

CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

City Council Chambers - 100 Civic Center Drive

Wednesday, October 11, 2023 - 5:00 PM

Harbor Commission Members: Steve Scully, Chair Ira Beer, Vice Chair Marie Marston, Secretary Scott Cunningham, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner Don Yahn, 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) <u>PUBLIC COMMENTS</u>

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 Item No. 4 Public Comments Non-Agenda Items 10-11-2023

5) <u>APPROVAL OF MINUTES</u>

1. Draft Minutes of the September 13, 2023 Harbor Commission Regular Meeting <u>09-13-2023 Harbor Commission Draft Meeting Minutes</u> <u>09-13-2023 Harbor Commission Draft Minutes Chair Scully Comments</u>

6) <u>PUBLIC HEARING</u>

1. Appeal of Harbormaster's Decision to Revoke Mooring Permit J-0107

Newport Beach Municipal Code ("NBMC") Section 17.70.020 provides that a mooring permit may be revoked upon a determination of the Harbormaster that a permittee has failed to comply with the terms and conditions of the mooring permit and other relevant sections of Title 17. The Harbormaster revoked the permit for Mooring J-0107 on August 31, 2023, and the permittee is appealing the revocation to the Harbor Commission.

Recommendation:

1. Hold a revocation appeal hearing and, if justified under NBMC Section 17.20.020(A)(3), affirm the Harbormaster's decision to revoke the permit for Mooring J-0107 based on the following:

- a) The permittee failed for a period of sixty (60) days or more to pay the mooring fees for J-0107 in violation of NBMC Section 17.70.020(A)(1)(e) and Conditions 4 and 5 of the mooring permit signed on August 29, 2022.
- b) The permittee failed to provide proof of insurance for the vessel on Mooring J-0107 naming the City as an additional insured as required by NBMC Section 17.60.040(B)(2)(f) and Condition 12 of the mooring permit signed on August 29, 2022.
- c) The permittee has breached and failed to comply with the terms and conditions of the mooring permit in violation of NBMC 17.70.020(A)(1)(h).

OR

2. Hold a revocation appeal hearing and rescind the Harbormaster's decision to revoke the permit for Mooring J-0107.

AND

3. Determine that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly.

Staff Report

Attachment A - J-Mooring Field Map and Mooring J-0107 Attachment B - Mooring Permits Dated February 27, 2019 and March 28, 2022 Attachment C - NBMC Sections 17.60.040 and 17.70.020 Attachment D - Mooring Fes Invoices From Revenue Division Attachment E - Expired Insurance with Warning Notices and Administrative Citations Attachment F - Letter to Permittee, Emailed on August 24, 2023 Attachment G - Notice of Revocation Dated August 31, 2023 Attachment H - Appeal Application Dated September 15, 2023 Attachment I - Misc. Enforcement Cases Associated with Mooring J-0107 Additional Material Received Revocation Appeal Hearing October 11, 2023

2. Variance Request: Vessel Berthing at 1324 E. Balboa Blvd.

Tom LeBeau ("Applicant"), property owner of 1324 E. Balboa Blvd ("Property") has applied for a variance, Variance No. HCVAR2023-002 ("Variance"), from the conditions of Harbor Permit/Approval in Concept 109-1322 ("Permit") restricting the size of the vessel that may be berthed on the east side of the single-finger float adjacent to F Street end in order that he may be able to berth a larger vessel.

Recommendation:

1. Conduct a public hearing;

2. Find that the denial of the variance 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; and

3. Adopt Resolution HC2023-011 of the Harbor Commission of the City of Newport Beach denying Variance No. HCVAR2023-002 requesting modification of Harbor Permit 109-1322 in order to berth a vessel that exceeds a length of 55-feet and a width of 15-feet on the east side of the float and into F Street end.

Staff Report

Attachment A - Aerial Photos

Attachment B - Applicant's Variance Submittal

Attachment C - October 2014 Harbor Commission Minutes

Attachment D - December 2014 Special Conditions

Attachment E - December 2020 Harbor Commission Staff Report

Attachment F - December 2020 Harbor Commission Minutes

Attachment G - Public Outreach

Attachment H - Public Comments

Attachment I - Resolution HC2023-011

Additional Materials Received Item No. 6.2 Correspondence 10-11-2023

Additional Materials Received Item No. 6.2 Staff Memo 10-11-2023

Additional Materials Received Item No. 6.2 Staff Memo - Withdrawal 10-11-2023

7) <u>CURRENT BUSINESS</u>

1. 2024 Harbor and Beaches Master Plan - Review

Staff will provide an overview of the 2024 Harbor and Beaches Master Plan ("Plan"). The Harbor Commission is requested to provide an initial Plan review this evening, then consider it for approval at the November 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, 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 - 2023 Harbor and Beaches Master Plan

2. Discussion of History, Current Status and Opportunities for Lower Castaways

As part of their current objectives, a subcommittee of the Harbor Commission is reviewing the history and current uses of the Lower Castaways facility. The subcommittee has conducted field studies observing current uses, met with various constituents as well as staff, and documented their findings and conclusions.

This report and presentation will update the Harbor Commission on the ad hoc committee's process, research and findings. The ad hoc committee seeks input from the full Commission and the public to further refine their recommendations related to improving the use of the facility. The subcommittee expects to present finalized recommendations for adoption by the full Commission at a meeting in the near future.

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;

2. Review the recent history of Lower Castaway uses and previously considered potential uses; and

3. Discuss additional opportunities for use of Lower Castaways and, If desired, formulate a recommendation to be forwarded to the City Council on a plan to develop possible uses and designs.

Staff Report

<u>Attachment A - Lower Castaways Concept Presentation 2014</u> <u>Additional Material Received Lower Castaway's Presentation October 11, 2023</u>

3. Review and Approve Recommended Harbor Commission Objectives for 2024

The Harbor Commission periodically conducts a review and updates its Objectives. This

year they decided to continue working on the 2022 Objectives instead of creating new ones for 2023, as there was still much work to be done and it would allow the new City Council Members to settle in and learn about the Harbor Commission. At a previous Harbor Commission meeting, the Commission formed an ad hoc subcommittee to recommend 2024 Objectives. That subcommittee sought guidance and feedback from the Commission at the September 2023 meeting. The subcommittee has prepared a list of proposed Objectives for 2024 and seeks the full Commission's approval of their recommendations. If approved, the recommended 2024 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. Approve recommended 2024 Harbor Commission Objectives and forward them to the City Council for review.

Staff Report

Attachment A - Proposed Commission 2024 Goals and Assignments

4. Report on Progress of Converting Mooring Permits to New City Form and Action on Those Still Outstanding

The City took over management of nearly 1,200 moorings in Newport Harbor on July 1, 2017. Records associated with the mooring permits were transferred from the Orange County Sheriff's Department Harbor Patrol to the City at that time. Subsequently, the mooring permit form was updated and all permittees were asked to sign the new City issued form. There are 991 individual mooring permits not held by the Balboa Yacht Club, Lido Isle Community Association or the Newport Harbor Yacht Club. The process of converting those 991 individual permits to the new City form has been slower than anticipated.

This report will update the Harbor Commission on the process and progress for converting the 9 permits that remain unexecuted on the new City permit form. The Commission is asked to affirmatively recommend that staff proceed with revocations of those that remain outstanding or recommend other appropriate action.

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. Direct staff to proceed with Notice of Violations and revocations of the mooring permits that have not yet been executed on the new City permit form.

<u>Staff Report</u> <u>Attachment A - J-101 Notice of Outstanding Permit Requirement Redacted</u> <u>Additional Material Received Conversion to New Mooring Permits October 11,</u> <u>2023</u>

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 Current Objectives Update

At the February 8, 2023, Harbor Commission meeting the decision was made by the Commission to continue the 2022 Objectives instead of creating new ones for 2023. The Commission felt there was still much work to be done on the current Objectives and it would allow the new City Council Members to get settled and learn about the Harbor Commission. Each ad hoc committee studying their respective Functional Area within the Commission's current 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.

<u>Staff Report</u> <u>Attachment A - Harbor Commission Current Objectives</u> <u>Attachment B - Harbor Commission Current Objectives Tracking Sheet</u>

7. Harbormaster Update - September 2023 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:

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.

