago), you sent the Title 17 revised changes in a pdf file. Yesterday I attempted to "convert" that file and gather comments from a few people on the NMA Board in order to meet the deadline of today. We understand that it was difficult to provide us with the new proposed changes before they were sent, and we ask you to appreciate the fact that putting together our views in a day and a half on the proposed revised Title 17 changes sent in a pdf file format, with the need to consult with numerous people, most of whom are working full time, is a difficult task.

At this preliminary meeting, in addition to discussing the timing and need for stakeholder meetings after notice is mailed, we expressed concerns and asked questions about placing the bow of boats within 20 feet from the bow or stern of another boat. We discussed in general concerns over safety, the difficulty in securing a boat to a mooring with another boat so close even when using a spreader line to help. We asked questions about where each mooring would be relocated and the need for each permit holder to know where their mooring would be relocated. We asked about the best way

to keep multiple buoys attached to the same anchor or weight system as far apart as possible, and we asked about how to best study a theoretical reconfiguration in real life conditions. This is not intended to cover all the questions and matters discussed, but just a few that come to mind.

Again, with just a day and a half to provide some comments on the Title 17 changes, attached are some concepts. I have tried to put this in a format that is "readable" but it was difficult to work with the color coded pdf files that were sent to us.

I attempted to show our changes and modifications of your proposal by placing them in bold 14 point font with yellow highlight. Some of the words embedded in the highlight might have been in the original or in the proposed revisions.

To make it somewhat easier to follow the highlighted modifications, here is some background and additional comments. The letters refer to the corresponding Title 17 document letters.

Note: The version originally sent on Oct 26 to meet the deadline contained formatting errors, including some items that appear to be "strikeout" but are either embedded line of boxes that should have been removed and also at least one date error. Most of these embedded lines and boxes have been removed in the items noted as attachments.

#### 17.25.020

- **F. Safety, safety and safety.** The highlighted modifications attempt to make clear what should be otherwise obvious, that any new system or reconfiguration would first require proof of being safe without materially increasing the difficulty in getting on and off a mooring, particularly for elderly and disabled boaters and sailors under all wind, tide, and current conditions (over and above the existing level of difficulty in the same conditions). We do not think any responsible person would have difficulty with that concept, but without it being expressly stated in the code changes, when we are on the verge of a massive change in all parts of the harbor affected by winds and currents in a different way, this needs to be expressly stated and not just "implied".
- Much of the discussion that follows, but not all, concerns what we generally call the two-buoy type of mooring.
- **F. 2. Spreader lines.** Spreader lines are a good idea, but Harbormaster should be able to determine the different types of lines used. Spreader lines serve a number of functions in addition to warning other boaters of a mooring with a spreader line. They are often used to temporarily tie onto a cleat on a boat, and would need to be of the appropriate size for the cleat. There are much stronger lines of smaller diameter that float and last longer when exposed to the sun. The Harbormaster should be able to handle this.
- **G. Sand Lines.** If the use of sand lines (aka mud lines) is being considered in some situations, the Harbormaster should determine if the mud on which the line will sit for days is contaminated. If contaminated, when picking up the line, the contaminated mud will get on skin and clothes, and may cause heath concerns. We do not know if the City has tested the mud under all the mooring fields.

## 17.60.040

**B. Issuance of Permit.** There is a lot of concerns about confusion in the documents between "existing moorings" and "newly created moorings". This is both a technical drafting issue, but is also a public relations and stakeholder issue. Some of the changes are just to clarify what appears to be the intent, in particular that transferability is not changing for existing permits, and a transferee after transfer will have the same right. To help make this clear, we have included definitions of New Moorings and Existing Moorings, among other ways to make it clearer.

# **B. 2. Permit Requirements**

#### J. Authorization to Move.

Currently, Title 17 allows when "necessary" to move boats (not moorings). Historically, that has been interpreted to mean moving boats on a temporary basis to accommodate maintenance, dredging, etc. The proposed new language still refers to moving boats (vessels) but adds that this can be done when not necessary, and includes the reconfiguration of the entire mooring fields when there have been zero instances of any reported accidents or other issues with the existing configuration over 100 years of mooring use. We understand that some members of the Harbor Commission have a vision of a tidier Harbor and may have an aesthetic vision that boats in perfect rows make a nicer water view. However others may differ on this and find the more natural view of boats swaying naturally in the harbor is the more pleasing view. No painter has ever painted boats lined up like in a parking lot, yet there are tens of thousands of paintings of boats sitting naturally in a harbor. The NMA does not think the current system needs to be radically changed. At the very least, there needs to be stakeholder meetings after a mailing describing proposed changes. There needs to be opportunities to be heard by all those impacted, and also extensive study of real world usage of the suggested new configuration before any changes are made to Title 17. If changes are ultimately made to Title 17 allowing for the future moving of boats or moorings, under some different plan of reconfiguration, then the same type of stakeholder meetings, safety, and accessibility studies should be a prerequisite of such major changes.

In the event that any Title 17 changes are made to allow for reconfigurations, despite the fact that it is not needed, we would address some of the conditions on what should be imposed to address safety, potential difficulty of use, accessibility for the old and disabled, and fairness of location. We have also tried to address what appears to be major confusion in the proposed language as it relates to moving boats vs moving moorings.

# Moving Boats vs Moving Moorings.

Much of the proposed language changes refers to moving boats or moving vessels. We believe this does not fit with any proposal that in effect is an attempt to move moorings into certain rows. Here are a few examples of the havoc that would result in referring to moving boats vs moving moorings. Permit holder Joe, who has a 50 foot mooring Z-12 (there is no Z field it is used as an example only), and Joe at one time had his 46 foot boat called Joes Dream on the mooring. Joe sold his boat and acquired a 34 foot sailboat, Joes Folly, to use to race in the Thursday afternoon races. Joes Folly is now on Z-12, but in three or four years, Joes knows he may give up sailboat racing given his age and he plans to put another 46 foot powerboat back on Z-12. Under the proposed authorization, the Harbormaster can move Joes Folly to some other, smaller mooring, and

move someone else's 50 foot boat onto Z-12. Under the proposed plan, as I understand it and which refers to moving boats, we could have the following scenario: Joe will pay for the 50 foot mooring (that he is not using), Joe will pay to maintain the 50 foot mooring (that he is not using), and Joe will have no say in how his new mooring is being maintained, as some other mooring permittee will be on his 50 foot mooring. However in a few years when he sell's Joes Folly, and buys a 46 foot trawler Joe's Last Boat, he will have not a place to put the retirement boat of his dreams.

Here's another example: Joe's uncle, Sam, owns the mooring next to Joe and he follows the harbor scuttlebutt closely. Right now his 40-foot mooring Z-11 is usually vacant, although he occasionally puts an old 16 foot skiff on it for occasional use. Hearing what is going on and planning to buy another boat a few years from now, he goes out and buys the cheapest 40 foot boat he can, just to have a "place holder" so he will have a place to put his new boat in three or four years, and no one will be moved in the meantime to his underutilized 40 foot mooring.

These are only two of a thousand different situations that could come up over time in the lifetime of a boater. People do change boats.

To avoid all of this confusion, the language addresses the issue directly and speaks directly about moving moorings and under what situations and conditions that would be appropriate. While the NMA believes there is clearly no need and no necessity to do that on a wholesale basis, there may be some areas in the harbor where it makes sense. With this in mind we have offered language that would address this and have added safeguards that would discourage potential abuse, while at the same time increasing safety, and avoiding creating difficulties of use and accessibility. The language allows for transparency and mandates the use of appropriate stakeholder meetings, and some checks and balances, including ultimate approval by the City Council.

## **B.2.1** Transfer of Permit / Permit Requirements

These are mostly technical clarifications, to make clear the status of a transferee of an "Existing Permit" and the status of a second name on the mooring permit as having a different status that does not create a "transfer" and provides a method to remove the second named person.

# M. Request to Extend Mooring Length or Relocate to Larger Mooring.

Extensive changes were needed here, which are too many to summarize. These changes are made in an attempt to avoid some of the issues discussed above regarding moving boats vs moving moorings. For example, if a 50 foot boat on a 50 foot mooring is moved to a 60 foot row (by for example a private sale), or for realignment purposes a 50 foot mooring is placed in a 60 foot row, perhaps because it was on the end of a row and the only end of row mooring available is in a 60 foot row, the person with the 50 foot boat should not lose his or her mooring and be subject to relocation of boat or mooring. Moreover, if after a few years, the person with the 50 foot boat, sells the boat and asks to allow his new 52 foot boat to be on his mooring and asks for his 50 foot mooring, which is in the 60 foot row to be extended to a 55 foot mooring, he or she should at least be allowed to make the request, and the Harbormaster and/or the Harbor Commission should be allowed to address the request on a case by case basis so long as the boat will be well within the length limits of the row. The proposed changes take into account the different type of situations, and avoids the "move the boat only" without moving the mooring issues, discussed in detail above.

As a final note, because of the edits, re-edits, and conversions from pdf files to Word files, some of the internal numbers and cross references may need to be adjusted.

We of course would have preferred more than one and a half days to address the major proposed changes, as revised, to Title 17, and we are hopeful that we will have the time and opportunity to work with the Harbor Commission to come up with reasonable and appropriate changes through transparency and with safety, usability, and accessibility in mind.

Thank you for your kind attention,

L. Scott Karlin

and the

**Board of Directors** 

Newport Mooring Association https://newportmooringassociation.org

#### **Attachments:**

#### First Attachment:

# 17.25.020 Anchorage, Berthing and Mooring Regulations.

A. Location. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within designated areas. Any vessel which is berthed, moored or anchored at a place not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space. No vessels shall be moored or anchored in any part of any turning basin or channel unless secured both fore and aft except as provided in subsection (H) of this section. Every vessel moored or anchored in any part of the harbor outside of any turning basin or channel shall be so moored or anchored as to prevent such vessel from swinging or drifting into any turning basin or channel.

- 1. No person owning, leasing, occupying or having charge or possession of any vessel shall:
  - a. Berth or anchor the same in Newport Harbor except within the designated areas; or
  - b. Anchor a vessel in any of Newport Harbor's designated public anchorage areas or at any location on the open waters of the Pacific Ocean within five hundred (500) yards of a designated protected swimming area for a cumulative period of time that exceeds seventy-two (72) hours within any thirty (30) calendar day period. The Harbormaster may authorize, in writing, an extension to the seventy-two (72) hour time limit if the Harbormaster determines that given the particular circumstances an extension of time is reasonable and warranted.
- 2. Any vessel which is berthed, moored or anchored at a place in Newport Harbor not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas in Newport Harbor, consideration shall be given to the needs of

commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space.

B. Application of Chapter. The terms of this chapter, as they relate to moorings and buoys, shall apply to "on-shore moorings" which are moorings located landward of the pierhead line and to "offshore moorings" which are located bayward of the pierhead line, with equal force and effect.

## C. Berthing.

- 1. Boats berthed at private or public piers shall not extend beyond the prolongation of the side property lines of the property or properties to which the pier is connected in accordance with Section 17.35.020.
- 2. Any boat berthed at a pier or slip shall not extend bayward beyond the end of the pier or slip by a distance of more than the maximum width of its beam. Between Bulkhead Station 256, beginning at Collins Avenue to Bulkhead Station 255, boats moored at a pier or slip shall not extend more than fifteen (15) feet bayward beyond the end of the pier or slip or more than the width of the beam of the boat, whichever is less.
- D. Permit Required. No person shall place, erect, construct or maintain a pier mooring or buoy in the waters of Newport Harbor over City-owned or controlled tidelands without first having obtained a permit pursuant to this title.
- E. Unauthorized Use of Mooring. No person shall use a mooring unless he or she holds a current and valid permit except with the permission of the Harbormaster for temporary use, as herein provided.
- F. Chains and Fastenings of. Helix Anchor Mooring System. Offshore moorings in the City's mooring fields which are designed to secure a boat with two anchors, one secured to the bow and one to the stern, may, at the direction of the City, consist of:
- in all wind, tide, and current conditions in the particular field and area where the boat will be moored, including the vessel safely being secured to the mooring without undue difficulty when approaching and leaving the mooring by persons of all ages and persons with disabilities consistent with the Americans with Disability Act and the California State Unruh and Disabled Person's Act ); or two separate anchor weights for each vessel, If moorings in a field are reconfigured to be closer to other moorings in a field either side to side or fore or aft, such reconfiguration shall first proven to be safe for the use of the moorings in all wind, tide, and current conditions in the particular field and area where the boat will be moored, including the vessel safely being secured to the mooring without undue difficulty when approaching and leaving the mooring by persons of all ages and persons with disabilities consistent

# with the Americans with Disability Act and the California State Unruh and Disabled Persons Act.

Mooring permittees shall be responsible for maintaining, repairing, and replacing <u>all anchor</u> <u>system components, including but not limited to, all-the-</u>chains, shackles, weights, lines, buoys and all other gear and equipment used in securing their vessels to the <u>mooring</u>.

If the City has installed a helical anchor system for use as the shared anchor mooring system, the City shall maintain, repair, and replace only the shared helical anchor at its cost.

- 1. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring.
- 2. All mooring lines on buoys (<u>excluding a Spreader Line as described below</u>) shall be so arranged that, when dropped, they will immediately sink.

All double or two-point moorings that are equipped with two mooring buoys for mooring to both bow and stern, are at all times required to have (i) a vessel properly tied to both mooring buoys, or (ii) a single 3/4" polypropylene line of a diameter approved by the Harbor Master for that sized boat and mooring, secured and connected to both the bow and stern buoys, or other floating line, or of another size or type approved by the Harbor Master. The line shall be no longer than five feet plus the length of the mooring and equipped with 9" long two-color buoys affixed in-place to the line that are no less than ten feet apart from each other, (the "Spreader Line"), and (iii) two lines that are appropriately sized and specified for attachment to each mooring buoy that will be secured one each to the port and starboard cleats at each the bow and stern at all times the vessel is occupying the mooring space, and (iv) maintained the Spreader Line keeping it clean from algae and other marine growth to prevent the line from submerging below the surface and not remaining easily visible to other approaching mariners.