<u>Staff Report</u> <u>Attachment A - Harbor Department Statistics Infographic</u> <u>Attachment B - Harbor Department Statistics by Month, Current Year</u> <u>Attachment C - Harbor Department Statistics, Year over Year Comparison</u> <u>Attachment D - Harbor Department Definitions</u> <u>Additional Material Received Harbormaster Report October 11, 2023</u>

8) 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.

9) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

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

- 11) DATE AND TIME FOR NEXT MEETING: Wednesday, November 8, 2023 at 5 p.m.
- 12) ADJOURNMENT

Biddle, Jennifer

From:	Blank, Paul
Sent:	October 09, 2023 8:07 AM
То:	Lee Pearl
Cc:	Scully, Steve; Biddle, Jennifer
Subject:	RE: Harbor commission July meeting Balboa Island Improvement Association Comments
Follow Up Flag:	Follow up
Flag Status:	Flagged

Mr. Pearl/Mr. Janssen:

Thank you for your input on this matter.

The Harbor Commissioners have received your comments and will consider them carefully.

If there is an appetite among the Commissioners to consider revising the approved minutes from their July meeting, I am sure they will do so.

Regrettably, the agenda for the October meeting has been published and there is no opportunity to add this matter. Of course, you are welcome to attend the meeting this Wednesday and mention this matter during public comments on non-agenda items.

Best,



Paul Blank Harbormaster Harbor Department Office: 949-270-8158

1600 W Balboa Blvd Newport Beach, CA 92663

From: Lee Pearl <smartpearl1@hotmail.com>
Sent: October 09, 2023 7:02 AM
To: Blank, Paul <PBlank@newportbeachca.gov>; Harbor Commission <HarborCommission@newportbeachca.gov>
Subject: Harbor commission July meeting Balboa Island Improvement Association Comments

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

Dear Harbor Commissioners: At the July Harbor Commission meeting on goals of the Commission, a public comment was entered into the record related to two subjects.

First, a comment by Lee Pearl representing the BIIA, regarding mooring lines on Ruby Beach North. The second comment was not related to Ruby Beach and discussed the need for a charging station somewhere in the Harbor for electric boats.

The minutes from that meeting which summarized the comments caused confusion in our community. We would like the minutes corrected. Because of the confusion, we would like to retract our comment about phasing out the moorings on Ruby Beach North. The minutes could say, "Lee Pearl, representing the Balboa Island Improvement Association, commented about the mooring lines on Ruby Beach North, which is a highly used beach."

The second comment made by Lee Pearl could say, "Lee Pearl suggested the Commission plan for an electric boat charging station somewhere in Newport Harbor." He was not suggesting a charging station be placed on Balboa Island.

Thanks for your consideration,

Terry Janssen, President

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chamber – 100 Civic Center Drive, Newport Beach, CA Wednesday, September 13, 2023 5 p.m.

1. CALL MEETING TO ORDER

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

2. ROLL CALL

PRESENT:	Steve Scully, Chair Marie Marston, Secretary Scott Cunningham, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner
ABSENT:	Ira Beer, Vice Chair (excused) Don Yahn, Commissioner (excused)
Staff Members:	Paul Blank, Harbormaster Jennifer Biddle, Administrative Assistant Chris Miller, Administrative Manager/Public Works

3. PLEDGE OF ALLEGIANCE – Commissioner Svrcek

4. PUBLIC COMMENTS

Chair Scully outlined the meeting rules of decorum.

Pete Swift commented expressing concerns regarding the potential for waste and pollution related to the Balboa Yacht Basin marina replacement.

Jim Mosher commented on an agenda item relating to a restaurant along Mariner's Mile that was reviewed at the recent Planning Commission meeting and inquired whether the Harbor Commission should be reviewing the restaurant owner's use of a slip reserved for restaurant patrons.

Chuck South expressing concerns regarding the amount of non-recyclable materials and related environmental issues related to the demolition of docks when they go out of service.

There were no other members of the public who elected to make public comments on non-agenda items.

5. APPROVAL OF MINUTES

1. Draft Minutes of the August 9, 2023 Harbor Commission Regular Meeting

Chair Scully opened the floor to public comments. Noting there were no individuals who elected to speak, Chair Scully closed the floor to public comments.

Commissioner Svrcek moved to approve the minutes of the August 9, 2023, as amended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Svrcek, Williams, ScullyNays:NoneAbstain:MarstonAbsent:Yahn, Beer

6. PUBLIC HEARING

1. Variance Request: Vessel Berthing at 700 W. Bay Avenue

Jim Warmington ("Applicant"), property owner of 700 W. Bay Avenue, requests a variance to modify the Special Conditions associated with his dock that prohibit the berthing of boats on the east side of the easterly finger ("Variance"). In support of the Variance, Applicant has offered to remove and surrender back to the City his onshore mooring P -70 located in the street end adjacent to his property and the only onshore mooring at this street end.

Recommendation:

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (Preliminary Review) and Section 15301 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- Adopt Resolution HC2023-010 of the Harbor Commission of the City of Newport Beach, California approving variance No. HCVAR2023-001 to allow the berthing of vessels on the east side of the easterly finger of the dock located at 700 W. Bay Avenue.

Public Works Administrative Manager Chris Miller provided a summary of the publicly noticed agenda report. A PowerPoint presentation was displayed.

Discussion ensued including comments on historical references relating to applicable restrictions on the subject site relating to onshore moorings and improving navigation, available clearance when the larger vessel is in the U-shaped dock, applicable property line provisions, and there will be no onshore mooring on the street end as there was in 2017.

Chair Scully opened the public hearing and public comments.

Jim Warmington, applicant, expressed support for his request for a variance, noting the historical changes in the subject site.

Discussion ensued including comments noting the fingers of the dock are not located within the property lines, previous lot line adjustments, the allowable lengths of boats which could be docked at the float, and clarifying the applicant would be in accordance with the 14-foot beam restriction.

Jim Mosher commented requesting clarification regarding the 300-foot noticing requirements for this agenda item, stated his perspective regarding alignment of the property lines and potential inconsistency with the permit, and expressing concern regarding visible extensions of the permitted dock in the photographs included in the report.

Seeing no others who wanted to speak, Chair Scully closed public comments and the public hearing.

Discussion ensued including comments regarding crowding in the Harbor and elimination of the shore mooring which will upgrade the beach and access.

Commissioner Cunningham moved to approve the variance as recommended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Marston, Svrcek, Williams, ScullyNays:NoneAbstain:NoneAbsent:Yahn, Beer

7. CURRENT BUSINESS

1. Council Policy H-1 to Newport Beach Municipal Code

Council Policy H-1 ("H-1") describes the distance that piers and floats may extend channelward throughout the harbor. In 2022, the Harbor Commission formed a subcommittee to evaluate the Policy on an area-by-area approach versus the current broad-based, harbor wide approach. Revisions to H-1 were approved by the Harbor Commission in April 2023. Upon further review and consideration after the Commissioner's approval, staff determined that the entirety of H-1 would be better positioned within the Newport Beach Municipal Code (NBMC) therefore effectively eliminating H-1. As a result, staff is returning to the Harbor Commission for approval of this new format with subsequent revisions and recommends that it be forwarded to the City Council for final 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) Approve changes to NBMC and recommend it be forwarded to the City Council for final approval.

Public Works Administrative Manager Chris Miller provided a summary of the publicly noticed agenda report. A PowerPoint presentation was displayed.

Discussion ensued and included comments regarding various language provisions, properties straddling bulkhead stations, pierhead line / bulkhead extension provisions including language about defaulting to exactly where a street ends when the bulkhead station does not fall on the property lines, and expressing support for the improvements to Policy H1.

Chair Scully opened the public comment period.

Jim Mosher commented expressing support for the consolidation of disconnected policies and suggested negotiating pierhead line markers. He offered suggestions on page 92 regarding negative impacts to adjacent property owners' Harbor views and including language regarding impacts to public navigation and dredging. The use of the word "and" between these concerns should be changed to "or". He also requested review of the document to ensure no part of the Harbor was inadvertently excluded and suggested a catchall or ambiguity statement.

Seeing no others who wanted to speak, Chair Scully closed the floor to public comments.

Discussion ensued and included comments regarding inclusion of a "catch all" provision to ensure all areas of the Harbor are addressed.

Chair Scully moved to approve as recommended, with the amendments to include the discussed "catch all" provision, and also adding a phrase that navigation would not be affected in sections "A", "B", & "C", and determining the item except from CEQA. Commissioner Cunningham seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Marston, Svrcek, Williams, ScullyNays:NoneAbstain:NoneAbsent:Yahn, Beer

Direction was provided to follow up on the process for legal noticing related to similar items.

2. 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:

- 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.

Balboa Ferry ad hoc committee report:

No update at this time.

2024 Objectives ad hoc committee report:

Chair Scully distributed a document for the Commission's review related to proposed 2024 objectives and recommended the item be placed on the next meeting agenda for final approval.

General Plan Vision Statement ad hoc committee report

No update at this time.

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

3. Harbor Commission Current Objectives Update

At the February 8, 2023, Harbor Commission meeting the decision was made by the Commission to continue the 2022 Objectives instead of creating new ones for 2023. The Commission felt there was still much work to be done on the 2022 Objectives and it would allow the new City Council Members to get settled and learn about the Harbor Commission. Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a progress update.

Recommendation:

- 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.

Functional Area 1: Harbor Operations (Yahn) Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement		
Obje	ective	Report
1.1	Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn)	No report.
1.2	Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	No report.
1.3	Work with City Staff to bring all onshore and offshore Mooring Permitees permit forms current and properly on file. (Beer, Cunningham)	No report.
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.	No report.
Functional Area 2: Harbor Viability (Beer) Matters pertaining to Assets, Amenities, and Access		

Obje	ctive	Report
2.1	Study and provide recommendations to the transfer permit policy for	No report.
	onshore and offshore moorings. (Beer, Cunningham)	
2.2	Work with City Staff on an update of the market rent to be	No report.
	charged for onshore and offshore moorings. (Beer,	
0.0	Cunningham)	Nie were ent
2.3	Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and	No report.
	fairways to improve navigation, safety, and optimization of space	
	within the mooring fields. (Beer)	
2.4	Review the On-shore mooring vessel specifications providing a long-	No report.
	term plan with the goal of insuring adequate spacing between	•
	moorings, residential docks, and street ends. (Cunningham, Scully)	
2.5	Evaluate options for additional City Moorings and/or Multi Vessel	No report.
	Mooring Systems (MVMS) for temporary use by visiting mariners or	
0.0	long-term mooring permittees. (Williams)	N
2.6	Complete evaluation for establishing day moorings off Big Corona	No report.
Fund	beach and harbor moorings. (Williams) ctional Area 3: Harbor Infrastructure (Cunningham)	
	ers pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Be	eaches
	ctive	Report
3.1	Support staff on the rehabilitation of the current public floats and	No report.
	gangways including areas of the harbor that could benefit with	•
	additional public access.	
3.2	Evaluate and identify the responsibilities and obligations of the city for	No report.
	additional safety vessels/equipment that may be added to the Harbor	
F	in the future.	
	ctional Area 4: Harbor Stakeholders (Scully) ers pertaining to Residential, Recreational, and Commercial Users	
Obje	ctivo	_
		Report
4.1	Evaluate enhancements and/or services to City amenities which will	Report No report.
4.1	Evaluate enhancements and/or services to City amenities which will improve the operation and enjoyment of the Harbor. Additionally,	
4.1	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	
	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)	No report.
4.1	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	No report. Chair Scully and
	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)	No report. Chair Scully and Secretary Marston met
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction;
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop
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	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop recommendations; Matter will likely be
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop recommendations; Matter will likely be reviewed by Harbor Commission with
	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)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop recommendations; Matter will likely be reviewed by Harbor Commission with recommendations
	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) Evaluate and make recommendations for Lower Castaways. (Marston)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop recommendations; Matter will likely be reviewed by Harbor Commission with recommendations forwarded to the City Council. Safety Committee
4.2	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) Evaluate and make recommendations for Lower Castaways. (Marston)	No report. Chair Scully and Secretary Marston met with two of the PBR members; PBR would like Council direction; Would like to involve PBR, Planning Commission, and Harbor Commission to develop recommendations; Matter will likely be reviewed by Harbor Commission with recommendations forwarded to the City Council.

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item and it was received and filed.

4. Harbormaster Update – August 2023 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:

- 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 Paul Blank provided a summary of the agenda report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Discussion ensued including comments related to an incident with a boat which dragged a mooring and the associated permittees, the process for following up on recreational boaters who are overdue to return, the impacts of bridge jumping and the staffing of lifeguards at related locations, fishing licenses, lights on the channel markers, the process of informing the rowing community of other scheduled activities in the Harbor, and restrictions on non-staff access to certain buoy data.

Chair Scully opened the floor to public comments.

Jim Mosher inquired whether there were any unusual wind events or related incidents in the main Harbor due to Tropic Storm Hilary.

Brief discussion ensued regarding wind-related events in the Harbor.

Seeing no others who wished to speak, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

8. MOTION FOR RECONSIDERATION

None.

9. COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

Chair Scully and Commissioner Svrcek attended the recent Water Quality and Coastal Tidelands Committee meeting.

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

The following items were discussed as matters to be placed on a future agenda:

- 1. 2024 Goals report
- 2. Lower Castaways report scheduled for the October meeting.

11. DATE AND TIME FOR NEXT MEETING: Wednesday, October 11, 2023 at 5 p.m.

The next meeting was scheduled for Wednesday, October 11, 2023 at 5 p.m.

12. ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:05 p.m.

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chamber – 100 Civic Center Drive, Newport Beach, CA Wednesday, September 13, 2023 5 p.m.

1. CALL MEETING TO ORDER

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

2. ROLL CALL

PRESENT:	Steve Scully, Chair Marie Marston, Secretary Scott Cunningham, Commissioner Rudy Svrcek, Commissioner Gary Williams, Commissioner
ABSENT:	Ira Beer, Vice Chair (excused) Don Yahn, Commissioner (excused)
Staff Members:	Paul Blank, Harbormaster Jennifer Biddle, Administrative Assistant Chris Miller, Administrative Manager/Public Works

3. PLEDGE OF ALLEGIANCE – Commissioner Svrcek

4. PUBLIC COMMENTS

Chair Scully outlined the meeting rules of decorum.

Pete Swift commented expressing concerns regarding the potential for waste and pollution related to the Balboa Yacht Basin marina replacement.

Jim Mosher commented on an agenda item relating to a restaurant along Mariner's Mile that was reviewed at the recent Planning Commission meeting and inquired whether the Harbor Commission should be reviewing the restaurant owner's use of a slip reserved for restaurant patrons.

Chuck South expressing concerns regarding the amount of non-recyclable materials and related environmental issues related to the demolition of docks when they go out of service.

There were no other members of the public who elected to make public comments on non-agenda items.

5. APPROVAL OF MINUTES

1. Draft Minutes of the August 9, 2023 Harbor Commission Regular Meeting

Chair Scully opened the floor to public comments. Noting there were no individuals who elected to speak, Chair Scully closed the floor to public comments.

Commissioner Svrcek moved to approve the minutes of the August 9, 2023, as amended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Svrcek, Williams, ScullyNays:NoneAbstain:MarstonAbsent:Yahn, Beer

6. PUBLIC HEARING

1. Variance Request: Vessel Berthing at 700 W. Bay Avenue

Jim Warmington ("Applicant"), property owner of 700 W. Bay Avenue, requests a variance to modify the Special Conditions associated with his dock that prohibit the berthing of boats on the east side of the easterly finger ("Variance"). In support of the Variance, Applicant has offered to remove and surrender back to the City his onshore mooring P -70 located in the street end adjacent to his property and the only onshore mooring at this street end.

Recommendation:

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (Preliminary Review) and Section 15301 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- Adopt Resolution HC2023-010 of the Harbor Commission of the City of Newport Beach, California approving variance No. HCVAR2023-001 to allow the berthing of vessels on the east side of the easterly finger of the dock located at 700 W. Bay Avenue.

Public Works Administrative Manager Chris Miller provided a summary of the publicly noticed agenda report. A PowerPoint presentation was displayed.