G. Sand Line Moorings. With the approval of the Harbormaster, mMooring permittees may use a single buoy system for a two-point mooring by use of a Sand Line. A "Sand Line" is a line from one anchor line to the opposing anchor line. The Sand Line shall be properly weighted to immediately sink when dropped. The permittee must submit a Mooring Modification Request to the Harbormaster and shall include details of the modification (including diagrams, if requested)., The Harbormaster may approve the request based upon his or her determination that the modification will result in any safety or navigational concerns, and prior to approving said use of any sand line, the Harbormaster shall consider if the upper 12 inches of the bottom soil that the sand line will contact is contaminated which may make contact with the sand line in any place that which may come into contact with a person handling the sand line through the skin or by inhalation. If the Harbormaster becomes aware of such contamination, the

## Harbormaster shall report the information to both the Harbor Commission, the City Council and the City Manager.

- G. Buoy Markings. Mooring buoys shall be painted with the number allocated thereto by the Harbormaster to the mooring, the numeral(s) of which shall be at least three inches in height.
- H. Mooring, Anchoring and Vessel Condition Requirements.
  - 1. Mooring AnchoringAnchoring and Mooring. All vessels anchored on the open waters of the Pacific Ocean shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area. All vessels using moorings in Newport Harbor shall be firmly anchored to a mooring from bow and stern in such a manner as to prevent the vessel from swinging, turning or excessive drifting, except in areas designated by the Harbormaster as single mooring areas. Vessels in single mooring areas shall be tied from the bow. A vessel's Adjusted LOA shall not exceed the designated length of its mooring row. At no time may any portion of the vessel or object attached to the vessel extend into the fairway. All vessels anchored in Newport Harbor in the designated anchorage area shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure and does not extend beyond the demarcation line of the designated anchorage area.
  - h. Violation of the terms and conditions of other use or rental permits as granted by the Vessel Condition. Safety, Seaworthiness and Operability. Vessels assigned to a mooring by permit must be maintained in a safe, seaworthy and operable condition. If, based upon the appearance of the vessel, inspection by the City or other facts, the Harbormaster has cause to believe a vessel is not safe, seaworthy and operable, the Harbormaster shall give written notice to the permittee, in accordance with the service requirements of Section 1.05.030, requesting a demonstration that the vessel is safe, seaworthy and operable. The permittee shall, upon written notice specifying the date and time, demonstrate to the Harbormaster that the vessel assigned to the mooring is safe, seaworthy or operable. In the event that the Harbormaster determines that vessel is not safe, seaworthy or operable, the permittee shall:
    - a. Commence repairs within thirty (30) calendar days upon service of the written notice of such determination and complete repairs within ninety (90) calendar days of the commencement unless the Harbormaster, upon written request from the permittee specifying the reasons therefor, approves an extension of time to complete the repairs; or
    - b. Remove the vessel within thirty (30) calendar days of service of the written notice of such determination and request assignment of a different vessel that is safe, seaworthy and operable to the mooring within sixty (60) calendar days after the removal of the vessel. This section is not intended to apply to any brief period of repair common to most vessels. The Harbormaster may repeat his or her request to test operability and seaworthiness as needed.
  - 3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel shall maintain, permit, cause or allow to exist on such vessel any of the

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#### following conditions:

- a. Promotion of a fire hazard, including, but not limited to, improper open fuel storage, deficiencies in the vessel's fuel storage tanks, inoperable electrical systems, storage of combustible or other flammable material that constitutes a fire hazard to any vessel;
- b. Retention of water that becomes stagnant, unsanitary, or polluted;
- c. Accumulation or storage of rubbish, trash, debris, rubble, containers, or boxes that are visible aboard the vessel or stored inside the vessel in such a way as to make the vessel inoperable for its intended use;
- d. Storage or securing a vessel in such a way that it impedes pedestrian travel on City beaches and tidelands;
- e. Contribution to hazards to public safety or health, such as, but not limited to: propagation of vermin, rats, insects, or unsanitary conditions from the accumulation of fecal materials;
- f. Maintenance in such nonseaworthy condition that the vessel is unsafe, unsightly or poorly maintained, including, but not limited to: broken windows, unsecured doors or hatches, excessive marine growth attached to the vessel, being inoperable for the vessel's intended use, partially destroyed or partially repaired for more than three continuous months, providing access to marine mammals, actively seeping hazardous or toxic material into the surrounding waters, or would present a physical danger to public safety personnel during emergency access;
- g. Operation of its mechanical or electrical systems creates excessive noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health or safety;
  - i. Allowance of repetitive, boisterous or unruly conduct by the vessel operator or occupants when that conduct:
    - i. Is offensive to a person of ordinary sensibility, and
    - ii. Continues after a written or oral request to terminate the conduct, or
    - iii. Is offensive to a considerable number of people;
  - j. Anchorage in an area controlled by the City without adequate anchor(s) rope or chain appropriate for the wind and sea conditions encountered in Newport Bay;
  - k. Inability of a vessel on a shore mooring to be self-righting on an incoming tide without flooding the vessel;
  - I. Attachment to a mooring in such a way that the vessel regularly drifts or impedes safe navigation in Newport Bay; or
  - m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay.

Violation of this subsection (H) is hereby declared to be a public nuisance. In the event that the City determines that a vessel is a public nuisance, the City may commence public

nuisance abatement as provided in this title.

- 4. If, based upon the appearance of the vessel, inspection by the City or Harbormaster or other facts, the Harbormaster determines that a sea lion has boarded a moored vessel, the Harbormaster shall issue and serve a notice of violation in accordance with Section 1.05.030 and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within seven calendar days of the notice of violation. If the Harbormaster determines that appropriate deterrent measures have not been taken within seven calendar days of the notice of violation, the Harbormaster may issue an administrative citation or take any other enforcement action authorized by this Code. In the event the Harbormaster issues an administrative citation, the permittee shall:
  - a. Take any and all necessary action to employ and maintain appropriate sea lion deterrent measures; or
  - b. Remove the vessel from Newport Harbor.

"Appropriate deterrent measures" shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of vessels assigned to a mooring. If the City is unable to reach the permittee within the seven calendar days, the Harbormaster may install temporary deterrent measures as needed and recover the City's cost of compliance.

- I. Maintenance. All moorings shall be kept in good and serviceable condition in the location assigned by the Harbormaster.
- J. Specifications. Specifications for the size of chains required on moorings, and weights of moorings, and all other mooring equipment shall be as adopted by resolution of the <a href="City Council Harbor">City Council Harbor</a>
  Commission. No person shall erect, construct or maintain any mooring in Newport Harbor unless all chains and fastenings are of sufficient size to stand a breaking strain of at least six times the weight of the mooring. All mooring lines on buoys shall be so arranged that, when dropped, they will immediately

sink. With a double mooring, however, it shall be permissible to connect two mooring lines with a spreader line having floats attached thereto to keep such line afloat when the mooring is unoccupied.

- K. Inspection of Moorings. Each mooring shall be lifted by the owner for inspection by the Harbormaster at least once every two years and shall be repaired, as necessary, so as to be in good condition before being replaced; provided, that the Harbormaster may require any mooring to be lifted at any time when deemed necessary to assure it is in good condition. If the permittee has such lifting performed by a marine contractor, then the Harbormaster may authorize such contractor to inspect the mooring on behalf of the Harbormaster and certify the results to the Harbormaster in writing. The permittee shall pay the costs of any inspection performed by a contractor on behalf of the Harbormaster.
- L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.
- M. Administration. The Harbormaster shall administer all provisions in this section.

#### N. Reconfiguration of Moorings.

- 1. No plan, and no amended or modified plain, of reconfiguration of moorings within a mooring field shall be adopted or enacted without advanced notice first sent bmy mail, and if the City has email addresses, by emails to all stakeholders who may be affected by said plan followed by an opportunity for comments and two or more stakeholder meetings allowing for open and reasonable comments and discussions with the persons or agency whohow have the authority to adopt, or advise on the adoption or enactment of the plan. Stakeholders would include mooring permittees, residences located within 1,000 feet of the high tide line of any part of the mooring field(s) subject to the proposal, and other stakeholders thatey might be impacted by the proposals, including homeowner associations and other organizations whose members include other stakeholders such as the Lido Island Homeowner's Association, the Balboa Homeowner's Association, Newport Harbor Yacht Club, Balboa Yacht Club, and the other Yacht Clubs in Newport Harbor, If the plan is not adopted or enacted within 9 months of said stakeholder meeting, then any resubmission of
- within 9 months of said stakeholder meeting, then any resubmission of the plan or similar plan, shall be subject to the same required stakeholder meetings before adoption or enactment.
- 2. Following said stakeholder meetings, any plan of reconfiguration of moorings within a mooring field that is advised by, adopted by, or enacted by the Harbor Commission or by the Harbormaster or any of its agents or committees shall be first subject to the approval of the City Council after first being placed on the regular agenda of the City Council that allows for public comment (not on the City Council's consent calendar).
- 3. Plan of reconfiguration of a-moorings as referred to above, shall include moving moorings to different areas within a mooring field or to a different mooring field, moving moorings closer together either to the side or in front or to the back, moving moorings which would have an affect (negatively or positively) on views from homes, residences, or street ends, within 1,000 feet

#### of the high tide mark where moorings may be moved or relocated.

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#### Second Attachment:

#### 17.60.040 Mooring Permits.

- A. Permit Required. No person shall place, erect, construct, maintain, use or tie to a mooring in the waters of Newport Harbor over City-owned or controlled tidelands (i.e., an offshore mooring) or in the nearshore perimeter of Newport Harbor perpendicular to the shoreline (i.e., an onshore mooring) without first having obtained a mooring permit from the Harbormaster or having otherwise complied with this section. A mooring permit is in the nature of license for the temporary use of a specific location within Newport Harbor.
- B. Issuance of Permit—Conditions. The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit or mooring sub-permit to allow the mooring permittee or mooring sub-permittee to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel if the Harbormaster makes the findings set forth in Section 17.05.140(D)(1). In the event that the City is able to

and does create new Moorings on or after January 1, 2022 [ Error – Should be January 1, 2023], then the City may use such new Moorings (referred to herein as "New Moorings" for the purpose of long term rentals for recreational boat use or may issue a permit, similar to existing permits, for such use. If a Mooring permit is issued or a long term rental is issued each s shall be issued according to a lottery, followed by a waiting list. A mooring permittee may hold up to two mooring permits at any time. A mooring permittee that held or continues to hold more than two mooring permits prior to May 11, 2017, may continue to hold the mooring permits until the permits are sold, revoked, or otherwise transferred under this chapter.

#### 1. Exceptions.

a. The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, as noted in subsection (B)(3)(h) of this section. In addition, the Lido Isle Community Association ("LICA") has permits for onshore moorings on Lido Isle. These organizations shall hold their respective permits under the yacht club, or respective organization name, for the moorings identified by the City as under their respective control at the time of enactment of the ordinance codified in this section. The yacht clubs and LICA shall be solely responsible for managing moorings under their control and shall be permitted to assign moorings under their control to yacht club members and members of LICA, respectively. The yacht clubs and LICA shall keep accurate records of the name and address of the club members and community association members to which each mooring has been assigned and the corresponding length of each vessel. The yacht clubs and LICA may not sell or otherwise transfer the moorings under their control to a third party that is not a member of the yacht club or LICA. Mooring records and 24/7 emergency contact information shall be provided annually to the

Harbormaster by the yacht clubs and LICA on or before February 1st.

- b. Mooring of a Tender. A single vessel no longer than fourteen (14) feet in overall length to serve as access to and from the assigned vessel may be secured to the assigned vessel or may be secured to the offshore mooring in the absence of the assigned vessel. The vessel must be secured in such a manner so as not to intrude into the fairway or obstruct neighboring permittees. Notwithstanding the single vessel restriction, permitted live-aboards may secure up to two vessels no longer than fourteen (14) feet in overall length to the assigned vessel, to serve as access to and from the assigned live-aboard vessel.
- c. Multiple Vessel Mooring System Program. The Harbormaster may approve a multiple vessel mooring system in the single anchor mooring areas of Newport Harbor. An application and applicable fee, established by resolution of the City Council, for a multiple vessel mooring system shall be submitted in writing to the Harbormaster, who shall evaluate the application based upon standards established and the application shall be approved if the Harbormaster makes the findings under the applicable standards and those set forth in Section 17.05.140(D) (1).
- 2. Permit Requirements. Each mooring permit may be issued for up to two persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. Mooring permits shall be subject to the following conditions and requirements, with which mooring permittee(s) shall fully comply: To the satisfaction of the Harbormaster, the mooring permittee(s) shall:
  - a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current email address(es), if one exists, of the mooring permittee(s);
  - b. Agree to be responsible for permit rent, fees, maintenance and repair of mooring equipment;
  - c. The permit for joint ownership moorings shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the mooring permit;
  - d. Grant permission to the City to temporarily assign the mooring to another vessel when it is unoccupied through the issuance of a mooring sub-permit;
  - e. Agree to defend and indemnify the City and any other government entity with jurisdiction against any claims or losses arising out of, or related to the use of, the mooring permit except where the claim or loss arises from the sub-permittee's damage of the mooring, or out of the negligence and/or misconduct of a person assigned the mooring as a mooring sub-permittee under subsections (G) and/or (H) of this section;
  - f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;
  - g. Provide registration or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster;
  - h. Agree to pay fair market value rent, as established by resolution of the City Council, on a rent schedule established by the Harbormaster, which shall be similar to the schedule used to

collect rent from other tidelands users in Newport Harbor;

- i. Agree that the mooring permit does not provide any ownership interest in the underlying tidelands, which are held in trust by the City and owned by the people of the State of California;
- j. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster, including but not limited to increasing and improving safety or the utilization and organization of the mooring fields, and agree that such relocation shall be at the permittee's expense; and
- j. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster on a temporary basis in the interest of safety, dredging, public works project, or similar necessities at the City's expense, unless the boat owner, or operator, or mooring permittee is in violation of one or more regulations applying to boats or moorings, in which case said move shall be at the expense of both the boat owner and the mooring permittee.

Authorize the City, or its designee to relocate a mooring to a new location on a one-time basis only, within a mooring field, in accordance with a plan of reconfiguration first approved under the following conditions:

- 1. The plan of reconfiguration which includes the field has been approved by both the Harbor Commission and the City Council after proven safety of, lack of difficulty of use of, and accessibility of moorings affected by the reconfiguration, and after stakeholder meetings following reasonable notice by mail to the stakeholders both before and after the study and real life testing in different wind, current and tide conditions in representative areas each of the mooring fields.
- 2. The new location be as close as Possible to the old location, except as may be approved by the permittee,

- 3. The new location for moorings which historically did not have a permanent mooring assigned to another permittee behind or in front of it shall be a similar type of mooring, and the new location for beginning or end of row moorings shall also be either an end or beginning of row mooring, unless otherwise approved by the permittee, and moorings that are within the service area of shore boat service by a yacht club, such as BYC or NHYC, shall not be moved to a location outside the area of shore boat service.
- k. Agree to allow the Harbormaster, or his designee, to board the permittee's vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether said devices are discharging overboard in accordance with applicable laws.
- I. If a single mooring permit holder has requested, or will request, a second name to be added as a permit holder for the mooring, the original permittee who made the request will be the "Primary Permittee" and the second permit holder is the "Second Permittee." The addition of, or creation of, an additional permit holder does not result in a transfer of the mooring permit. The Primary Permittee, or his or her successor in interest, such as a person obtaining the permit by inheritance, shall have the right to remove the Second Permittee as a permittee. Following such removal, the Second Permittee shall remain liable for any violations of any City Code or regulations during the time the Second Permittee was a permittee.
- 3. Permittee/Transferee Qualifications. A mooring permit may be held only by a natural person(s) holding title to an assigned vessel. Mooring permits that were issued before << specific date or date of adoption of ordinance>>, including the subsequent transfer of such permit to another natural person(s), may be held by, or transferred to, only the following persons:
  - a. A natural person(s) holding title to an assigned vessel;
  - b. An executor or administrator carrying out the terms of a will or administering a probated estate that holds a mooring permit, but only for the period of time prior to distribution of the estate;
  - c. An inter vivos trust, family trust, or other similar type of trust estate holding a mooring permit, so long as all trustors are natural persons and the primary mooring permittee shall be the trustee of the trust;
  - d. An approved transferee whose vessel and/or mooring permit are subject to any of the

terms and conditions stated in subsection (E) of this section; "Immediate family," which shall mean the mooring permittee's spouse and heirs at law to the second degree of consanguinity;

- e. A marine contractor, or marine support service provider, holding a mooring permit used to provide current or ongoing harbor infrastructure and marine or fishing services (such as maintenance or dredging);
- f. Balboa Island Yacht Club for the purposes of youth education in boating and marine activities; Kerckhoff Marine Laboratories for the purpose of marine and oceanographic research; and American Legion Post 291 for the purpose of serving veterans and their families and supplying them with affordable access to boating and harbor activities; or similar marine educational entities; or
- g. The Balboa Yacht Club, Newport Harbor Yacht Club (collectively "yacht clubs") and the Lido Isle Community Association—only for those moorings assigned by the City within certain established mooring areas or locations, prior to January 13, 2011. These designated mooring areas may not be expanded. The boundaries of all mooring areas in Newport Harbor are graphically depicted by National Oceanographic and Atmospheric Administration (NOAA) Chart Number 18754. Yacht clubs shall be entitled to a maximum number of moorings identified in NOAA Chart Number 18754 that are located within the yacht club's established mooring fields and at a minimum the current number of moorings assigned to them as of January 13, 2011.
- C. Plans and Specifications Required. No mooring permit shall be issued for placing, erecting, constructing or maintaining a mooring or buoy unless such mooring or buoy is constructed:
  - 1. In accordance with standard plans and specifications approved by the Harbormaster and at a location approved by the Harbormaster; or
  - 2. In accordance with other plans and specifications for such mooring or buoy which have been submitted by the applicant, showing the construction of such proposed mooring or buoy together with the location thereof, and which meet the requirements established in this chapter and which have been approved by the Harbormaster.
- D. Late Fees. A late charge shall be added to all payments due but not received by the City by the due date in accordance with Section 17.05.120.
- E. Transfer of Permit. New Mooring Permits (permits for the use of a New Mooring as defined issued or in existence with the sole exception of mooring permits that were issued on or before January 1, 2022 [Error should be January 1, 2023) are transferable in accordance with the regulations set forth herein. above, (Moorings issued for the first time on or after January 1, 2022 [Error should say January 1, 2023] ) to a new permit holder "New Permit") Mooring permits are shall be non-transferable. Existing Permits, which are mooring permits to an existing permit holder or the holder's transferee, which permits were In the event an additional name is added to an Existing Permit does not change the

character of the permit which shall still be considered an Existing Permit under these regulations, and the periodic return and signing of a questionnaire or similar request for updated information regarding a mooring or vessel on the mooring, which may ask for an acknowledgement that the permittee has read the mooring regulations, is not, and does not result in the issuance of a New Permit.

before <<specific date or date of adoption of ordinance>>. including the subsequent transfer of such permit to another natural person(s), which may be transferred only to the persons specified in subsection (B)(3) of this section.