Discussion ensued including comments on historical references relating to applicable restrictions on the subject site relating to onshore moorings and improving navigation, available clearance when the larger vessel is in the U-shaped dock, applicable property line provisions, and there will be no onshore mooring on the street end as there was in 2017.

Chair Scully opened the public hearing and public comments.

Jim Warmington, applicant, expressed support for his request for a variance, noting the historical changes in the subject site.

Discussion ensued including comments noting the fingers of the dock are not located within the property lines <u>due to the configuration of the property</u>, previous lot line adjustments, the allowable lengths of boats which could be docked at the float, and clarifying the applicant would <u>be in accordanceagree to compliance</u> with the 14-foot beam restriction.

Jim Mosher commented requesting clarification regarding the 300-foot noticing requirements for this agenda item, stated his perspective regarding alignment of the property lines and potential inconsistency with the permit, and expressing concern regarding visible extensions of the permitted <u>and neighbors</u> dock in the photographs included in the report.

Seeing no others who wanted to speak, Chair Scully closed public comments and the public hearing.

Discussion ensued including comments regarding crowding in the Harbor and elimination of the shore mooring which will upgrade the beach and access.

Commissioner Cunningham moved to approve the variance as recommended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Marston, Svrcek, Williams, ScullyNays:NoneAbstain:NoneAbsent:Yahn, Beer

7. CURRENT BUSINESS

1. Council Policy H-1 to Newport Beach Municipal Code

Council Policy H-1 ("H-1") describes the distance that piers and floats may extend channelward throughout the harbor. In 2022, the Harbor Commission formed a subcommittee to evaluate the Policy on an area-by-area approach versus the current broad-based, harbor wide approach. Revisions to H-1 were approved by the Harbor Commission in April 2023. Upon further review and consideration after the Commissioner's approval, staff determined that the entirety of H-1 would be better positioned within the Newport Beach Municipal Code (NBMC) therefore effectively eliminating H-1. As a result, staff is returning to the Harbor Commission for approval of this new format with subsequent revisions and recommends that it be forwarded to the City Council for final 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) Approve changes to NBMC and recommend it be forwarded to the City Council for final approval.

Public Works Administrative Manager Chris Miller provided a summary of the publicly noticed agenda report. A PowerPoint presentation was displayed.

Discussion ensued and included comments regarding various language provisions, properties straddling bulkhead stations, pierhead line / bulkhead extension provisions including language about defaulting to exactly where a street ends when the bulkhead station does not fall on the property lines, and expressing support for the improvements to Policy H1.

Chair Scully opened the public comment period.

Jim Mosher commented expressing support for the consolidation of disconnected policies and suggested negotiating pierhead line markers. He offered suggestions on page 92 regarding negative impacts to adjacent property owners' Harbor views and including language regarding impacts to public navigation and dredging. The use of the word "and" between these concerns should be changed to "or". He also requested review of the document to ensure no part of the Harbor was inadvertently excluded and suggested a catchall or ambiguity statement.

Seeing no others who wanted to speak, Chair Scully closed the floor to public comments.

Discussion ensued and included comments regarding inclusion of a "catch all" provision to ensure all areas of the Harbor are addressed.

Chair Scully moved to approve as recommended, with the amendments to include the discussed "catch all" provision, and also adding a phrase that navigation would not be affected in sections "A", "B", & "C", and determining the item except from CEQA. Commissioner Cunningham seconded the motion. The motion carried by the following roll call vote:

Ayes:Cunningham, Marston, Svrcek, Williams, ScullyNays:NoneAbstain:NoneAbsent:Yahn, Beer

Direction was provided to follow up on the process for legal noticing related to similar items.

2. 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:

- 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.

Balboa Ferry ad hoc committee report: No update at this time.

2024 Objectives ad hoc committee report:

Chair Scully distributed a document for the Commission's review related to proposed 2024 objectives and recommended the item be placed on the next meeting agenda for final approval.

General Plan Vision Statement ad hoc committee report

No update at this time.

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

3. Harbor Commission Current Objectives Update

At the February 8, 2023, Harbor Commission meeting the decision was made by the Commission to continue the 2022 Objectives instead of creating new ones for 2023. The Commission felt there was still much work to be done on the 2022 Objectives and it would allow the new City Council Members to get settled and learn about the Harbor Commission. Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a progress update.

Recommendation:

- 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.

Functional Area 1: Harbor Operations (Yahn) Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement		
		Report
1.1	Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn)	No report.
1.2	Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	No report.
1.3	Work with City Staff to bring all onshore and offshore Mooring Permitees permit forms current and properly on file. (Beer, Cunningham)	No report.

No report.
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prior to creating a PBR Ad Hoc Committee. ;
Would like to involve
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Commission, and Harbor Commission to develop
Commission, and Harbor Commission to

		Commission with
		Commission with
		recommendations
		forwarded to the City
		Council.
4.3	Continue the dialogue with representatives of the Harbor Charter Fleet	Safety <u>"Sub"</u>
	industry, commercial vessel operators and rental concessionaires to:	Committee meeting
	(1) promote best practices for all charter and commercial boat	was held; Billy Whitford
	operations in Newport Harbor with particular attention to safety,	(NAC) suggested
	operational support, speed, noise and pollution control/compliance and	chaired this meeting
	(2) evaluate (a) total number of vessels for hire on the harbor, (b)	involving all members
	maximum passenger capacity for each vessel and in total, and (c)	of the educational
	overall height of the superstructure of vessels for charter within the	rowing community to
	Harbor. (Williams)	understand scheduling
		of all related water
		activities, timing, and
		safety impacts; the
		group suggested
		meeting with sailing
		schools and yacht
		clubs, as well; Chair
		Scully will coordinate a
		larger meeting with all
		groups; will schedule
		one more safety
		subcommittee meeting
		before end of year

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item and it was received and filed.

4. Harbormaster Update - August 2023 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:

- 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 Paul Blank provided a summary of the agenda report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Discussion ensued including comments related to an incident with a boat which dragged a mooring and the associated permittees, the process for following up on recreational boaters who are overdue to return, the impacts of bridge jumping and the staffing of lifeguards at related locations, fishing licenses, lights on the channel markers, the process of informing the rowing community of other scheduled activities in the Harbor, and restrictions on non-staff access to certain buoy data.

Chair Scully opened the floor to public comments.

Jim Mosher inquired whether there were any unusual wind events or related incidents in the main Harbor due to Tropic Storm Hilary.

Brief discussion ensued regarding wind-related events in the Harbor.

Seeing no others who wished to speak, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

8. MOTION FOR RECONSIDERATION

None.

9. COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

Chair Scully and Commissioner Svrcek attended the recent Water Quality and Coastal Tidelands Committee meeting.

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

The following items were discussed as matters to be placed on a future agenda:

- 1. 2024 Goals report
- 2. Lower Castaways report scheduled for the October meeting.

11. DATE AND TIME FOR NEXT MEETING: Wednesday, October 11, 2023 at 5 p.m.

The next meeting was scheduled for Wednesday, October 11, 2023 at 5 p.m.

12. ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:05 p.m.



CITY OF ______ **NEWPORT BEACH**Harbor Commission Staff Report

October 11, 2023 Agenda Item No. <u>6.1</u>

TO:	HARBOR COMMISSION
FROM:	Matt Cosylion, Deputy Harbormaster, (949) 270-8164 mcosylion@newportbeachca.gov
TITLE:	Appeal of Harbormaster's decision to revoke Mooring Permit J-0107

ABSTRACT:

Newport Beach Municipal Code ("NBMC") Section 17.70.020 provides that a mooring permit may be revoked upon a determination of the Harbormaster that a permittee has failed to comply with the terms and conditions of the mooring permit and other relevant sections of Title 17. The Harbormaster revoked the permit for Mooring J-0107 on August 31, 2023, and the permittee is appealing the revocation to the Harbor Commission.

RECOMMENDATION:

- 1. Hold a revocation appeal hearing and, if justified under NBMC Section 17.20.020(A)(3), affirm the Harbormaster's decision to revoke the permit for Mooring J-0107 based on the following:
 - a) The permittee failed for a period of sixty (60) days or more to pay the mooring fees for J-0107 in violation of NBMC Section 17.70.020(A)(1)(e) and Conditions 4 and 5 of the mooring permit signed on August 29, 2022.
 - b) The permittee failed to provide proof of insurance for the vessel on Mooring J-0107 naming the City as an additional insured as required by NBMC Section 17.60.040(B)(2)(f) and Condition 12 of the mooring permit signed on August 29, 2022.
 - c) The permittee has breached and failed to comply with the terms and conditions of the mooring permit in violation of NBMC 17.70.020(A)(1)(h).

OR

2. Hold a revocation appeal hearing and rescind the Harbormaster's decision to revoke the permit for Mooring J-0107.

AND

3. Determine that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Background

The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit, which allows an individual to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel subject to the terms and conditions of the permit. The rules governing mooring permits, including specific permit conditions, are outlined in NBMC Section 17.60.040 (Attachment C).

The permit for Mooring J-0107 was transferred to Thomas MacNeil ("the Permittee") on February 27, 2019 (Attachment B). The permit included the following standard terms and conditions:

- Condition 1: To be responsible for permit rent, fees, routine maintenance and repair of any damage to mooring equipment;
- Condition 5: To provide proof of insurance for the vessel assigned to the mooring; and
- Condition 7: To pay fair market value rent on a rent schedule established by the City of Newport Beach.

The Permittee subsequently signed an updated mooring permit on August 29, 2022 as part of a harbor-wide program requiring all permittees to sign "new" mooring permits that reflected recent changes to Title 17, specifically the rules regarding the use of moorings (Attachment B). All new mooring permits include the following standard terms and conditions:

- Condition 4: Mooring Permittee shall 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;
- Condition 5: Mooring Permittee shall be responsible for payment of all permit rents, fees, costs of maintenance and repair of mooring equipment; and
- Condition 12: Mooring Permittee shall provide and maintain as current proof of insurance coverage, naming the City as an additional insured, to the satisfaction of the City's Risk Manager, for the assigned vessel as well as any tender maintained at the same mooring

Grounds for Revocation

A mooring permit may be revoked upon any of the grounds set forth in NBMC Section 17.70.020(A)(1) or NBMC Section 17.70.020(A)(3) (Attachment C). The following are the grounds for revocation specific to J-0107:

- The Permittee failed for a period of more than sixty (60) days to pay the mooring fees in violation of NBMC Section 17.70.020(A)(1)(e). At the time of revocation, the past due fees totaled \$1,173.99, equivalent to approximately 5 months of missed payments.
- The Permittee failed to comply with the terms and conditions contained in the mooring permit in violation of NBMC Section 17.70.020(A)(1)(h). Specifically,

- the Permittee was more than sixty (60) days past due on payment of mooring fees, and
- the Permittee failed to provide proof of current insurance after his policy expired in May 2023.

Enforcement

Harbor Department policy requires that code enforcement staff make every effort to obtain voluntary compliance prior to revoking a mooring permit. The Permittee was sent multiple emails, warning notices and administrative citations prior to the issuance of the revocation letter on August 31, 2023 (Attachment F). Additionally, code enforcement staff attempted to arrange an office conference with the Permittee in a final effort to prevent the revocation. The Permittee did not respond to an email and letter that were sent on August 24, 2023 (Attachment G).

The following is a brief summary of enforcement actions for each of the aforementioned grounds for revocation:

Past due mooring fees

Mooring permittees receive a monthly invoice from the City's Revenue Division showing the current charges, any past due balances and a warning that late payments are subject to a 10% penalty and revocation. Invoices clearly indicate the mooring number, the reason for the charges (monthly mooring fees) and the payment due date which is typically on the first day of each month. The Permittee was notified in April, May, June, July, August and September, 2023 of the delinquent mooring fees (Attachment D).

As noted above, Code Enforcement staff mailed and emailed a letter on August 24, 2023, notifying the Permittee of the past due mooring fees and requesting a meeting in lieu of revoking the permit. The Permittee did not respond to either correspondence.

Failure to provide current insurance documentation (violation of mooring permit)

The Permittee was sent warning notices and administrative citations requesting proof of current insurance for the vessel on J-0107 on the following dates (Attachment E):

- April 4, 2023 Courtesy letter only
- June 6, 2023 Notice of Violation
- June 26, 2023 Notice of Violation
- July 11, 2023 Notice of Violation
- July 24, 2023 \$100 Administrative Citation
- August 7, 2023 \$200 Administrative Citation
- August 17, 2023 \$500 Administrative Citation

Failure to comply with the terms and conditions of the mooring permit

It should be noted that the Permittee has been the subject of multiple code enforcement actions since obtaining the mooring permit in February 2019. These violations include past due mooring fees (60 days or more), past due overhauls, abandoning a vessel on a public dock and expired insurance. In one particular instance, the Permittee was notified on January 20, 2021 of the Harbormaster's intent to revoke his mooring permit due to delinquent mooring fees. The Permittee was given a final opportunity to pay the fees, which he did, thus avoiding a revocation hearing in front of the Harbor Commission in 2021 (Attachment I).

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 - J-Mooring field map and Mooring J-0107

Attachment B - Mooring permits dated February 27, 2019 and March 28, 2022

Attachment C - NBMC Sections 17.60.040 and 17.70.020

Attachment D – Mooring fees invoices from Revenue Division

Attachment E – Expired insurance with warning notices and administrative citations

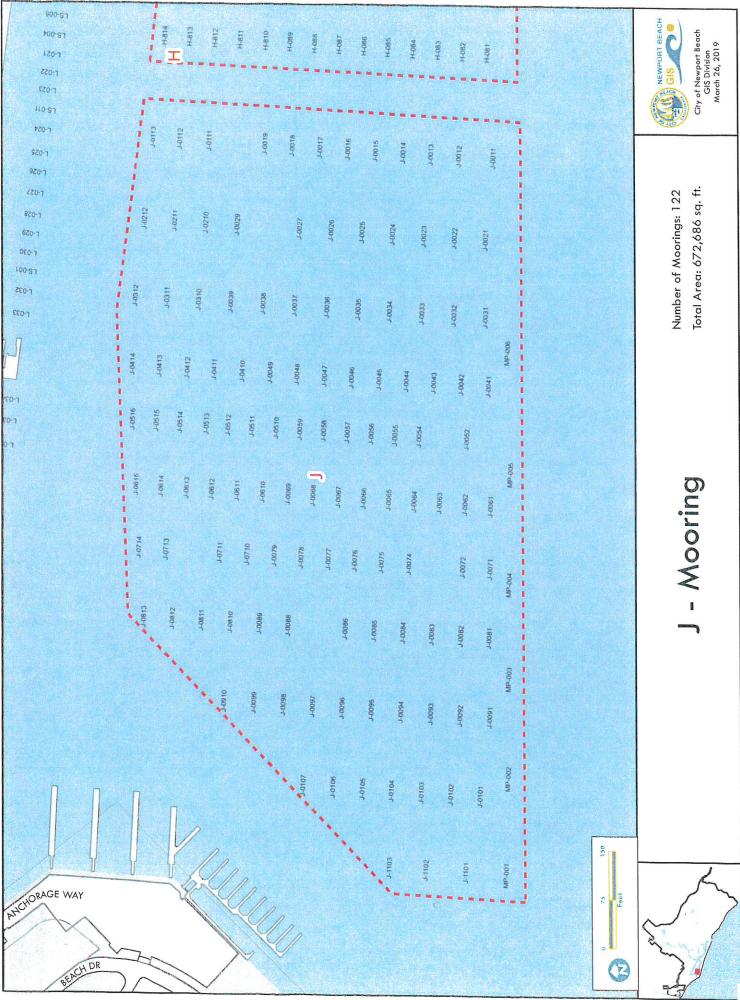
Attachment F- Letter to Permittee, emailed on August 24, 2023