No mooring permittee shall transfer a permit for a mooring or buoy granted under the provisions of this chapter, except:

- 1. When transferred from a natural person to another member of his or her immediate family, which shall be defined for the purposes of this section as the mooring permittee's spouse and heirs at law to the second degree of consanguinity; or
- 1. Except when transferred to immediate family, a mooring permit may only be transferred under this subsection up to one time once in any twelve (12) month period, but additional transfers shall be allowed after that, but only once, in any twelve (12) month period.
- F. Procedures for Transfers. Permits shall not be transferred without the prior written approval of the Harbormaster. The Harbormaster may approve the transfer of a mooring permit under the procedures set out below:
  - 1. The mooring permittee(s) (or, if the permittee is deceased or incapacitated, the transferee) shall submit to the Harbormaster:
    - a. A completed mooring transfer form (on the form provided by the Harbormaster); and
    - b. Documentation that the proposed new mooring permittee (transferee) qualifies as a mooring permittee under subsection (B)(3) of this section.
  - 2. If transferee intends to purchase an assigned vessel but does not have title on the assigned vessel owned by the mooring permittee and transferor at the time of transfer, then:
    - a. Within sixty (60) days of a transfer, transferee shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the assigned vessel or, in the case of an onshore mooring, a photograph of the assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or
    - b. If such documentation is not received by the Harbormaster within the sixty (60) day period, then the vessel or the mooring may be impounded, and the mooring may be deemed vacant and assigned pursuant to subsections (G) and (H) of this section.
  - 3. If transferee intends to moor a vessel other than the assigned vessel and does not have title to

the vessel that will be moored at the time of transfer, then:

- a. Within sixty (60) days of an approved transfer, the transferee shall notify the Harbormaster that the assigned vessel has been removed from the mooring and before a new vessel may be placed on the mooring shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the new assigned vessel, or in the case of an onshore mooring, a photograph of the new assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or
- b. If the documentation is not received within sixty (60) days of a transfer, the mooring may be deemed vacant by the Harbormaster and the mooring may be assigned pursuant to subsections (G) and (H) of this section. The mooring may remain vacant until such time the permittee notifies the Harbormaster of their intent to assign their vessel to the mooring.
- 4. The transfer request shall be denied unless mooring permit rent, including late payment fees, is paid current; required mooring inspections are current; registration or documentation and insurance are provided; required maintenance and repairs are complete and there are no derelict

or unauthorized vessel(s) on the mooring; and the vessel is of appropriate length with the appropriate weights and chains.

- 5. The mooring permittee and transferee shall provide a written agreement to defend and indemnify the City of Newport Beach in any dispute with a third party over transferee's right to be the mooring permittee or in any dispute with a third party over the mooring permittee's right to transfer the permit.
- 6. Transfer Approval. Upon confirmation of compliance with this subsection, the Harbormaster must find all of the following conditions to approve the transfer of a mooring permit:
  - a. The mooring permittee no longer owns the assigned vessel or has retained ownership of the assigned vessel and has permanently vacated the mooring;
  - b. The transferee has met all the qualifications and conditions for issuance of a permit in subsection (B) of this section;
  - c. The transferor or transferee has reported to the Harbormaster the price paid for the mooring permit, and has paid to the City the required transfer fee; and
  - d. The transferor represents that the person did not discriminate against any transferee or prospective transferee because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.
- 7. The Harbormaster may approve a one-for-one exchange of moorings between two mooring permittees, subject to compliance with this subsection without any transfer fee imposed by the City.
- 8. The Harbormaster may approve the changing of an assigned vessel on the permit, subject to

the requirements of subsection (B) of this section, without any transfer fee imposed by the City.

- 9. Following an approved transfer, the Harbormaster shall list the transfer price of the mooring permit on a publicly available website hosted by the City, or on a third party's website under contract with the City to host information regarding mooring permit transfers.
- G. City's Authority to Assign Moorings through Use of Sub-Permits. With the exception of the Balboa Yacht Club, the Newport Harbor Yacht Club, and the Lido Isle Community Association's designated moorings, mooring permittee may not rent, assign, or transfer the use of the mooring to any other person. With the exception of moorings issued to mooring permittees described in subsection (B)(3)(g) of this section, the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:
  - 1. Deemed Vacant Moorings. The Harbormaster may assign deemed vacant moorings through the issuance of sub-permits at his or her own discretion. Sub-permits may be renewed upon availability. The mooring permittee may reclaim its mooring upon three days' prior written notice to the Harbormaster of its intent to return the assigned vessel to the mooring.

A "deemed vacant mooring" shall be defined as a mooring upon which:

- a. An assigned vessel has not been attached for thirty (30) consecutive days or more; or
- b. A vessel, other than an assigned vessel or approved sub-permittee vessel approved in accordance with subsection (H) of this section, has been attached for thirty (30) days or more; or
- c. Required documentation for an assigned vessel has not been provided for a transfer request pursuant to subsection (F) of this section.
- 2. Noticed Vacant Moorings. The Harbormaster may assign noticed vacant moorings through the issuance of a mooring sub-permit for any period of time, up to the reoccupation date on the mooring permittee's written notice, or the twenty-four (24) hour written notice per subsection (G)(2)(b) of this section. If the mooring continues to be vacant for thirty (30) days past the reoccupation date indicated on mooring permittee's notice, and there is no further written notice from mooring permittee, the mooring shall become a deemed vacant mooring.
  - a. Mooring permittee may provide written notice to the Harbormaster of its intent to vacate its mooring for fifteen (15) days or more. These moorings shall be "noticed vacant moorings." Written notice shall include the date the mooring permittee intends to vacate his/her mooring, and the date he/she intends to reoccupy the mooring with the assigned vessel.
  - b. If a mooring permittee provides written notice, the mooring permittee may reclaim the assigned mooring on the reoccupation date indicated in his/her written notice or, if the mooring permittee returns prior to or after the reoccupation date, upon twenty-four (24) hours' written notice to the Harbormaster.
- H. Procedures for Mooring Sub-Permit Issuance. Issuance of a mooring sub-permit shall be subject to the following conditions:

- 1. Provision of a written representation of the mooring sub-permittee's vessel length which shall be satisfactory to the Harbormaster;
- 2. The mooring sub-permittee agrees to be responsible for any damage to mooring equipment; to defend and indemnify the City of Newport Beach and the mooring permittee against any claims or losses arising out of, or related to, the mooring rental; to provide proof of insurance as may be determined by the City's Risk Manager; to provide registration or other proof of ownership; to provide an equipment damage deposit, all to the satisfaction of the Harbormaster; and authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster;
- 3. The repair of any damage to the mooring equipment shall be paid by the mooring sub permittee. If the mooring is damaged by a vessel assigned by the City, or the City's agent, the City shall arrange for the repair of the mooring with a qualified vendor and provide notice to the permittee of the occurrence and the arranged repair date. Should the sub-permittee fail to pay for the damage for any reason, the City will pay for the required repairs to the mooring, and then seek reimbursement from the sub-permittee. Also, the City shall make available a mooring without charge for the returning vessel of the mooring permittee until such time as their permitted mooring is repaired;
- 4. The mooring sub-permittee shall provide approved mooring lines which shall be removed at the end of the rental period;
- 5. A mooring sub-permit may be up to fifteen (15) days and may terminate at any time for any reason, and may be renewed based on availability. Upon return of the assigned vessel to the mooring, the Harbormaster will attempt to reassign the sub-permittee to another mooring. Mooring sub-permittees have no right of renewal or substitute moorings upon return of the assigned vessel, or upon termination of a mooring sub-permit for any reason. Mooring sub-permittees accept an indefinite term at their own risk. The decision by the Harbormaster to terminate a sub-permit shall be final and nonappealable;
- 6. The mooring sub-permit rent will be based on a rate established by resolution of the City Council; and
- 7. Mooring sub-permits are offered to the public on a first-come, first-served basis. City owned and operated moorings may be reserved in advance.
- I. Mooring Permit Transfer Nonrefundable Fee. The City shall charge the mooring permittee for the right to transfer a mooring permit under subsection (E) of this section in an amount equal to seventy-five (75) percent of the annual mooring rent as established by City Council resolution. This transfer fee represents a one-time nonrefundable transfer fee for the use of a mooring. A mooring permit transfer fee shall not be required if:
  - 1. The transfer is from the mooring permittee to the same mooring permittee as trustor of an inter vivos trust, living trust or other similar estate planning tool;
  - 2. The transfer is made under subsections (F)(7) and (8) of this section; or
  - 3. The transfer is made pursuant to under subsection (E)(1) (B)(3)(d)) of this section (immediate family).

J. Surrendered Mooring Equipment. If the mooring permittee sells, transfers, or otherwise no longer owns the assigned vessel and does not intend to apply for, or does not receive, approval to transfer the permit to another, the permittee may provide written notice to the Harbormaster of his or her intent to surrender the mooring permit; otherwise the provisions of subsection (G) of this section regarding a vacant mooring shall apply.

Once a mooring permit is surrendered, the mooring permittee shall remove the assigned vessel and/or the mooring equipment thirty (30) days after written notice of surrender of the permit, or, upon failure to remove the mooring equipment, title shall vest in the City and the City shall compensate the mooring permittee the fair value for the mooring equipment, less rent or fees owed, as provided in subsection (L) of this section.

#### K. Revocation of Permit.

- 1. The grounds and procedure for revocation of a mooring permit are set forth in Section 17.70.020.
- 2. Upon revocation of the mooring permit, it shall be the duty of the mooring permittee to immediately remove the mooring equipment and any moored vessel. If not removed within thirty (30) days of revocation of the permit, the mooring equipment shall vest in the City and may be auctioned by the City to another person or may be removed by the Harbormaster and the cost of mooring equipment removal shall be paid by the mooring permittee. Any moored vessel or equipment not removed within thirty (30) days may be impounded by the City and disposed of in the manner provided by law. City-incurred costs of removal of mooring equipment or any vessel moored thereto

may be charged against the permittee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel or mooring equipment.

- 3. During any revocation proceeding, if the mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbormaster.
- L. Moorings Reverting Back to City. Should a mooring revert back to the City for any reason, whether through abandonment, surrender, failure to provide documents pursuant to subsection (F) of this

section, or for any other reason other than as set forth in subsection (K) of this section, the following shall apply:

- 1. The mooring permittee shall be entitled to recover all of the mooring permittee's mooring equipment within thirty (30) days of reversion;
- 2. If the mooring permittee does not recover his or her mooring equipment, the mooring permittee shall be entitled to payment from the City of the fair value of the mooring equipment as depreciated by use in an amount to be determined by the Harbormaster and as set in the City's master fee resolution, after any and all past due rent and fees, if applicable, have been satisfied; and
- 3. The mooring equipment may be publicly auctioned by the City, or the City's designated representative, or the mooring equipment may be used for other City purposes.

Request to Extend Mooring Length or to Relocate to Larger Mooring.

- 1. Review Authority. No mooring lengths shall be extended beyond the designated mooring length for any mooring row; or that will result in extending into or impeding upon any portion of the adjacent fairway(s) to the mooring or otherwise create safety concerns.
- 2. If a permittee requests or obtains an assignment of a smaller vessel to the mooring and the smaller vessel has a LOA that is equal to or less than the designated length for the row, neither the mooring or the vessel will not be subject to relocation because it is smaller than the designated length for vessels in its row.
- 3. Handling of Requests.
- **a.** Move to Different Mooring and Row. If an offshore mooring permittee wishes to moor a vessel that is or will be longer than the assigned vessel and which will extend beyond the designated mooring length for the mooring row, an application request to relocate the mooring shall be submitted to the Harbormaster for consideration and at his or her discretion, may approve the request to relocate to a larger mooring if an appropriate-sized mooring to be exchanged with a mooring in the same mooring field with the consent of the permittee of the other mooring. If the relocation is approved, the existing offshore mooring permit(s) shall be amended to reflect (i) the new assigned mooring location(s), and (ii). the extension of the vessel occupancy length to accommodate a longer vessel up to a maximum of five additional feet in accordance with this subsection, and up to the maximum length of the new row with the approval of the Harbor Commission.
- **b.** Extension within Conforming Row. If an offshore mooring permittee wishes to moor a vessel that is or will be longer than the assigned vessel and which will not extend beyond the designated mooring length for the mooring row where the mooring is located, **an** application request to extend the mooring shall be submitted to the Harbormaster for consideration and at his or her discretion, may approve the request to extend the mooring, and if approved, the existing offshore mooring permit(s) shall be amended to reflect **the extension of** the mooring length to accommodate a longer vessel up to a maximum of five additional feet in accordance with this subsection, and up to the maximum length of the new row with the approval of the Harbor Commission.

After review by the Harbormaster, applications for the relocation or

**extension of mooring length** in excess of five feet shall be submitted to the Harbor Commission for consideration and rendering of a decision. For applications requiring the approval of the Harbor Commission, the Harbormaster shall present to the Harbor Commission all relevant facts to support the findings included in Section 17.05.140(D)(1).

Example: Permittee A wants to replace Atlantis (40' LOA), which is in a 40' row, with Atlantis II (42' LOA). A larger mooring is required. Permittee B's Barnacle (41' LOA) is in a 45' row. Permittee C's Calypso (40' LOA) is in 45' row. All three moorings are in the same mooring field. A's mooring assignment can be switched with C, but not with B.