Attachment G – Notice of Revocation dated August 31, 2023

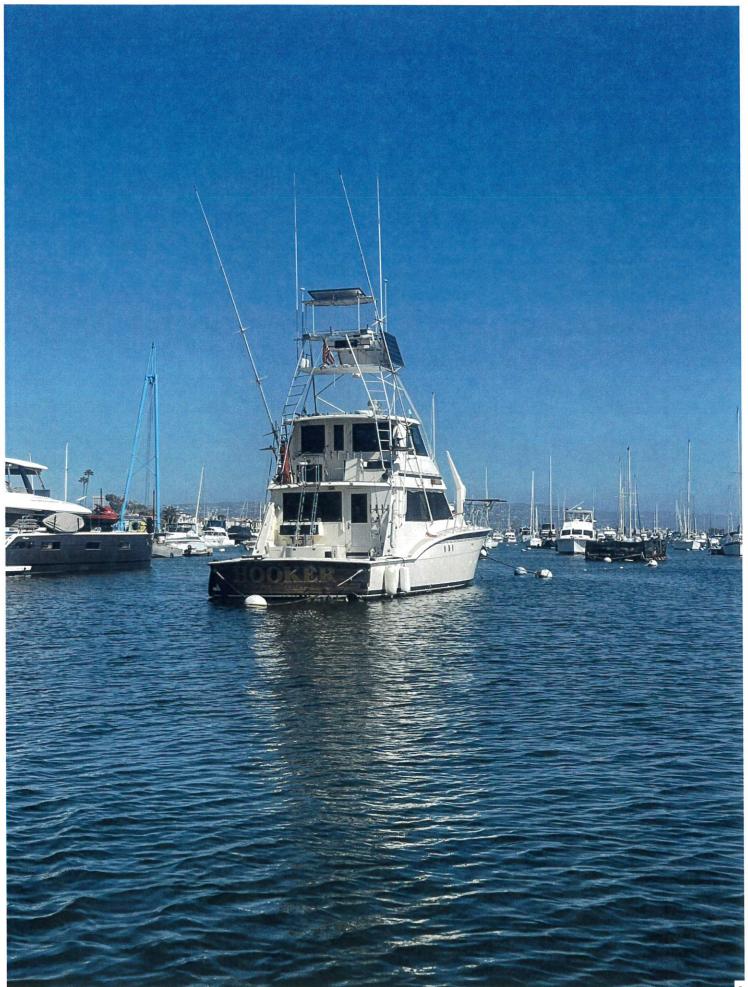
Attachment H – Appeal Application dated September 15, 2023

Attachment I - Misc. Enforcement cases associated with Mooring J-0107

ATTACHMENT A



ings_Atlas.mxd



546738_img_5994.jpeg (3024×4032)

9/27/23, 10:21 AM

ATTACHMENT B

32



MOORING PERMIT

(Per NBMC Title 17, as amended or superseded) CITY OF NEWPORT BEACH, CALIFORNIA

MOORING PERMIT NUMBER:	MOORING LENGTH: 60'	
ISSUED TO:		
Mooring Permittee 1:	Mooring Permittee 2 (if applicable):	
Thomas Boyd MacNeil		
Full Legal Name 13161 Siskiyou St	Full Legal Name	
Address	Address	
Westminster CA 92683		
City State Zip 714-222-5157	City State Zip	
Phone FISHINGSTUD@GMAIL.COM	Phone	
Email	Email	
Assigned Vessel Name: JULIA MAUREEN	Mooring Permittee 2 Signature Vessel CF Number: <u>CF 6517 CN</u> or	
Sail: Power: X	Vessel USCG Documentation Number:	
Vessel Owner Name: TOM MACNEIL	Vessel Length Overall: 30'	
Address: 837 W. 17TH ST		
East Weight Lbs.: <u>3200</u> Chain Size (Bottom):	Chain Size (Top):	
West Weight Lbs.: <u>3200</u> Chain Size (Bottom):	<u>3/4"</u> Chain Size (Top): <u>1/2"</u>	
Next Inspection/Overhaul Due: 03/30/2019	Maximum Vessel Length Allowed: <u>60'</u>	
Mooring Permit Issued by:	Date: 22719	



MOORING PERMIT TERMS AND CONDITIONS

Mooring Permittee agrees:

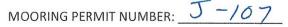
- 1. To be responsible for permit rent, fees, routine maintenance and repair of any damage to mooring equipment.
- To grant permission to the City of Newport Beach to temporarily assign the mooring to another vessel through the issuance of a Mooring Sub-Permit, when it is a "deemed vacant mooring," as defined in NBMC Section 17.60.040(G), as amended or superseded, or as needed for impounded vessels.
- 3. To defend and indemnify the City of Newport Beach 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 Mooring Sub-Permittee's damage of the mooring, or out of negligence and/or misconduct of a person assigned the mooring as a Mooring Sub-Permittee under NBMC Section 17.60.040(G) and/or (H).
- 4. To provide valid government issued identification.
- 5. To provide proof of insurance for the vessel.
- 6. To provide registration or other proof of ownership of the vessel assigned to the mooring. Vessels on Mooring Permit must be registered to Permittee and the mooring through the City of Newport Beach.
- 7. To pay fair market value rent on a rent schedule established by the City of Newport Beach.
- 8. This Mooring Permit does not entitle Mooring Permittee to any ownership interest in the underlying Tidelands.
- 9. To authorize the City of Newport Beach, or its designee, to move the vessel on the mooring to another location when deemed necessary by the City of Newport Beach.
- 10. To notify the City of Newport Beach with fifteen (15) days of any change in vessel or contact information.
- 11. That it is **illegal to rent** mooring to anyone. A Mooring Permit may only be transferred with a valid Mooring Permit Transfer from the City of Newport Beach.
- 12. That it is <u>illegal to loan</u> mooring to anyone without the prior written approval of the City of Newport Beach. Written approval by the City of Newport Beach will limit the "loan" period to no more than 30 consecutive days and no more than 60 days within a 12 month period.
- 13. Only one (1) Assigned Vessel is allowed on a mooring at a time.
- 14. Spreader lines must be adequately marked and buoyed at all times.
- 15. Mooring buoys must be clearly marked with the mooring number.
- 16. Live-aboards are prohibited on moorings except as noted in NBMC Section 17.40, as amended or superseded. Live-aboards may be temporarily permitted as Mooring Sub-Permittees pending vessel inspection, for approved marine sanitation devices and a dye tablet test, for a period not to exceed 15 days in any 12 month period.
- 17. Shore mooring posts must be painted white with the mooring number attached and clearly visible.
- 18. Mooring pendants must be kept in good condition at all times.
- 19. Shore moorings are <u>not allowed</u> for vessels over 18' in length. Shore mooring vessels shall be self-righting on an incoming tide without flooding the vessel.
- 20. Vessels on moorings are subject to regular inspections and/or boarding by the City of Newport Beach.
- 21. To take any and all necessary action to employ and maintain appropriate sea lion deterrent measures.
- 22. It is unlawful and a public nuisance for any vessel to operate its mechanical or electrical system which creates excess noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health and safety.
- 23. To be responsible for any related towing charges associated with the Assigned Vessel.
- 24. Mooring Permit may be revoked upon any of the grounds outlined in NBMC Section 17.60.040(K), as amended or superseded.

VIOLATION(S) OF MOORING PERMIT TERMS AND CONDITIONS, OR NBMC TITLE 17 AS AMENDED OR SUPERSEDED MAY RESULT IN THE CANCELLATION OF MOORING PERMIT.

Questions concerning the Mooring Permit should be directed to the Harbormaster: harbormaster@newportbeachca.gov or (949) 270-8159.

MOORING PERMIT TRANSFER

(Per NBMC Title 17, as amended or superseded) CITY OF NEWPORT BEACH, CALIFORNIA



CALLEOR RULE

MOORING LENGTH:

CURRENT MOORING PERMITTEE ("Transferor"):

GLICK FAMILY TH	Mooring Perm	Mooring Permittee 2 (If Applicable):	
Full Legal Name Po Box 426	Full Legal Name		
Address Baldy 69 9.	Address 1786		
City State	Zip City gePansonplited taxu C	State Zip	
Phone	mail Phone	Email	

CURRENT MOORING PERMITTEE DECLARATION

...

By signing below, I declare that I am the current Permittee of the Mooring Permit mentioned above. I wish to cancel the Mooring Permit listed above, and wish to transfer my interest in the mooring to person named below. All rent and fees are paid and current; all mooring inspections are current; all required maintenance and repairs are complete; and there are no derelict or unauthorized vessel(s) on the mooring. I have permanently vacated the mooring, have reported the price paid for the Mooring Permit to the City of Newport Beach, and have paid the required transfer rental charge to the City of Newport Beach. I further represent that I did not discriminate Transferee or any 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.

20 Pl at Upland Executed this Z6 day of , California. Bv:

[Signature must be notarized]

[Signature must be notarized]

NEW MOORING PERMITTEE ("Transferee"):

Transfer Mooring Pe	rmittee 1:	, Transfer Moo	ring Permittee 2 (If Applicable):
Full Legal Name	Kiyoust	Full Legal Name	
Address	hiph Ce	Address	
City	State Zip	City	State Zip
Phone 7/4222 5	Email	Phone	Email
By sighing below, Mooring Permittee agrees to be held responsible for compliance with all rules, regulations, and conditions set forth in			
Newport Beach Municipal Code Title 17, as amended or superseded, including but not limited to the terms and conditions on the reverse. Executed thisday ofday o			
By:	alas	By: [Signature must be	notarized]
Transfer Fee: \$ 1,058.70 Non-Refundable. 75% of annual mooring rent. Exceptions in NBMC Section 17.60.040(I).			
Transfer Sale Price: $\$$ 54,000			

Mooring Permit Transfer Approved by: JALL Date: 2/27/19 K see Act Darch Broker, Normy Public, 35

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California	}	
$\bigcirc \mathcal{R}$		3
County of JAN DEMARDINO	}	

On <u>February 26, 2019</u> before me, <u>Dana M. Booker, Notary Public</u> (Here insert name and little of the officer) personally appeared <u>BRIAN Glick</u> AND Thomas Boyd Mac Neil

personally appeared <u>BRIAN Flick AND Thumas Boyn Mac Neil</u>, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. Notary Public Signature (Notary Public Seal)

DANA M. BOOKER COMM. # 217 1983 NOTARY PUBLIC - CALIFORNIA SAN BERNARDINO COUNTY My Comm. Expires December 11, 2020

ADDITIONAL OPTIONAL INFORMATIC DESCRIPTION OF THE ATTACHED DOCUMENT Mooking Permit Transfer (Title or description of altached document)	10
(Title or description of attached document continued)	
Number of Pages _/ Document Date	
L	
CAPACITY CLAIMED BY THE SIGNER	
Individual (s)	
Corporate Officer	
(Title)	
Partner(s)	
□ _Attorney-in-Fact	
Trustee(s)	
Other	
2015 Version www.NotaryClasses.com 800-873-9865	

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - Indicate title or type of attached document, number of pages and date.
 - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.



CITY OF NEWPORT BEACH HARBOR DEPARTMENT **OFF-SHORE MOORING PERMIT**

THIS OFF-SHORE MOORING PERMIT ("Mooring Permit") is issued as of this 28 day of ______, 20_____ by the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), to the person(s) listed below; if more than one (1) person or entity, each shall be jointly and severally liable and all are collectively referred to as "Mooring Permittee" herein

MOORING NUMBER: J-107

Mooring Permittee #1:

Thomas Boyd MacNeil

Full Legal Name

<u>13161 Sis</u> Residence Address

State

City

illing Address

Zip Code

Telephone (Home)

Telephone (Business)

Telephone (Cell)

Email Address

Driver's License Info (State Issued / Number)

Emergency Contact (Name / Telephone) An individual with access to your vessel, authorized and capable to attend to its needs if you are unavailable

MOORING LENGTH:	60'		
Mooring Permittee #	2 (if applicab	le):	
Full Legal Name			
Residence Address		178 118	 \$
City	State	Zip Code	
Telephone (Home)			
Telephone (Business)			
Telephone (Cell)			
Email Address			

Driver's License Info (State Issued / Number)

Emergency Contact (Name / Telephone) An individual with access to your vessel, authorized and capable to attend to its needs if you are unavailable

Assigned Vessel Name: HOOKER	Vessel CF #	or USCG Documentation # 664962
	Vessel Length Overall:	60
Maximum Vessel Length Allowed:		

This Mooring Permit is issued under the following terms and conditions:

- This Mooring Permit is a license for the temporary use of the mooring location specified herein and is revocable. The issuance of this Mooring Permit does not create or represent any form of property right or 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. (NBMC Section 17.60.040(A),(B)(2)(i))
- A Mooring Permittee may not hold more than two mooring permits at any time. A Mooring Permittee that has held 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. (NBMC Section 17.60.040(B))
- All parties under a jointly permitted mooring shall have equal rights, obligations and liability under the Mooring Permit and shall be jointly and severally responsible for compliance with all rules, regulations, and conditions set forth in the Mooring Permit. (NBMC Section 17.60.040(B(2)(c))
- 4) Mooring Permittee shall 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. (NBMC Section 17.60.040(B)(2)(h))
- 5) Mooring Permittee shall be responsible for payment of all permit rents, fees, costs of maintenance and repair of mooring equipment. (NBMC Section 17.60.040(B)(2)(b))
- 6) Rental or lease of the mooring to another person is prohibited except with the written permission of the Harbormaster. (NBMC Section 17.25.020(L))
- Mooring Permit transfers and changes to the assigned vessels are prohibited without prior City review and approval. (NBMC Section 17.60.040(F))
- 8) City may temporarily assign the mooring to other vessels through the issuance of a Mooring Sub-Permit, during times when the mooring is deemed vacant. (NBMC Section 17.60.040(B)(2)(d))
- 9) Mooring Permittee shall be responsible for any towing-related charges associated with the assigned vessel in violation of the Municipal Code.
- Mooring Permittee shall provide valid government issued identification and, upon request of the Harbormaster, additional documentation to verify Mooring Permittee's place of residence, to the satisfaction of the Harbormaster. Mooring Permittee shall provide City written notice of any change in their contact information within five (5) calendar days of such change. (NBMC Section 17.60.040(B))
- Mooring Permittee shall provide and maintain as current for the term of the Mooring Permit, evidence of valid DMV registration, USCG documentation, or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster. (NBMC Section 17.60.040(B)(2)(g))

- 12) Mooring Permittee shall provide and maintain as current proof of insurance coverage, naming the City as an additional insured, to the satisfaction of the City's Risk Manager, for the assigned vessel as well as any tender maintained at the same mooring as allowed for under the NBMC. (NBMC Section 17.60.040(B)(2)(f))
- 13) Mooring Permittee shall lift the mooring system (weights, tackle, and other elements) for inspection by the Harbormaster, or provide certification of such inspection by a qualified marine contractor, at least once every two (2) years. The Harbormaster may require the mooring to be lifted at any time when deemed necessary to assure it is in good condition. (NBMC Section 17.25.020(K))
- 14) The Harbormaster, or his designee, may board the assigned vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether those devices are discharging overboard in accordance with applicable laws. (NBMC Section 17.60.040(B)(2)(k))
- 15) The City, or its designee, is authorized to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster. (NBMC Section 17.60.040(B)(2)(j))
- 16) All elements and parts associated with the mooring shall be kept in good condition at all times. Mooring Permittee shall maintain the mooring in its designated location and shall be responsible for adjusting the mooring as necessary when it has shifted, moved, or otherwise deviated from its designated location. (NBMC Sections 17.25.020(1); 17.60.040(B)(2)(b))
- 17) Only one (1) assigned vessel is allowed on a mooring at a time. The vessel shall be maintained in a safe, operable and seaworthy condition and shall not constitute a public nuisance. The vessel is subject to inspection by the Harbor Department prior to its assignment to a mooring, or thereafter upon request of the Harbormaster, to confirm it meets the requirements outlined in the NBMC. (NBMC Section 17.25.020(H)(2), (3))
- 18) Mooring buoys must be clearly marked with the City-assigned mooring number and in accordance with the requirements for size, specifications, colors, and reflectivity of buoys and numbering systems. (California Uniform State Waterway Marking System; NBMC Section 17.25.020(G))
- 19) The operation of the assigned vessel's mechanical or electrical systems shall not create excessive noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health and safety. (NBMC Section 17.25.020(H)(3)(g))
- 20) Mooring Permittees shall not release or permit to be released into the water or upon the docks or land by action or inaction, any waste or environmentally objectionable substances including but not limited to oil, paint and gasoline. If the assigned vessel is equipped with a toilet, a marine head, or any other permanent or temporary receptacle for human body wastes, then the vessel must be equipped with a holding tank designed to retain all contents deposited in the receptacle until such time as the contents can be discharged into a sanitary sewer system or discharged otherwise in accordance with law. All sewage systems on the assigned vessel must meet U.S. Coast Guard guidelines and secured in a manner to prevent discharge in accordance with federal law while the vessel is moored in Newport Harbor. Mooring Permittee shall immediately implement necessary clean up and disposal of any waste and shall immediately report any release to all appropriate government agencies and to the Harbormaster. Mooring Permittee shall be responsible for the prompt payment of all costs associated with clean up and disposal including costs of absorbent pads and booms, oversight by government agencies and Harbor Department personnel, fines, penalties and legal fees. If City is not satisfied with Mooring Permittee's corrective actions in response to a release or discharge City may, at its sole discretion, take any and all action it deems appropriate, including revocation of the Mooring Permit. Mooring Permittee shall be liable for all costs and expenses associated with the City's corrective actions, which shall be payable to the City immediately upon receipt of an invoice from the City. (NBMC Section 17.45.030)
- 21) Mooring Permittee shall take any and all necessary action to promptly employ and maintain appropriate sea lion deterrent measures upon receipt of a notice of violation. (NBMC Section 17.25.020(H)(4))
- 22) Mooring Permittee shall jointly and severally 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. (NBMC Section 17.60.040(B)(2)(e))
- 23) Spreader lines when used must be visible on the surface by use of floats or other devices or methods at all times.
- 24) Living aboard a vessel is prohibited without a live-aboard permit. (NBMC Section 17.40.030)