- 4. Application.
  - a. Filing and Review of Request. An offshore mooring permittee shall file a written request for mooring relocation **or extension** with the Harbor
     Department on a form prescribed by the Harbormaster, together with the filing fee required by the City's fee schedule adopted by resolution of the City Council.
  - c. Application Requirements. An application for a mooring **extension or** relocation shall include the following information in addition to such other information as may be required by the Harbormaster:
    - i. The full identification of the applicant and the vessel for which an amendment to the existing offshore mooring permit or the mooring relocation is sought, certifying that the applicant and the assigned vessel have complied with (or in the event the vessel identification is unknown, applicant will certify that such unidentified vessel prior to occupying the mooring space will comply with) all of the applicable United States Coast Guard license, inspection, and certification requirements, and certifying that the applicant has read and is otherwise familiar with all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title;
    - ii. Such plans and specifications as may be required by the Harbormaster for the proposed longer vessel to be accommodated at the new or extended mooring; and
    - iii. Detailed information regarding the vessel including make, model, year, LOA, beam, dimension, vessel ID, and if the vessel identification is not known at the time of making an application, the LOA and adjusted LOA (including bowsprits, swim steps, or stern-mounted dinghies) of the proposed vessel for which the applicant seeks approval. The LOA as published by the manufacturer of a particular vessel shall be used to determine the required mooring size of a particular vessel, and the size of the specification for the chains, weights, and tackle necessary to secure a vessel on a particular mooring for a permittee. Adjusted LOA shall be used to determine the maximum vessel length that can fit in any particular slip or side-tie.

- 3. **Action on Application.** Upon receipt of a completed application, the Harbormaster or the Harbor Commission, as applicable, may approve or conditionally approve the relocation an amendment to the offshore mooring permit to allow the extension of the vessel occupancy length (in the event of an application for an unidentified vessel only a conditional approval may be obtained) only after making the findings set forth in Section 17.05.140(D)(1) and making the following findings:
  - a. There have been no changes in the conditions or circumstances of the existing offshore mooring permit so that there would have been grounds for denial of the original offshore mooring permit or grounds for revocation thereof at the time an application for extension of the assigned vessel occupancy length is filed;
  - b. The proposed extension of the assigned vessel occupancy length Relocation will not:
    - i. Impede or obstruct the fairways or channels or prevent or obstruct the passage of other vessels between the rows;
    - ii. Impede, obstruct or prevent other mooring permittees from safely navigating in and out of adjacent moorings or moorings in other rows connected by the same fairway to the row of the permittee's vessel;
    - iii. Result in vessel(s) extending beyond the outer boundaries of the mooring area or row; or
    - iv. Violate the designated maximum vessel LOA for the row or mooring area in which the vessel will be moored.; or
  - c. The applicant and the assigned vessel have complied with all of the appropriate United States Coast Guard license, inspection, and certification requirements for the assigned vessel and all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title; and
  - 4. The applicant agrees to cover all costs associated with **modifying the length** or relocating to the longer mooring, including, but not limited to, any costs associated with relocating mooring anchors and tackle, and any costs associated with resizing mooring tackle to meet applicable mooring standards (e.g., chain size or anchor weights).
  - 5. Conditions of Approval., **Approval of a request for mooring extension or relocation** shall be conditional and contingent upon the following requirements:
    - a. The costs of extension and/or relocation shall be borne by the permittees making the request.
    - b. The mooring permittee must occupy the new extended mooring or new relocated mooring with the new vessel within twelve (12) months following the date of approval; and

- 3. For a mooring permit that is transferable, the mooring permittee may not transfer the permit or the mooring permittee's rights pursuant to a valid mooring permit, as amended, and such mooring permit and rights pursuant thereto shall not be sold or otherwise transferred until a period of twelve (12) months following the date of occupancy of the mooring with the new vessel. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of this section.
- 5. Noncompliance with this section will constitute grounds for the Harbormaster to rescind the relocation approval and terminate the amendment to the mooring permit. In the event that the Harbormaster terminates the amendment to the mooring permit issued pursuant to this chapter, Within thirty (30) days of written notice of such recission and termination, if the permittee has moved the new vessel to a different mooring, the permittee shall at its sole expense return its vessel and the displaced vessel to their respective previously-assigned mooring locations, if and when available, if it will not become available, to such other mooring locations as become first available and as deemed appropriate by the Harbormaster, and, the mooring permittee may thereafter continue to use the mooring in accordance with all of the terms and conditions of the original offshore mooring permit and subject to all of the terms and provisions of this title applicable to mooring permits. The Intentional Violation of subsection (M)(4)(a) of this section shall be

#### Donald V. Farley 139 Carlin Lane, Riverside, CA 92507 Mooring J54

Newport Beach Harbor Commission (Harborfeedback@newportbeachca.gov) Ira Beer, Harbor Commissioner and Vise Chairman (ibeer@newportbeachca.gov)

November 2, 2022

COMMENTS REGARDING: e-mail dated 10/26/2022, from Ira Beer "Important Information Concerning Your Mooring"

Newport Beach Harbor Commission, and/or Ira Beer,

#### SUMMARY:

At first look, the proposed changes to mooring fields J and H seem desirable, however after further consideration, many of the proposed changes could have undesirable consequences, including impaired safety and functionality.

#### COMMENTS AND CONCERNS INCLUDE:

In general, there is a prevailing wind direction through the harbor. Presently, moored, boats tend to be facing into the wind, which is desirable, and is easier and safer when boats are approaching a mooring. Furthermore, present spacing allows boats to leave a mooring by going forward into the wind (particularly desirable for sail boats). The proposed plan would have some boats with their stern to the wind, not desirable, and would require most boats to back from a mooring when leaving.

The examples shown for the proposed arrangement show only 40, and 50-foot moorings. Boats in the 30-to-40-foot range should be considered.

While it may be desirable to cleanup the alignment of moorings, that should be possible with the current arrangement, if mooring placement can be as precise as implied for the proposed plan. Also, to prevent mooring buoys from drifting into the fairways, spreader lines could be installed on current buoys.

The desire to add additional moorings is fine if it does not interfere with the functionality of existing moorings. Furthermore, there will never be enough moorings.

Though I have sailed in Newport Harbor for over 50 years and had a mooring there for more than 30 years, I would welcome a discussion with, and input from, others with more experience regarding the management of moorings.

Thank you for your consideration.

If you have questions or comments, please contact me at 909-228-6970 and/or dvfarley@att.net

Thank you for your consideration.

Donald V. Farley

## NMA Submittal for public comment on agenda item 6-3 (Objective 2.3) 11/9/22 HARBOR COMMISSION OBJECTIVES TRACKING SHEET—Excerpted for Objective #2.3

#### 2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

Nothing to report.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.  The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the	Presented no substantive details of mooring plan No harbor code revisions presented
March 9, 2022  Nothing to report.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.  The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the	
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April 13, 2022  earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.  The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the	
May 11, 2022 will be requested of the Commission at next month's meeting.  Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the	
June 8, 2022 earlier in the meeting. He brought before the	Presented no substantive details of mooring plan No harbor code revisions presented
Commission his draft plan for feedback.	Presented <u>slideshow</u> of mooring field redesign No harbor code revisions presented
July 13, 2022 Vice Chair Beer has received information from the engineering firm and will provide a more comprehensive update at next month's meeting.	No updates, engineering report "coming"
August 10, 2022  Vice Chair Beer noted that he is waiting on the final report from the City's contract engineer. Once he receives that he can verifiy the information and provide a report to the Commission.	Presented no substantive details of mooring plan No harbor code revisions presented
September 14, 2022 Vice Chair Beer will provide a complete report of this objective at the next meeting.	Presented no substantive details of mooring plan No harbor code revisions presented
October 12, 2022  Vice Chair Beer provided a complete report on Objective goal 2.3 for consideration by the Harbor Department.	FIRST PRESENTATION OF COMPLETE REPORT FIRST SUBMISSION OF HARBOR CODE REVISIONS
November 9, 2022 December 14, 2022	

## 

**Newport Beach Harbor Commission Objective** 

For

**Harbor Viability** 

Within

**Functional Area 2.3** 

Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields

Ira Beer Harbor Commissioner November 9, 2022



# Historical Background Relating to Mooring Extensions & Improving Navigation

### **Harbor Commission Objective 2.3 as Approved by City Council**

**Purpose:** To evaluate the current mooring fields and provide a recommendation for new guidelines resulting in:

- Better Define Rows and Fairways To Improve Navigation and Safety
- Improved Optimization Of Space Within The Mooring Fields
- Additional City Moorings Within The Current Mooring Fields



## Historical Background

- Historically, the Newport Harbor Mooring Fields had been managed by the Orange County Sheriff's Department (OCSD).
- In 2017, the City of Newport Beach ended its contract with the OCSD Harbor Patrol for mooring administration and code enforcement, which is now managed by the Newport Harbor Resources Department.
- Prior OCSD practice was to approve mooring extensions on an ad-hoc basis without any official policy, guidelines or best practices. This practice has resulted in poor utilization of open water space reducing the navigable areas within the mooring fields.
- Since 2019, Harbor Commission policy has been to not approve mooring extension requests.
- As a result of prior practice, the current space within the mooring field footprints in many cases is not safely navigable nor suitable for public access and in many locations has turned into what closely resembles a crowded parking lot.



## Solution for Improved Safety and Creating New Open Water Space

### **New Double Rows vs. Single Row Mooring Configuration**

#### **Intention:**

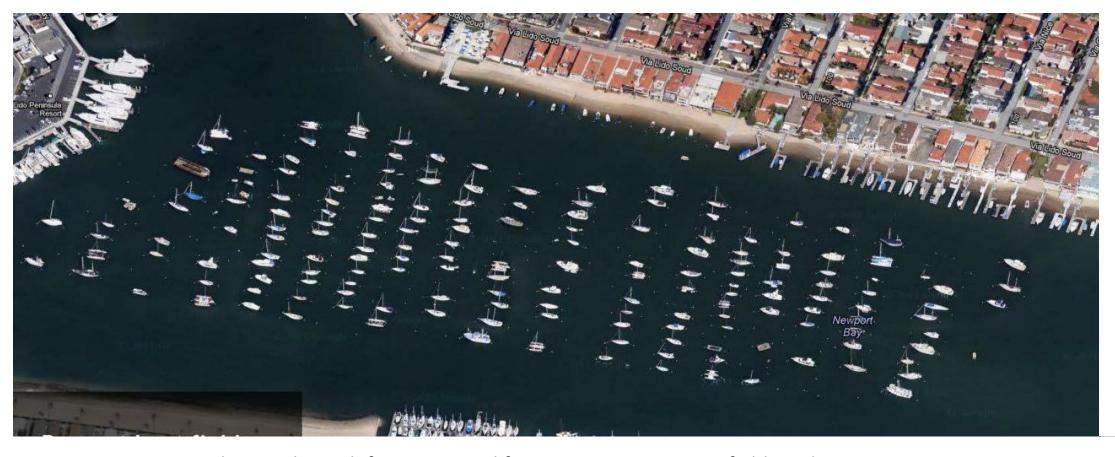
- Greatly improved utilization of water space within the mooring fields
- Increase open water space throughout the harbor
- Create wider and well-defined fairways
- Increased spacing between moorings in the same row (appx minimum 50' on center)
- More overall room to maneuver when tying to or departing from a mooring
- Safer navigation throughout the mooring fields for all mariners (motor, sail and human powered craft)
- Option to use a single buoy mooring system (like what is used in Catalina)
- Addition of long-term moorings to each mooring field.



## **Single Row Mooring Field**

Approximately 200 Moorings covering 1.3 million sq/ft (30 ACRES)

Newport Harbor Mooring Fields J & H



Without policies defining row and fairway sizes, a mooring field can become a safety concern to navigate and become very inefficient use of valuable waterways.

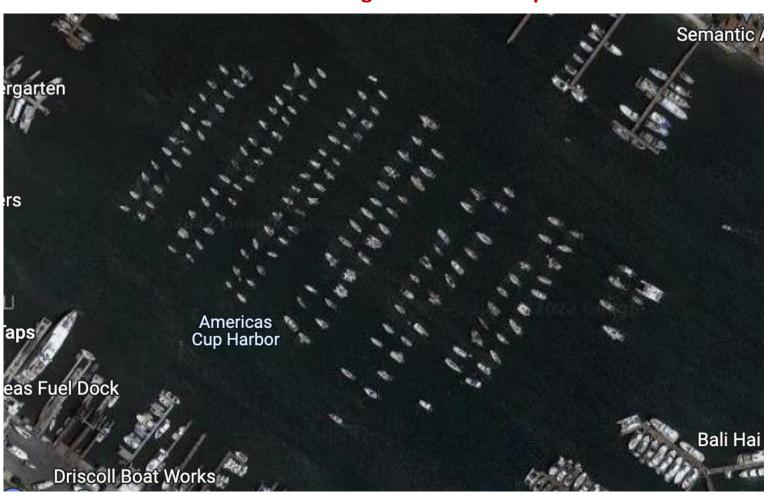


## **Double Row Mooring Configuration**

### America's Cup Harbor, San Diego

Approximately 180 Moorings covering 650,000 sq/ft (15 ACRES)

#### 90% of the moorings in 50% of the space



Boats in double rows provide more efficient use of space than single rows allowing for wider fairways that improve safety, navigation and aesthetics.

The America's Cup Harbor double row mooring field has provided a space efficient and safe harbor for mariners for the past 40 years. America's Cup Harbor experiences similar wind speeds as Newport Harbor and is subject to wakes from large vessels including naval ships from the main channel.

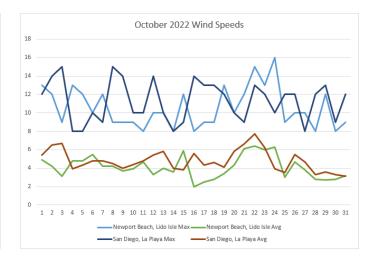


## Wind Speeds Newport Harbor and San Diego Harbor

#### Both Newport and San Diego Harbors Experience Similar Wind Speeds

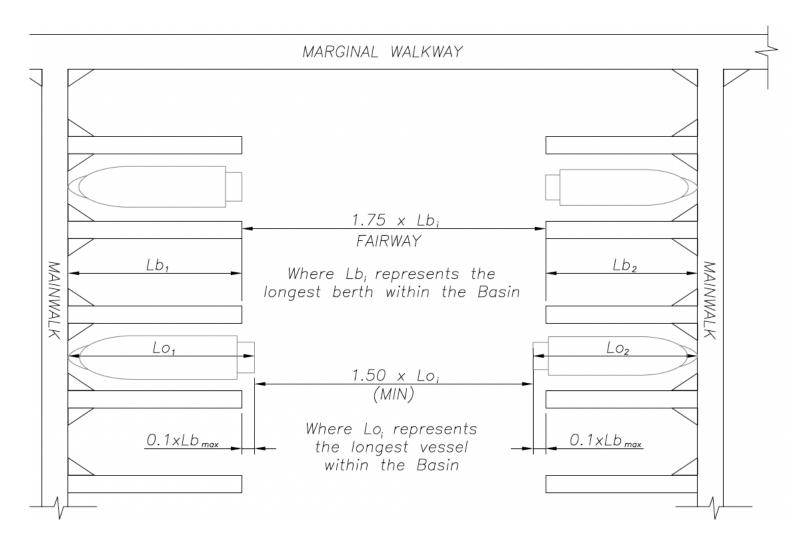








## City of Newport Beach Harbor Design Standards



Harbor Design Standards adopted by the City of Newport Beach require the fairways (navigational area between slips) to be a minimum of 1.5 x the boat LOA (Length Overall)

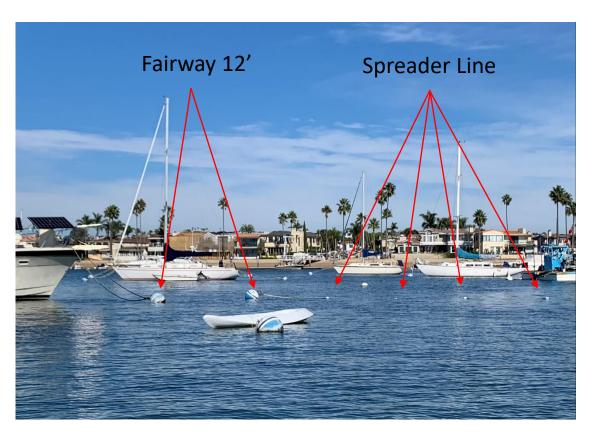
Arguably, the fairways between rows In a mooring field should be held to the same guidelines as a marina slip is typically part of permanent structure. A mooring in open water allows for boat movement and drifting creating a less forgiving environment to safely navigate.



## **Current Spacing Is Below Harbor Design Standards**



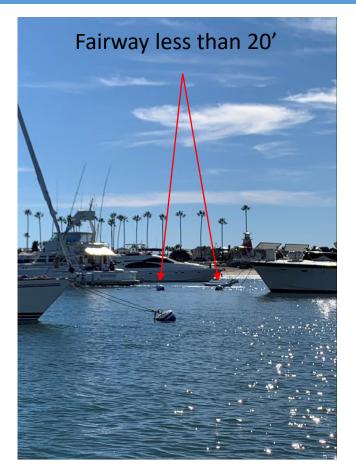
Dangerously narrow and cluttered fairway poses a safety hazard to all mariners.



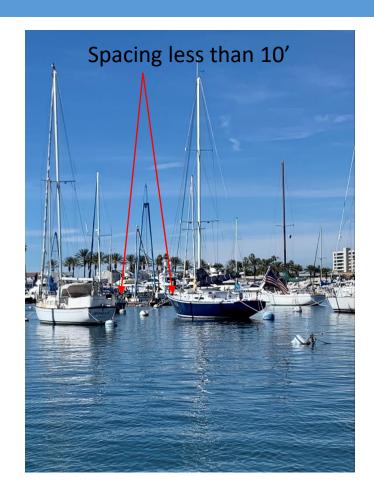
Closer view of fairway shows approximately 12 feet space to navigate through. Spreader line is longer than the mooring creating a safety hazard.



## **Current Spacing Is Below Harbor Design Standards**



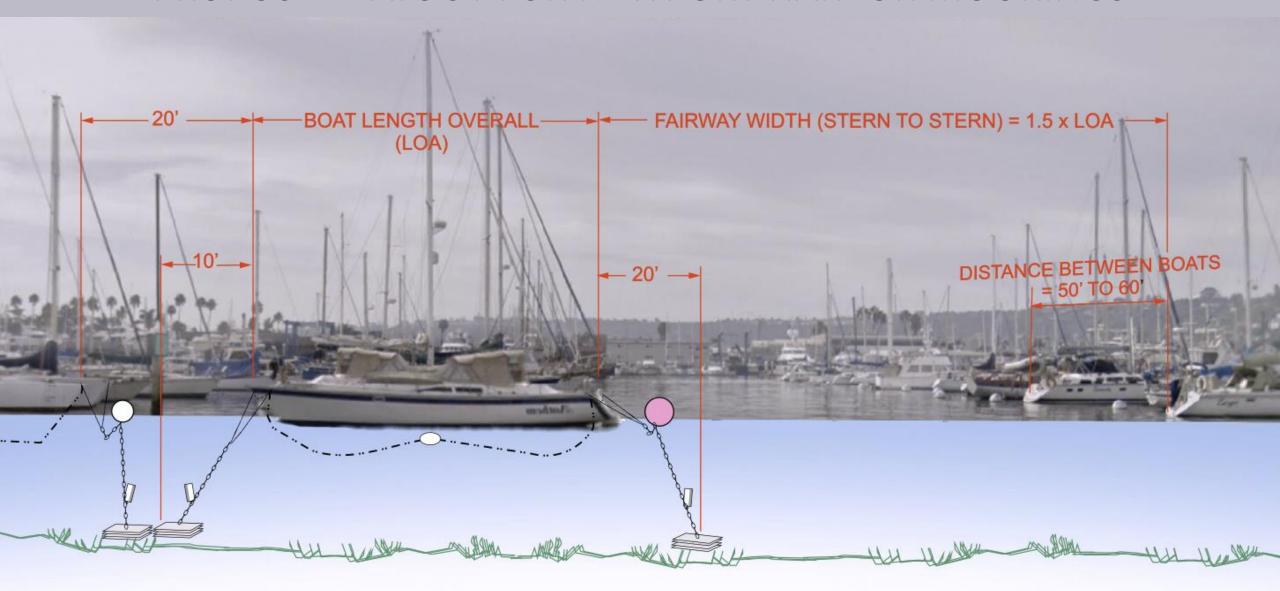
Narrow fairways under 20' in places





Often less than 20' distance between boats in the same row

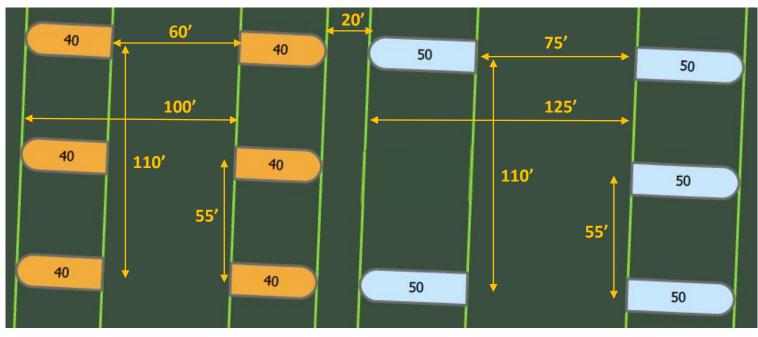
## PROPOSED LAYOUT FOR NEWPORT HARBOR MOORINGS





## Safety and Improved Navigation With Double Row – Two Point Moorings

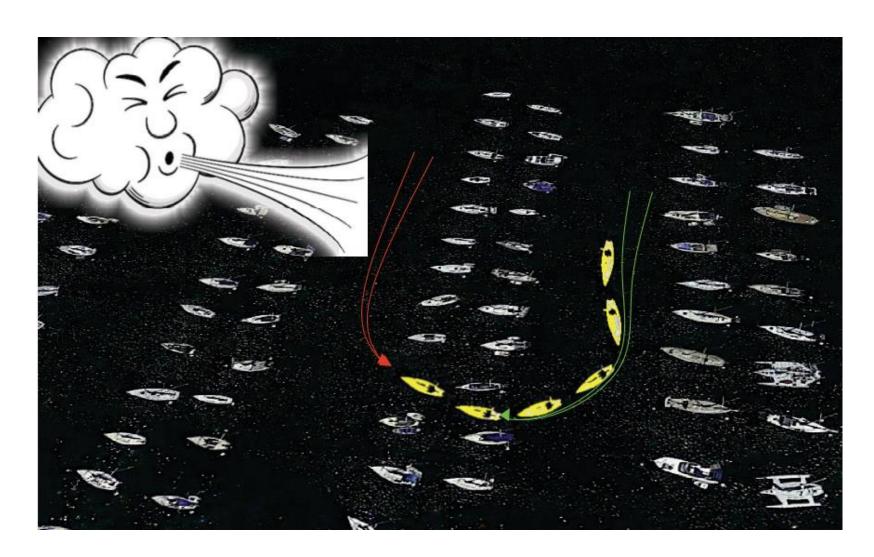
### New Double Row Mooring Design – C Field



- When approaching a 50' mooring, a boater will have a 75' wide fairway (1.5 x its LOA) and open space of approximately 100' x 125' to grab the mooring line and secure the vessel.
- A boater can safely move left or right a distance up to 50' when abandoning an attempt to retrieve the mooring line. A boat tied to a mooring should not be able to encounter adjacent boats in the same row.
- Even with all this extra room, boaters must know how to properly operate their vessel and are responsible to match their ability with present conditions in an open an active mooring field.



# Flexibility and Space For Mooring in Varying Conditions



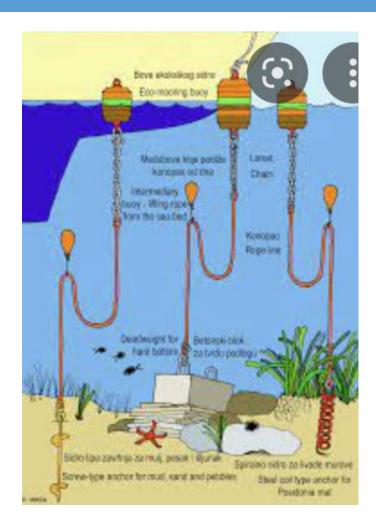
When tailwinds or other conditions affect the approach to a mooring, the improved open water space between moorings (50'to 60' oncenter), should be ample room for approaching the mooring from the downwind or opposing fairway.



## New Environmental Design Uses Conservation Moorings



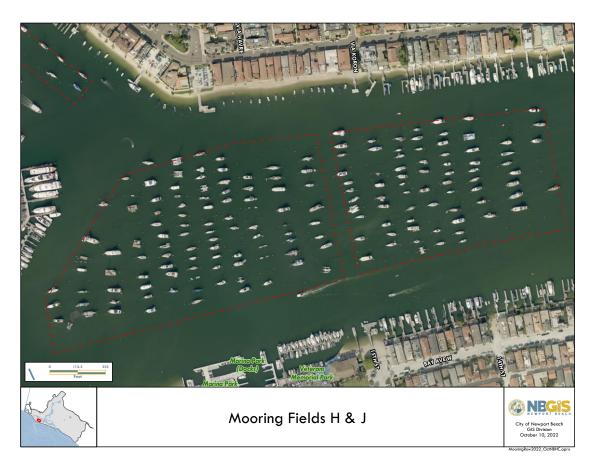
Mooring scarring destroys eel grass and disrupts the marine ecosystem. The California Coastal commission has imposed strict guidelines for eel grass monitoring and mitigation.



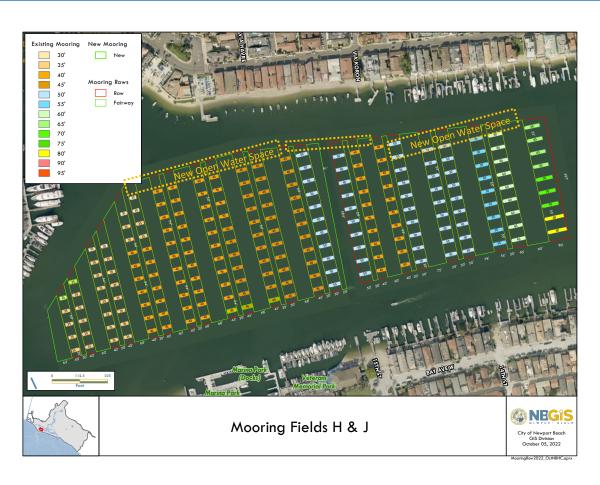
Floats as shown in the diagram will keep the chain mostly off the sea floor allowing for eel grass to flourish and help restore marine life in the harbor.



## Single Row Mooring Configuration J & H Fields



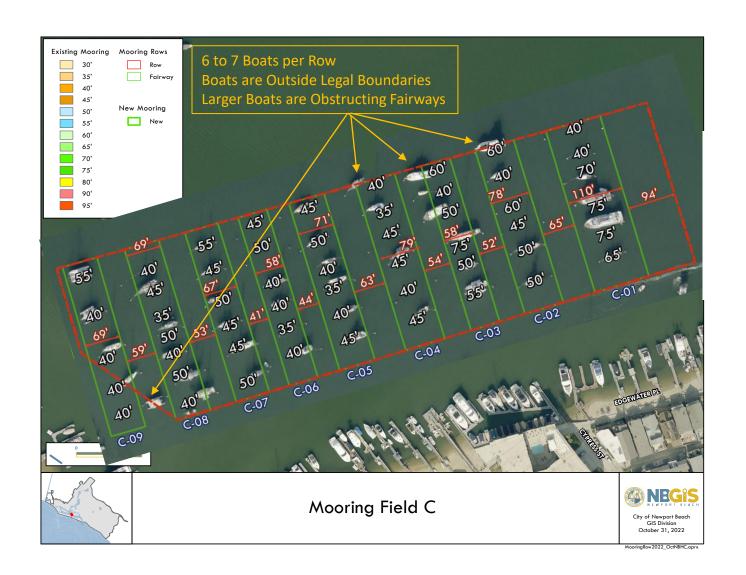
This is a poor utilization of space. Up to 15 boats in a row. Every row provides less than adequate spacing and is not compliant with Harbor Design Standards.



New configuration provides improved navigation and utilization of space. Only 11 boats per row vs 15. Every row is in substantial compliance with Harbor Design Standard 359



## New Double Row Mooring Configuration C Field Pilot Test - Before

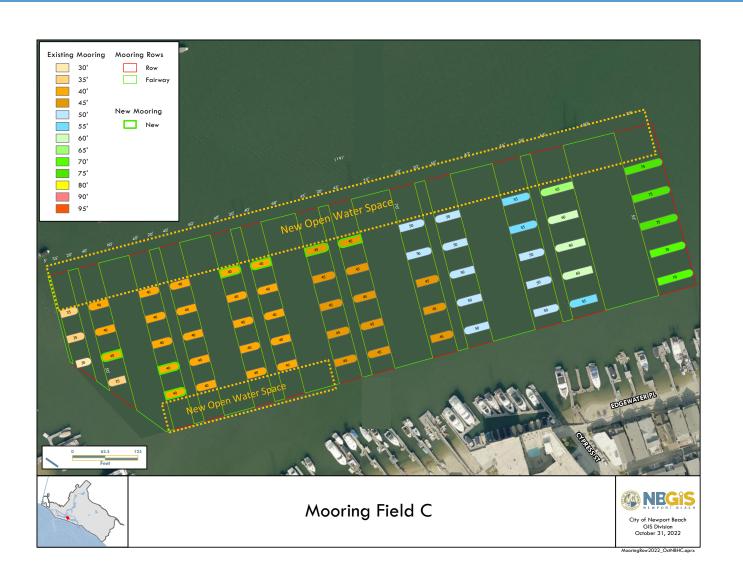


#### **Existing Conditions**

- All rows provide less than adequate spacing that is not compliant with Harbor Design Standards. Fairways are only 41' to 65' wide with up to 75' boats protruding into fairways.
- Many vessels are moored outside the designated mooring field boundaries.
- Poor utilization of valuable water space along the main channel of Newport Harbor



## New Double Row Mooring Configuration C Field Pilot Test - After



- New Configuration Provides Improved Utilization of Space
- Every Row is in Substantial Compliance with Harbor Design Standards. All boats are spaced 50' - 55' on center and fairways range from 60' to 100'.
- Rows Reduced in Size from 6 to 7 Boats
   Down to 5 Boats
- 7 New Moorings Are Added
- 2 Acres of New Open Water Created
   Along The Main Channel (appx 1200' x 70'
- Greater Distance Between the Mooring Field and Residential Properties
- Complete one-double row then test and confirm engineering design before continuing with the balance of the field. 361



# Title 17 Changes to Sections 17.25.020 and 17.60.040

### **Summary**

- Accommodation for all prior mooring extension requests up to five feet that were received before November 1, 2022
- Creating an opportunity for future extensions through a mooring exchange program where practicable
- Creating an option to allow for double mooring rows with optional shared anchor systems
- Allow mooring permittees to use a proper length floating spreader line attaching bow to stern mooring buoys and requiring the spreader line be connected to both mooring buoys when the boat is off mooring
- Future new mooring permits issued will be non-transferrable
- Policy related to transferability for existing mooring permittees remains unchanged
- General clarifications to existing policy



## Newport Harbor Mooring Field Reconfiguration

### **Summary**

- Adding open water space for use by all mariners over public tidelands.
- No upfront cost to existing mooring permittees.
- Accommodation for all 5' mooring extension requests received before November 1, 2022.
- Greater average distance in rows between boats for safer mooring.
- All relocations will be in the same mooring field with consideration for like-for-like positioning, where practicable.
- Substantially wider fairways for improved public access and safer navigation through the mooring fields for both human-powered and motor-powered craft.
- Improved aesthetics for shoreline properties of residents, commercial establishments,
   visitors and all harbor users.
- Additional moorings that will (i) be more affordable and require no initial investment to use, and (ii) generate additional revenue for the Tidelands Fund and Harbor Operations.
- Return of capital investment as a result of new mooring revenue to the City.



## Question & Answer

Session for Harbor Commissioners

Presented by

**Ira Beer Harbor Commissioner** 



## **Public Comments**

Open Forum



November 9, 2022 Agenda Item No. <u>6.4</u>

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster, (949) 270-8158 pblank@newportbeachca.gov

TITLE: Harbor Commission Draft 2023 Objectives Review

#### ABSTRACT:

The Harbor Commission periodically conducts a review and updates their objectives. An ad hoc committee was appointed to conduct a review of the Commission's 2022 objectives and recommend modifications for 2023 to be reviewed by the entire Harbor Commission. At their October 12, 2022 meeting, the Harbor Commission approved formation of an ad hoc subcommittee to draft objectives for 2023. Eventually, the approved objectives will be forwarded to the City council for review and consideration.

#### **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, review and provide guidance for further refinement of the Commission's 2023 Objectives.

#### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

#### **DISCUSSION:**

The Harbor Commission periodically prepares objectives and devises workplans to accomplish those objectives. The cycle for objective setting is roughly each calendar year. An ad hoc committee led by Chair Scully is reviewing the 2022 objectives and determining whether or not each objective should be modified, enhanced, or deleted. The ad hoc subcommittee seeks input from the Commissioners, Harbor stakeholders, and the public on the format and content for the Commission's 2023 objectives.

The Harbor Commission will eventually request that their recommended 2023 objectives be presented to the City Council for consideration and review.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action is not subject to 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 City Council considers the item).

#### **Commissioner**

#### **Short Term**

- Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields.

#### Long Term

- Evaluate options for additional City Moorings and or Multi Vessel Mooring System (MVMS).

#### Commissioner

#### **Short Term**

- Continue to work with staff to support the Harbor Dredging project that is contemplated for 2023.
- Work with staff on an update of the market rents to be charged for onshore and offshore moorings.

#### Long Term

 Evaluate and identify responsibilities and obligations of the city for additional safety vessels/equipment that may be added to the Harbor in the future.

#### Commissioner

#### **Short Term**

- Evaluate any City plans on Lower Castaway and make recommendations where applicable.

#### Commissioner

#### **Short Term**

- Evaluate establishing day moorings off Big Corona Beach.
- Continue to develop and promote the Newport Harbor Safety Committee.

#### **Commissioner**

#### **Short Term**

- Conduct an annual review of Title 17 and recommend updates to the City Council where necessary.

#### Long Term

- Work with City Staff to identify opportunities to increase Affordable Access to boat storage within Newport Harbor.

#### **Commissioner**

#### **Short Term**

- Evaluate additional Harbor services that can provide for an improvement in services and harbor quality that supports all Newport Harbor stakeholders.

#### Commissioner

#### **Short Term**

- Evaluate current Harbor Department Operations to determine if the department is structured property to meet all responsibilities of the Harbor daily.

November 9, 2022 Agenda Item No. 6.5

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster, 949-270-8158

pblank@newportbeachca.gov

**TITLE:** Ad Hoc Committee Updates

#### **ABSTRACT**:

Several ad hoc committees have been established to address short term projects outside of the Harbor Commission objectives. This is the time 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, Division 6, 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.

#### **DISCUSSION:**

The Harbor Commission has two established ad hoc committees at this time to provide further review of issues that have arisen outside the adoption of the Harbor Commission Objectives or at the request of City Council. This is the time the Ad Hoc Committees will update the Harbor Commission on their progress.

The Ad Hoc Committees are:

 Review of City Council Policy H-1 – Pier and float extensions beyond the pierhead line – Commissioners Marston, Scully (05-11-2022)

- Review of the Harbor and Beaches Master Plan Secretary Yahn and Commissioners Cunningham and Svrcek (07/13/2022)
- Review and suggest Harbor Commission Objectives for 2023 Chair Scully and Commissioners Cunningham and Williams (10-12-2022)

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to 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, Division 6, 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).

November 9, 2022 Agenda Item No. <u>6.6</u>

TO: HARBOR COMMISSION

**FROM:** Paul Blank, Harbormaster, 949-270-8158

pblank@newportbeachca.gov

TITLE: Harbor Commission 2022 Objectives

#### **ABSTRACT**:

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 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, Division 6, 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.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

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).

#### **ATTACHMENTS**:

Attachment A – Harbor Commission 2022 Objectives

Attachment B – Harbor Commission 2022 Objectives Tracking Sheet

#### **City of Newport Beach**

#### **Harbor Commission Purpose & Charter**

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The Harbor Commission's charge under Section 713 of the Newport Beach City Charter is to advise the City Council on the diverse uses of Newport Harbor and its waterfront. The Charter specifies:

There shall be a City Harbor Commission of seven members which shall have the power and duty to:

- (a) Advise the City Council on all matters relating to proposed harbor improvements and the use of Newport Harbor.
- (b) Advise the City Council on all matters pertaining to the use, control, operation, promotion, and regulation of all vessels within Newport Harbor.
- (c) Approve, conditionally approve, or disapprove applications on all permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
- (d) Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, and policies of the Harbor and Bay Element of the General Plan.
- (e) Advise the City Council, Planning Commission and City Manager on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
- (f) Serve as an appellate and reviewing body for decisions on permits and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
- (g) Perform such other duties relating to Newport Harbor as the City Council may require. (As amended effective December 14, 2020)

#### **Harbor Commission – Objectives**

The following objectives are intended to support the mission of the Harbor Area Management Plan and the two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.

These updated objectives are subject to the review and approval of the Commission, and final approval by the Newport Beach City Council. Harbor Commission ad hoc committees, as established by the Commission, bear principal responsibility for coordinating the Commission's efforts, along with staff support, in achieving these Objectives.

# City of Newport Beach - Harbor Commission Objectives 2022

2022 Objectives	Functional Area
<ol> <li>Conduct an annual review of Title 17 and recommend updates to the City Council where necessary. (Yahn)</li> <li>Conduct an annual review of the Marine Activities Permits and recommend updates thereto as pages and</li> </ol>	1. Harbor Operations (Yahn)  Matters pertaining to the Management,
<ul><li>and recommend updates thereto as necessary.</li><li>3. Work with City Staff to bring all onshore and offshore Mooring Permittees permit forms current and properly on file. (Beer, Cunningham)</li></ul>	Policies, Codes, Regulations, and Enforcement.
4. Evaluate current Harbor Department Operations to determine if the department is structured properly to meet all responsibilities of the Harbor on a daily basis.	
Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham)	2. Harbor Viability (Beer)
2. Work with City Staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)	Matters pertaining to Assets, Amenities, and Access.
3. Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. (Beer)	
4. Review the On-shore mooring vessel specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Cunningham, Scully)	
5. Evaluate options for additional City Moorings and/or Multi Vessel Mooring Systems (MVMS) for temporary use by visiting mariners or long-term mooring permittees. (Williams)	
6. Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)	

2022 Objectives	Functional Area
<ol> <li>Support staff on the rehabilitation of the current public floats and gangways including areas of the harbor that could benefit with additional public access.</li> <li>Evaluate and identify the responsibilities and obligations of the city for additional safety vessels/equipment that may be added to the Harbor in the future.</li> </ol>	3. Harbor Infrastructure (Cunningham)  Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.
1. Evaluate enhancements and/or services to City amenities which will improve the operation and enjoyment of the Harbor. Additionally, identify new revenue generating offerings that would be administered through the Harbor Department. (Scully)  2. Evaluate and make recommendations for Lower Castaways. (Marston)	4. Harbor Stakeholders (Scully)  Matters pertaining to Residential, Recreational, and Commercial Users.
3. Continue the dialogue with representatives of the Harbor Charter Fleet industry, commercial vessel operators and rental concessionaires to: (1) promote best practices for all charter and commercial boat operations in Newport Harbor with particular attention to safety, operational support, speed, noise and pollution control/compliance and (2) evaluate (a) total number of vessels for hire on the harbor, (b) maximum passenger capacity for each vessel and in total, and (c) overall height of the superstructure of vessels for charter within the Harbor. (Williams)	

### 1. Harbor Operations (Yahn) - Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement

	1.1 Conduct an annual review of Title 17 and recommend updates to the City Council where necessary. (Yahn)	1.2 Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	1.3 Work with City Staff to bring all onshore and offshore Mooring Permitees permit forms current and properly on file. (Beer, Cunningham)	1.4 Evaluate current Harbor Department Operations to determine if the department is structured properly to meet all responsibilities of the Harbor on a daily basis.	
January 12, 2022	The Ad Hoc is bringing updates to Title 17 for the Commission's review to the February meeting.	Nothing to report.	Nothing to report.	Nothing to report.	
February 9, 2022	The Ad Hoc brought the suggested updates to the Commission at tonight's meeting and received approval to move them forward for Council approval.	This item will be revisted later in the year.	Staff has collected issues with respect to the Mooring Permit forms and those will be reviewed.	This Objective will be incorporated into Objective 2.1.	
March 9, 2022	It will be submitted to Council for review and approval.	Nothing to report.	Staff will give an update on this project at the next meeting.	This Objective will be incorporated into Objective 2.1.	
April 13, 2022	The recommended changes were submitted to Council for review. Council discussed the revisions and continued the item to the next meeting.	Nothing to report.	Nothing to report.	Nothing to report.	
May 11, 2022	The Ad Hoc noted the updates to Title 17 have been approved by the City Council with the exception of raft-ups. A Special Meeting of the Harbor Commission will be conducted for stakeholder input.	Nothing to report.	Nothing to report.	Nothing to report.	
June 8, 2022	The Ad Hoc is currently taking information from the stakeholder meeting and reviewing floats and lifts in Title 17.		Nothing to report.	Nothing to report.	
July 13, 2022	The Ad Hoc continues to review and discuss the feedback from the Community meeting on floats and lifts.		Nothing to report.	Nothing to report.	
August 10, 2022	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to report.	
September 14, 2022	Comments regarding areas of concern are being collected.	Nothing to report.	This objective is near completion and it is anticipated that it will be done by the end of the year.	Nothing to report.	
October 12, 2022	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to report.	
November 9, 2022					
December 14, 2022					

### 2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	·	2.2 Work with City Staff on an update of the				
			that better define rows and fairways to improve navigation, safety, and optimization of space	the goal of insuring adequate spacing between	Moorings and/or Multi Vessel Mooring Systems (MVMS) for temporary use by visiting mariners or long-term mooring permittees. (Williams)	moorings. (Williams)
January 12, 2022	_	The appraisal for onshore moorings is complete and will be brough back for review by the entire Commission at the February meeting.		The ad hoc will explore areas around the Harbor with the new beam specification and length.	The ad hoc suggested a better defined description for MVMS for the Harbor and Beaches Master Plan, as well as quantities and potential cost.	Nothing to report.
February 9, 2022	The ad hoc continues to discuss this item and will provide further information at a future meeting.	This is an ongoing discuss and a special meeting will be set for further input.	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to report.
March 9, 2022	Nothing to report.	The Commission received a presentation from the State Lands Commission. This is an ongoing discussion and a special meeting has been set for the Commission to hear additional feedback from the public.		Nothing to report.	Nothing to report.	Nothing to report.
April 13, 2022	Chair Kenney appointed Commissioner Williams to assist with this objective.		Vice Chair Beer discussed this objective in detail earlier in the meeting. He noted he is waiting for the third audit to come in and will bring it back to the Commission.	Nothing to report.	Nothing to report.	Nothing to report.
May 11, 2022	The Ad Hoc will be meeting soon to discuss next steps.		The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.		Nothing to report.	Nothing to report.
June 8, 2022	The Ad Hoc is in the early stages of evaluating the mooring transfer policy.		Vice Chair Beer discussed this objective in detail earlier in the meeting. He brought before the Commission his draft plan for feedback.		Nothing to report.	Nothing to report.
July 13, 2022	Nothing to report.	Nothing to report.	Vice Chair Beer has received information from the engineering firm and will provide a more comprehensive update at next month's meeting.	Nothing to report.	Nothing to report.	Nothing to report.
August 10, 2022	Nothing to report.	Nothing to report.	Vice Chair Beer noted that he is waiting on the final report from the City's contract engineer. Once he receives that he can verifiy the information and provide a report to the Commission.		Nothing to report.	Nothing to report.
September 14, 2022	Nothing to report.	Nothing to report.	Vice Chair Beer will provide a complete report of this objective at the next meeting.	Nothing to report.	Nothing to report.	Nothing to report.
October 12, 2022	Nothing to report.		Vice Chair Beer provided a complete report on Objective goal 2.3 for consideration by the Harbor Department.		Nothing to report.	Nothing to report.
November 9, 2022						
December 14, 2022						

## 3. Harbor Infrastructure (Cunningham) - Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.

	3.1 Support staff on the rehabilitation of the	e 3.2 Evaluate and identify the responsibilities and
	current public floats and gangways including	g obligations of the city for additional safety
	areas of the harbor that could benefit with	h vessels/equipment that may be added to the
	additional public access.	Harbor in the future.
January 12, 2022	Nothing to Report	Nothing to Report
February 9, 2022	Nothing to Report	Nothing to Report
March 9, 2022	Nothing to Report	Nothing to Report
April 13, 2022	Nothing to Report	Nothing to Report
May 11, 2022	The City is requesting approval of dredging permit at the June Coastal Commission meeting.	Nothing to Report
June 8, 2022	Nothing to Report	There will be a study session item on the next City Council agenda to discuss Fire response on the Harbor.
July 13, 2022	Nothing to Report	Nothing to Report
August 10, 2022	Nothing to Report	The request for deep water dredging will go before the Coastal Commission at their September meeting.
September 14, 2022	Nothing to Report	Nothing to Report
October 12, 2022		
November 9, 2022		
December 14, 2022		

### 4. Harbor Stakeholders (Scully) - Matters pertaining to Residential, Recreational, and Commercial Users.

		o Residential, Recreational, and Co 4.2 Evaluate and make recommendations for			
	City amenities which will improve the				
			representatives of the Harbor Charter Fleet		
	operation and enjoyment of the Harbor.		industry, commercial vessel operators and		
	Additionally, identify new revenue generating		rental concessionaires to: (1) promote best		
	offerings that would be administered through		practices for all charter and commercial boat		
	the Harbor Department. (Scully)		operations in Newport Harbor with particular		
			attention to safety, operational support,		
			speed, noise and pollution		
			control/compliance and (2) evaluate (a) total		
			number of vessels for hire on the harbor, (b)		
			maximum passenger capacity for each vessel		
			and in total, and (c) overall height of the		
			superstructure of vessels for charter within		
			· ·		
	Nothing to report	The ad has with some Council for interest in	the Harbor. (Williams)		
	Nothing to report.		The ad hoc has discussed ideas for promoting best		
		improvements for Lower Castaways.	practices and addressing safety in the Harbor. The ad		
January 12, 2022			hoc has also discussed establishing a document that		
			lists all the vessels that operate within the Harbor.		
	Nothing to report	Council has noted that Lower Castaways should not	The ad hoc has drafted a work plan and the next step		
	Nothing to report.	Council has noted that Lower Castaways should not	was to create a Newport Harbor Safety Committee		
			·		
		· ·	that will hold a bi-monthly meeting with the boating		
		Members.	and business community. The committee will discuss		
			best practices within the Harbor, an emergency		
			response plan, pollution identification and other		
February 9, 2022			Harbor-related items.		
	Nothing to report.	The ad hoc has reached out to some of the Council	The ad hoc is in the process of creating the Newport		
		and they are supportive of exploring improvements	Harbor Safety Committee.		
		at Lower Castaways. The next step is to begin			
March 9, 2022		discussions with the Community Development			
		Department and Public Works Department.			
		·			
	Nothing to report	Engagement with Council regarding Lower Castaways	The ad has has identified the framework for the		
	Nothing to report.				
<b>April 13, 2022</b>			Safety Committee and is in the process of identifying		
ļ / -			key members. The ad hoc anticipates the first		
			meeting will be held in the third quarter of 2022.		
	This Ad Hoc is working with the Water Quality	The Ad Hoc is discussing further ideas for Lower	The Ad Hoc noted the database of rental charters,		
May 11, 2022	Coastal Tidelands Committee to install floating	Castaways and trying to determine next steps.	non-profit vessels and human-powered craft is near		
, ,	restrooms on opposite sides of the Harbor.		completion.		
	This Ad Hoc is continuing to discuss installation of	The Ad Has continues to discuss further ideas for	The Ad Hee is starting to identify stakeholders to		
	_		The Ad Hoc is starting to identify stakeholders to		
June 8, 2022	floating restrooms for the Harbor.	Lower Castaways and is working to determine next	take part in the Safety Committee.		
		steps.			
	This Ad Hoc will continue to discuss installation of	The Ad Hoc has reached out to the PB&R Committee	The goal of this Ad Hoc is to hold the first meeting of		
	floating restrooms for the Harbor.	to confirm whether plans have been discussed for	the Safety Committee in the 3rd Quarter of this year.		
		·	Chair Scully also noted that he has updated his		
July 13, 2022		-	census information that was presented a the June		
			meeting and the information will be posted to the		
		·	Harbor website.		
	Nothing to report.	This Objective is being placed on hold for now.	25 candidates have been identified to participate in		
August 10, 2022			the Newport Harbor Safety Committee. The first		
			meeting is scheduled for October 18, at 5:30 p.m.		
	The WQCT Committee was disappointed with the		The ad hoc is looking forward to the first Harbor		
	decision of the Harbor Commission to approach		Safety Committee meeting on October 18 and		
September 14, 2022	the floating restroom topic with education first.		anticipates a good turn out.		
-	Perhaps there can be a review of this item.		annelpates a good turn out.		
	r ernaps there can be a review of this item.				
	The Trash Wheel has obtained the necessary		The ad hoc is looking forward to the first Harbor		
	permitting and staff is now working on some grant		Safety Committee meeting on October 18 and will		
	funding for this project.		report additional details at the November meeting.		
October 12 2022	prunung roi uns project.		report additional details at the November meeting.		
October 12, 2022			·		
October 12, 2022					
·					
October 12, 2022  November 9, 2022  December 14, 2022					

November 9, 2022 Agenda Item No. 6.7

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster

pblank@newportbeachca.gov

(949) 270-8158

**TITLE:** Harbormaster Update – October 2022 Activities

#### ABSTRACT:

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the municipal code, events permitting, safety and rescue operations, the Marina Park Guest Marina, marine sanitation pump out equipment and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

#### **RECOMMENDATION:**

- 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.

#### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

#### **DISCUSSION:**

#### Clean

The sea star living on a pile at Marina Park, though shy, has been captured on film! Sea stars were eliminated from many coastal areas in southern California in 2012 and 2013 due to a wasting disease. It's a very encouraging sign to see them reintroduced into Newport Harbor. Clean water with excellent tidal flow and a growing source of food for the sea stars make excellent conditions for the reintroduction and proliferation of these colorful creatures. Sea stars are an important part of the Harbor ecosystem. The sea star currently enjoys the mussels and oysters growing on seawalls and piles at Marina

Park. In addition to the sea star living at Marina Park, others have been spotted on the beach near the Fernando Street Public Pier and further down the Peninsula in front of a private residence.

The summary notes on the three items which should be reported in this section were inadvertently deleted in the Outlook Note in which they are maintained. Rest assured, there were three additional items worthy of reporting for the month in terms in terms of the health and cleanliness of the water in Newport Harbor

#### Safe

Additional "Mooring Assist Training" was conducted on a 44' sailboat belonging to a Harbor Department team member. All participants gained experience as the skipper on the vessel attempting to moor as well as on a patrol boat attempting the assist. Great skills building as well as a clearer understanding of what the experience is like onboard the vessel trying to moor resulted.

Department personnel also participated in CPR (re)certification training provided by a fellow team member. Shortly we expect each of the patrol vessels and the marina office to be equipped with Automated External Defibrillators (AEDs). It is hoped the training and equipment are never needed but comfort is gained and risks of negative outcomes reduced by ensuring the team is capable and well-equipped.

On the subject of being well-equipped, two of the three Department patrol vessels have been repowered and undergone their break-in periods. One of those patrol vessels was significantly underpowered and improperly balanced for the work the Department does. The other motor that was replaced had become unreliable and was requiring more maintenance than was wise to provide.

An unsafe diver with no spotter was encountered under the Lido Bridge. The diver was advised to dive somewhere else and ensure his dive location was properly marked.

The Harbor Department continues to work with USCG Aids to Navigation (ATON) group on the recurring obscuring of Nav Marker 11 near Bay Island. On a couple of occasions, we have taken representatives from the ATON group out to clean off the paint obscuring the green light lens. On several occasions, Harbor Services Workers (HSWs) have cleaned the obscuring paint off the lens and reported back to the ATON group. In October the ATON group installed a camera on Nav Marker 11 to capture images of or at least deter anyone attempting to obscure the light lenses. Since the camera was installed, no further obfuscation has been observed.

The Dockmasters at Marina Park with support from HSWs carried out a replacement project of for the starboard non-skid pieces in the marina dock decking. The slip hazard inherent in the previous deck material has been greatly reduced.

It was great to get the Dockmasters away from the Marina Park facility and underway for a few hours during a couple of patrol shifts. They were of great help and provided excellent and unique perspectives of what they saw on the water. It remains a goal to cross-train and provide all team members with the widest variety of experiences across the Harbor Department's breadth of operations.

Department staff collaborated with the City Utilities Department to replace the cover of a navigation light on the Balboa Island Bridge and with Public Works to survey the space beneath the bridge deck for upcoming infrastructure improvements.

#### Well-enjoyed

A 28' sailboat was abandoned in a slip at Marina Park at the end of a reserved and paidfor stay. We reached out to the owner and issued a Notice of Violation. Having seen and heard nothing from the owner the vessel was subsequently impounded and moved to a mooring where it remains impounded. It will be considered for a future vessel auction or scheduled for destruction using SAVE grant funds.

Department team members celebrated the end of our busy, summer season with a BBQ. A couple of Harbor Commissioners also attended. All agreed it was a fantastic summer season and a great way to celebrate its successful conclusion. A blue blazer or two was spotted.

The human lift was used to support the Sail for the Visually Impaired hosted by the American Legion Yacht Club. One of the attendees came with their own harness to be used with the lift which appeared to have some advantages over the version delivered with our lift. We are investigating adding that style of harness to broaden the offering and appeal of using the human lift at Marina Park.

The Harbor Services Leads (HSLs) and Code Enforcement team conducted a discussion on the process and particulars for impounds. Most impounds are made at the Public Docks but they also come from other locations in the harbor. Important points reviewed include the basis of evidence to support an impound and challenges associated with the current code. It was acknowledged that there are relatively easy ways to get around the time limits or at least restart the clock. Capturing sufficient evidence to execute an impound frequently involves replacing Notice of Violation tags removed by someone though the vessel did not move. Part of the Department's process is to photo document situations where the same vessel is tied to the same cleat in the same manner with the same line over the course of more than the posted limit. Zip ties are sometimes used to further identify and document vessels that have overstayed the limit in various locations.

Based on a comment made at the October Harbor Commission meeting, extra emphasis on public dock enforcement at the Fernando Street pier was conducted throughout the month. The extra effort netted three impounds from that location. When the location was inspected by the Harbormaster early in the morning of October 28, the dock was in good order and there was room for at least two more vessels on each side of the floats in the 72-hour zone.

#### Odds and Ends

The most bizarre phone call of the month came from a Peninsula resident who has an offshore mooring near his residence that he keeps vacant. Occasionally the Harbor Department will put a sub-permittee on that mooring which always results in a call from the permittee expressing his unsubstantiated claim that his mooring is to be left vacant perpetually. This month however the call, actually several calls over the course of two days came in claiming the floats associated with his mooring, which do not have a spreader line, were off station. The permittee suggested the vessel that had recently been sub-permitted on that mooring had done damage to the tackle and pulled it off station. Upon visual inspection and corroboration with GPS and GIS coordinates for the mooring permit, HSWs confirmed the mooring was not damaged and was in the correct location. Not satisfied with the work of the HSWs, a mooring service provider was called to confirm the placement and condition of the mooring. The confirmation was provided to the permittee by the service provider.

The most bizarre email of the month came from a live-aboard permittee who rescued a dinghy that had accompanied a larger impounded vessel. The dinghy associated with that impound was not secured properly and eventually broke loose. The permittee questioned rather pointedly why he was the one who had to retrieve the dinghy and then hand it over to the Harbor Department. The permittee was thanked for taking action to secure the dinghy which had broken loose outside the Harbor Department's normal hours of operation. The budgetary constraints on our hours of operation and the several requests that have been made to extend them were explained to the permittee along with a reminder that all mariners are asked to take responsibility for keeping our harbor clean, safe, and well-enjoyed. HSWs will improve efforts to ensure all impounded vessels and dinghies in our care are properly secured.

An audit and reconciliation of records for offshore mooring including documenting assigned vessels began in October and will continue through the end of the year.

We were notified that the California Air Resources Board is requiring short-haul ferries (routes of less than three miles) to convert to electric propulsion systems by 2026. This requirement will include the Balboa Island Ferry. Efforts to support meeting this requirement are being convened.

Code Enforcement Supervisor Cosylion collected the award for "Most Innovative Code Enforcement Program of 2022" at the Code Convention put on by the California Association of Code Enforcement Officers. This achievement was reported in the City Manager's Week In Review. In addition, a proclamation recognizing this achievement by the Code Enforcement Division of the Harbor Department as well as the Harbor Services Workers and Harbor Services Leads who contribute to the stellar code enforcement efforts will be presented by the Mayor at the November 15 Council Meeting.

An excellent example of collaboration with the OCSD Harbor Patrol took place when an electric vessel went aground at Dukes Point in an outgoing tide. A coordinated rescue was quickly and effectively arranged. The skipper and passengers were all taken off the stuck vessel by HSWs and placed safely on a nearby dock. The OCSD boat, with the

permission of the owner, towed the vessel off the hard and refloated it. While the boat was not leaking, all were concerned about the operability of the vessel. HSWs towed the vessel and ensured the captain and crew were transported safely back to the private dock from which all had departed.

Harbor Department team members began participating in the school-year-long Mayor's Youth Council, mentoring three students from local high schools and showing them what it is like to work for the City in general and on the harbor in particular. The program is run by our colleagues in the Recreation and Senior Services Department. The students selected for the program participate in this unpaid internship program comprised of three parts; education, service, and outreach. Members of the Harbor Department are contributing to the education component by helping these future leaders learn, in-depth, about the different careers offered within Newport Beach. Student participants will then use their acquired experience and knowledge to better inform their community and govern the Mayor's Youth Council events and projects.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to 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, Division 6, Chapter 3, because it has no potential for resulting in a 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).

#### **ATTACHMENTS**:

Attachment A – Harbor Department Statistics Infographic

Attachment B - Harbor Department Statistics by Month, Current Year

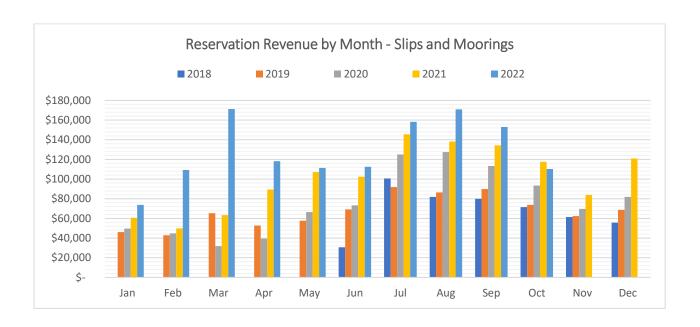
Attachment C – Harbor Department Statistics, Year over Year Comparison

Attachment D – Harbor Department Definitions

# HARBOR DEPARTMENT STATISTICS INFOGRAPHIC

For the complete monthly data set, please refer to Attachments B and C on the Harbormaster Update staff report.

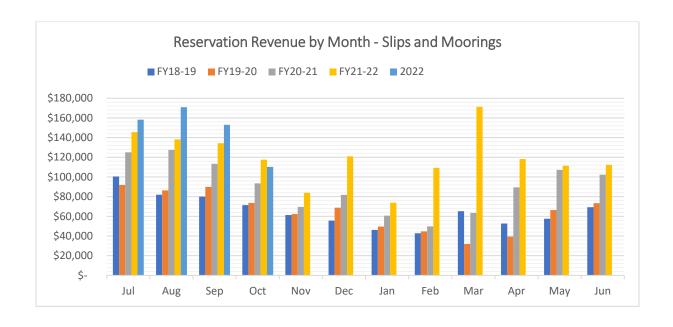
❖ Harbor Quick Facts – Revenue by Month, Calendar Year



#### **Notes:**

- In calendar 2021, there was only one month (March) where revenue was behind a previous year
- Calendar 2021 ran significantly ahead of previous years
  - Occupancy was the primary driver, increased rates helped
- Calendar 2022 running significantly ahead of previous years

### Same data displayed by Fiscal Year rather than Calendar Year



Harbor Department Statistics							
Fiscal Y	ear 20	22-20	23				
	July	August	Sept.	Oct.	YTD		
Anchorage-Daytime Raft-up, No							
Permit Required	1	28	1		30		
Anchorage -3 Day Limit Violation	7	0	2	2	11		
Anchorage -Improper Anchoring	7	2	13	2	24		
Anchorage-Raft-up permit Required							
	0	2	0		2		
Anchorage Dye Tab	0	0	0	0	-		
Assisting Vessels Over 20'	6	7	6	10	29		
Assisting Vessels under 20'	9	8	4	4	25		
Boat Maintenance	7	19	17	7	50		
Bridge Jumpers	36	164	56	-	256		
Code Enforcement	93	90	88	43	314		
Daily Anchorage Check	55	48	66	54	223		
Discharge/Pollution	4	5	7	4	20		
Dock/Pier/Bridge Issue	-	36	10	20	66		
Emergency	1	1	-	-	2		
General Assist	48	46	24	42	160		
Hazards/Debris	7	9	14	3	33		
Human Lift Use Request	-	-	-	3	3		
Impound	9	17	17	31	74		
Incident	16	20	11	5	52		
Marina Park Dock Maintenance	24	60	11	332	427		
Mooring Assist	9	14	10	2	35		
Mooring Check	94	82	118	54	348		
Noise	4	-	1		5		
Paddleboard/Kayak	3	11	3	2	19		
Public Contact	203	207	81	232	723		
Public Dock Enforcement	820	991	619	471	2,901		
Pump Out	12	16	9	6	43		
Registration & Insurance	690	78	19	60	847		
Sea Lions	24	52	74	27	177		
Speeding	12	8	13	2	35		
Spreader Line	12	7	6	6	31		
Swim Line	1	2	4	5	12		
Trash	33	129	55	14	231		
Vacancy Check	5	2	0	5	12		
Rentals - Marina Park Slips	164	160	167	108	599		
# of nights	543	663	518	283	2,007		
Rentals - MP Sand Lines	19	18	20	21	78		
# of nights	35	53	56	48	192		
Offshore Mooring Sub-permittee	130	100	87	70	387		
# of nights	691	558	538	490	2,277		
Onshore Mooring Sub-permittee	64	53	57	430	2,217		
# of nights	841	736	706	586	2,869		
Code Enforcement	041	7 30	700	300	2,008		
New Cases	76	103	128	95	402		
Closed Cases	34	51			288		
		10	118	85			
Verbal Warning	15		22	17	64		
Warning Notices	28	80	92	83	283		
	4.0						
Admin Cites MAPS Issued	12 0	11	24 2	8	55 7		

				ent Statistic						
	Jul-21	Jul-22	Aug-21	ar over Yea Aug-22	Sep-21	Sep-22	Oct-21	Oct-22		YTD- 2
Anchorage-Daytime Raft-up, No									22	23
Permit Required		1		28		1				3
Anchorage -3 Day Limit Violation		7				2		2		1
Anchorage -Improper Anchoring		7		2		13		2		2
Anchorage-Raft-up permit Required				2		2				
Anchorage Dye Tab	9	-	3	-	-	-	1	-	9	
Assisting Vessels Over 20'	2	6	4	7	2	6	1	10	9	2
Assisting Vessels under 20'	7	9	10	8	5	4	2	4	24	2
Boat Maintenance		7		19				7		
Bridge Jumpers	18	36	5	164	23	56	2	-	46	25
Code Enforcement		93		90				43		
Daily Anchorage Check	94	55	99	48	116	66	123	54	432	22
Discharge/Pollution	-	4	2	5	1	7	20	4	23	2
Dock/Pier/Bridge Issue	11	-	-	36	12	10	38	20	61	6
Emergency	1	1	-	1	-	-	-	-	1	
General Assist	41	48	28	46	47	24	29	42	145	16
Hazards/Debris	6	7	8	9	6	14	11	3	31	3
Human Lift Use Request		-		-				3		
Impound	11	9	16	17	11	17	20	31	58	7
Incident	30	16	7	20	11	11	6	5	54	ŧ
Marina Park Dock Maintenance		24		60				332		41
Mooring Assist	44	9	19	14	17	10	14	2	94	3
Mooring Check	181	94	251	82	241	118	182	54	855	34
Noise	1	4	-	-	1	1	-		2	
Paddleboard/Kayak	36	3	58	11	2	3	2	2	98	1
Public Contact	70	203	39	207	23	81	27	232	159	72
Public Dock Enforcement	787	820	680	991	806	619	730	471	3,003	2,90
Pump Out	9	12	17	16	8	9	4	6	38	4
Registration & Insurance	53	690	69	78	26	19	8	60	156	84
Sea Lions	20	24	77	52	48	74	41	27	186	17
Speeding	43	12	17	8	13	13	18	2	91	3
Spreader Line		12		7		4		6		2
Swim Line	2	1	1	2	- 404	4	1	5	4	
Trash	128	33	118	129	124	55	105	14	475	23
Vacancy Check		5		2				5		
Rentals - Marina Park Slips	171	164	150	160	168	167	111	108	600	59
# of nights	561	543	431	663	497	518	385	283	1,874	2,00
Rentals - MP Sand Lines	29	19	26	18	16	20	13	21	84	7
# of nights	71	35	85	53	86	56	41	48	283	19
Offshore Mooring Sub-permit	102	130	49	100	89	87	66	70	306	38
# of nights	597	691	382	558	566	538	265	490	1,810	2,27
Onshore Mooring Sub-permit	38	64	42	53	44	57	23	43	147	2′
# of nights	469	841	589	736	633	706	284	586	1,975	2,86
Code Enforcement										
New Cases	110	76	104	103	83	128	110	95	407	40
Closed Cases	69	34	107	51	58	118	122	85	356	28
Verbal Warning	13	15	17	10	18	22	21	17	69	6
Warning Notices	106	28	101	80	71	92	72	83	350	28
Admin Cites	11	12	19	11	9	24	27	8	66	Ę
MAPS Issued	1	-	5	2	3	2	5	3	14	

	Harbor Department Definitions
Anchorage	Anchorage Check of vessels in anchorage each day
Anchorage Dye Tab	Board vessel and place dye tablets in head (toilet). Ensure marine santitation system does not leak
Assisting Vessels Over 20'	Assisting or educating Vessels over 20' (Anchroage Boundary Issue, Pump Out sinking vessel)
Assisting Vessels under 20'	Assisting or educating Vessels under 20' (Anchroage Boundary Issue, Pump Out sinking vessel)
Bridge Jumpers	Warning/Educating people not to jump
Daily Anchorage Check	Count of boats in anchorage each day
Discharge/Pollution	Any pollutant being discharged into the water
Dock/Pier/Bridge Issue	Gangway detached, Maintenance Issues, etc
Emergency	Any emergency sent to 911
General Assist	General Harbor Information, Misc Catch All
Hazards/Debris	Large Debris in water such as log, chair, shopping cart, etc.
Impound	Vessel Impounded in place or at dock
Incident	Progressed Incident but not level of Emergency
Mooring Assist	Helping Permittee or Sub-permittee on or off of the mooring
Mooring Check	Checks on moorings that are necessary outside the daily mooring vacancy checks, Checking lines, etc
Noise	Noise complaint
Paddleboard/Kayak	Assisting or educating paddleboarders or kayakers
Public Contact	Education of rules and regulations in the harbor
Public Dock Enforcement	Boat tagged at public dock
Pump Out	Pump-Out Dock Issue (Enforcement of time limits or inopearable pump)
Registration & Insurance	Follow up with Permittees on Expired Documents
Sea Lions	Sea Lion Complaint, Abatement Effort
Speeding	Wake Advisement/ educating boaters to slow down
Swim Line	Replace/readjust/broken swim line issues
Trash	Daily trash pick up



# City Harbormaster Report

# Presentation to Harbor Commission November 9, 2022



## Clean

- Sea stars reintroduced to Newport Harbor
- Three more items that were eaten by my technology





## Safe

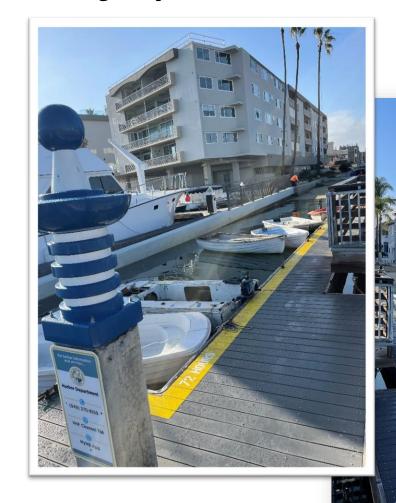
- Training for Department Personnel
  - Mooring Assists
  - CPR and First Aid
- Two Patrol Vessels Repowered
- Combatting Vandalism on Nav Marker
- Better Non-Slip on the Deck/Dock at Marina Park





# Well-enjoyed

- Lots of Impounds and Abandoned Vessels
- Focus on Public Dock Enforcement
- Prepared for Small Vessel Auction in November
- Re-enlivened VTIP and SAVE Processes





## Odds and Ends

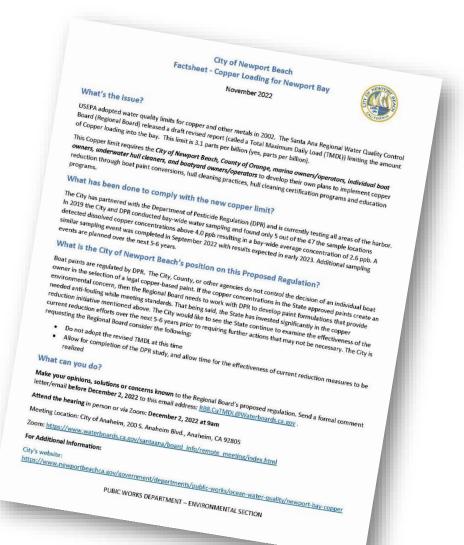
- Interesting Call and Email of the Month
- CARB Mandate on Short-haul Ferries
- CACEO Award Received
- Participation in
  - Mayor's Youth Council
  - UCI Internship





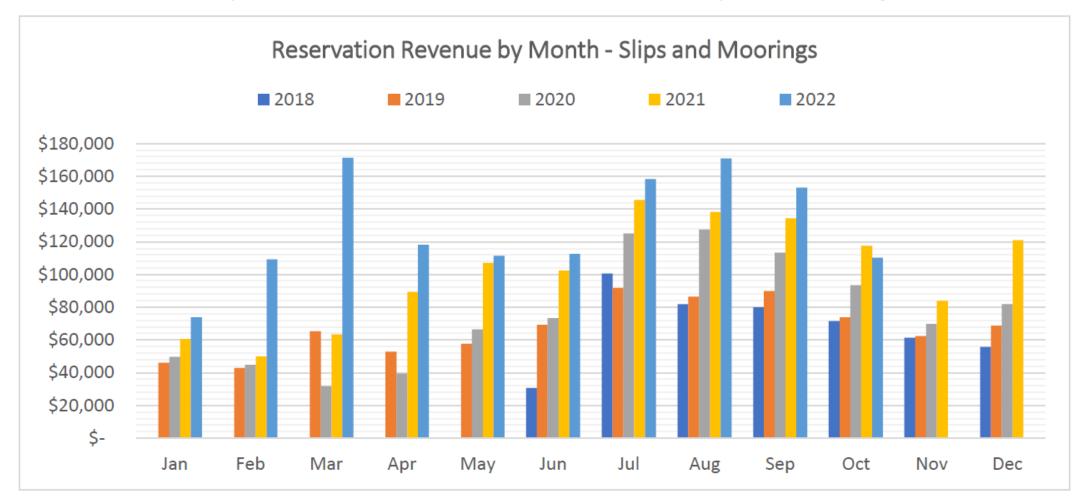
# Late Breaking – Clean News!

- SARWQCB Hearing on Cu TMDLs
  - December 2, 2022, In-person in Anaheim and Virtual
  - CNB Fact Sheet





# Improved Statistics Reporting





# Statistics Reporting

		22-202			
	July	August	Sept.	Oct.	YTD
Anchorage-Daytime Raft-up, No		Jugust	2 opti		
Permit Required	1	28	1		
Anchorage -3 Day Limit Violation	7	0	2	2	
Anchorage -Improper Anchoring	7	2	13	2	
Anchorage-Raft-up permit Required					
	0	2	0		
Anchorage Dye Tab	0	0	0	0	
Assisting Vessels Over 20'	6	7	6	10	
Assisting Vessels under 20'	9	8	4	4	
Boat Maintenance	7	19	17	7	
Bridge Jumpers	36	164	56	-	2
Code Enforcement	93	90	88	43	3
Daily Anchorage Check	55	48	66	54	2
Discharge/Pollution	4	5	7	4	
Dock/Pier/Bridge Issue	-	36	10	20	
Emergency	1	1	-	-	
General Assist	48	46	24	42	1
Hazards/Debris	7	9	14	3	
Human Lift Use Request	-	-	-	3	
mpound	9	17	17	31	
ncident	16	20	11	5	
Marina Park Dock Maintenance	24	60	11	332	4
Mooring Assist	94	14	10	2	
Mooring Check Noise	94	82	118	54	3
	3	11	3	2	
Paddleboard/Kayak Public Contact	203	207	81	232	7
Public Dock Enforcement	820	991	619	471	2.9
Pump Out	12	16	9	6	2,8
Registration & Insurance	690	78	19	60	8
Sea Lions	24	52	74	27	1
Speeding	12	8	13	2	
Spreader Line	12	7	6	6	
Swim Line	1	2	4	5	
Trash	33	129	55	14	2
Vacancy Check	5	2	0	5	
vacancy Check	5		U	9	
Rentals - Marina Park Slips	164	160	167	108	5
# of nights	543	663	518	283	2,0
Rentals - MP Sand Lines	19	18	20	21	
# of nights	35	53	56	48	1
Offshore Mooring Sub-permittee	130	100	87	70	3
# of nights	691	558	538	490	2,2
Onshore Mooring Sub-permittee	64	53	57	43	2
# of nights	841	736	706	586	2,8
Code Enforcement					
New Cases	76	103	128	95	4
Closed Cases	34	51	118	85	2
Verbal Warning	15	10	22	17	
Warning Notices	28	80	92	83	2
Admin Cites	12	11	24	8	
MAPS Issued	0	2	2	3	



# Statistics Reporting

				ent Statistics ar over Year						
	Jul-21	Jul-22	Aug-21	Aug-22	Sep-21	Sep-22	Oct-21	Oct-22	YTD-21-	YTD-
Anchorage-Daytime Raft-up, No									22	23
Permit Required		1		28		1			I	ı
Anchorage -3 Day Limit Violation		7		-		2		2		
Anchorage -Improper Anchoring		7		2		13		2		
Anchorage-Raft-up permit Required		,				13				
		-		2		2				
Anchorage Dye Tab	9	-	3	-	-	-	1	-	9	
Assisting Vessels Over 20'	2	6	4	7	2	6	1	10	9	
Assisting Vessels under 20'	7	9	10	8	5	4	2	4	24	
Boat Maintenance		7		19				7		
Bridge Jumpers	18	36	5	164	23	56	2	-	46	2
Code Enforcement		93		90	440		400	43		
Daily Anchorage Check	94	55	99	48	116	66	123	54	432	2
Discharge/Pollution	-	4	2	5	1	7	20	4	23	
Dock/Pier/Bridge Issue	11		-	36	12	10	38	20	61	
Emergency	41	1		1		- 24	- 29		1	
General Assist	6	48	28	46 9	47 6	14	11	42	145	1
Hazards/Debris	0	7	8	9	0	14	- 11	3	31	
Human Lift Use Request	11	- 9	16	17	11	17	20	31	58	
Impound Incident	30	16	7	20	11	11	6	5	58	
Marina Park Dock Maintenance	30	24		60	- "	- "	0	332	54	4
Mooring Assist	44	9	19	14	17	10	14	2	94	- 4
Mooring Assist Mooring Check	181	94	251	82	241	118	182	54	855	3
Noise	1	4	231	02	1	1	102	34	2	-
Paddleboard/Kayak	36	3	58	11	2	3	2	2	98	
Public Contact	70	203	39	207	23	81	27	232	159	7
Public Dock Enforcement	787	820	680	991	806	619	730	471	3.003	2.9
Pump Out	9	12	17	16	8	9	4	6	38	-,-
Registration & Insurance	53	690	69	78	26	19	8	60	156	
Sea Lions	20	24	77	52	48	74	41	27	186	1
Speeding	43	12	17	8	13	13	18	2	91	
Spreader Line		12		7				6		
Swim Line	2	1	1	2	-	4	1	5	4	_
Trash	128	33	118	129	124	55	105	14	475	2
Vacancy Check		5		2				5		
Rentals - Marina Park Slips	171	164	150	160	168	167	111	108	600	5
# of nights	561	543	431	663	497	518	385	283	1,874	2,0
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Offshore Mooring Sub-permit	102	130	49	100	89	87	66	70	306	:
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Onshore Mooring Sub-permit	38	64	42	53	44	57	23	43	147	- 1
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Code Enforcement										
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Closed Cases	69	34	107	51	58	118	122	85	356	- :
Verbal Warning	13	15	17	10	18	22	21	17	69	
Warning Notices	106	28	101	80	71	92	72	83	350	:
Admin Cites	11	12	19	11	9	24	27	8	66	
MAPS Issued	1	-	5	2	3	2	5	3	14	



# New Mooring Permit Update

Category	Total as of November 2021	Total as of May 2022	Total as of June 2022	Total as of July 2022	Total as of August 2022	Total as of September 2022	Total as of October 2022	Total as of November 2022
Total Permits Issued	929	929	929	929	929	929	929	<mark>991 *</mark>
Permits in Process	195	33	28	25	20	16	18	17
Entered into Harbor Ops	537	801	829	859	870	893	907	929

<sup>\* -</sup> Total Permits Issued was revised based on a further review of billing and responsible party contact records





# City Harbormaster Report

**Presentation to Harbor Commission** 