- 25) A single tender, no longer than fourteen (14) feet in overall length, that serves as access to and from the assigned vessel, may be secured to the assigned vessel or may be secured to the off-shore 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 (NBMC Section 17.60.040(B)(1)(b))
- 26) The Mooring Permit may be revoked upon violation or failure to comply with any of the terms and conditions outlined herein or in accordance the provisions of Title 17 of the Newport Beach Municipal Code. (NBMC Section 17.70.020(A))

By signing below, Mooring Permittee acknowledges that he or she has read the above requirements and the obligations set forth in the City of Newport Beach Municipal Code.

MOORING PERMITTEE:

By: Tom Mac Neil Name:

Date:

MOORING PERMITTEE:

Date:_____

By:____ Name:

Name.

APPROVED:

Dates eptember 6,2022 Madison Vie By:

City of Newport Beach Harbormaste

ATTACHMENT C

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 <u>17.05.140(D)(1)</u>. 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.

The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") a. currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, as noted in subsection (B)(3)(g) 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 vacht 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

Chapter 17.60 HARBOR PERMITS AND LEASES

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 <u>17.05.140(D)(1)</u>.

2. Permit Requirements. A mooring permit may be issued to a maximum of two persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. The mooring permit shall specify the assigned mooring location, the mooring length, and assigned vessel information. Mooring permittee(s) are subject to and shall fully comply with the following conditions:

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);

 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. Agree to move the vessel from the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster because the vessel has drifted from its assigned mooring location or to address safety or navigational concerns, and also to authorize the City or its designee to move the vessel upon the mooring permittee's failure to do so, at the permittee's expense;

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; and

I. Agree that if the permittee's maximum mooring length is shorter than the established length of its mooring row by five feet or more then the permittee is subject to relocation within the same mooring field for the purpose of accommodating mooring extension requests. The H and J fields shall be considered as one field for the purpose of relocations. The costs of relocation, including the moving of mooring equipment, shall be borne by the mooring permittee who requested the mooring length extension.

Example: Permittee A has a mooring length of thirty-five (35) feet, a vessel LOA of thirty (30) feet, and is in a thirty-five (35) foot row. Permittee B has a mooring length of thirty (30) feet, a vessel LOA of thirty (30) feet, and is in a thirty-five (35) foot row. Permittee C has a mooring length of thirty-six (36) feet, a vessel LOA of thirty (30) feet, and is in a forty (40) foot row. Only Permittee B is subject to relocation.

3. Permittee/Transferee Qualifications. A mooring permit may be held only by natural persons unless the mooring permit is transferable, in which case it may be held by, or transferred to, only the following:

a. A natural person(s);

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. 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 <u>17.05.120</u>.

E. Transfer of Permit. Mooring permits are nontransferable, with the exception of mooring permits that were issued prior to the effective date of Ordinance No. 2023-8 (July 13, 2023), which shall continue to be transferable unless surrendered or revoked. A mooring permit that is transferable may only be transferred one time in any twelve (12) month period, unless transferred to a member of the permittee's immediate family.

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 <u>17.25.020</u>(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 <u>17.25.020(H)</u> 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 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 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 to 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 <u>17.70.020</u>.

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 Extend Mooring Length.

1. General. Mooring permittees shall not moor vessels that exceed their permitted maximum mooring length. If an offshore mooring permittee wishes to moor a vessel that requires an extension in mooring length, they may request an extension up to the established length of their mooring row. A request for an extension that would exceed the established length of their mooring row shall require the permittee to relocate to a larger mooring row. In no case shall mooring lengths exceed the established mooring row lengths.

2. Application.

a. Filing and Review of Request. An offshore mooring permittee shall file a written request for extension of mooring length 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 extension of mooring length 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 the extension of mooring length 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; 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, side-tie, or mooring row.

3. Action on Extension Request. For extension requests that require relocation to a larger mooring, a mooring of appropriate size must be available within the same mooring field. The H and J fields shall be considered as one field for the purpose of relocations. As used herein, an available mooring includes one that is occupied by a permittee whose permitted maximum mooring length is shorter than the established length of its mooring row by five feet or more. The Harbormaster may approve the extension request only after making the findings set forth in Section <u>17.05.140(D)(1)</u> 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 mooring length is filed;

b. The proposed extension of mooring length 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 extending beyond the outer boundaries of the mooring area or row; or

iv. Violate the established length of the row or mooring area in which the vessel will be moored;

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.

Example of relocation to an available mooring. Permittee A wishes to upgrade their vessel "Atlantis" (forty (40) foot LOA), which is in a forty (40) foot row, with "Atlantis II" (forty-two (42) foot LOA). A will need to relocate to a mooring in a longer row since the mooring length cannot be extended at its current location. Permittee B's vessel "Barnacle" (forty-one (41) foot LOA) is in a forty-five (45) foot row. Permittee C's vessel "Calypso" (forty (40) foot LOA) is in forty-five (45) foot row. Permittee D's vessel "Doldrums" (forty (40) foot LOA) is in a forty-five (45) foot row. Permitted mooring length of forty-one (41) feet; C's permitted mooring length is forty (40) feet; and D's permitted mooring length is forty-one (41). All four moorings are in the same mooring field. C's mooring is the only available mooring to which A can relocate.

4. Conditions of Approval. If the Harbormaster approves a request for extension of mooring length, such approval shall be conditional and contingent upon the following requirements:

a. The mooring permittee must occupy the approved mooring with their vessel within twelve (12) months following the date of approval;

b. Transferable mooring permits shall not be sold or transferred for a period of twelve (12) months following the date of occupancy of the approved mooring. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of this section; and

c. The requestor shall cover all costs associated with modifying the length of their mooring, or in the case of a relocation moving their vessel to the available mooring and moving the displaced vessel from the available mooring. The costs shall include, but not be limited to, the moving of mooring anchors and tackle and resizing of mooring tackle to meet applicable mooring standards (e.g., chain size).

5. Noncompliance with subsection (M)(4)(a) or (b) of this section shall result in rescission of the approval to extend mooring length. Within thirty (30) days of the rescission, the permittee who requested the extension shall at its sole expense return the mooring to its prior maximum length

or in the case of a relocation 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 be grounds for revocation of the mooring permit. (Ord. 2023-8 §§ 6—11, 2023; Ord. 2022-9 §§ 7, 8, 2022; Ord. 2022-4 § 2, 2022; Ord. 2020-5 § 1 (Exh. 1) (part), 2020: Ord. 2018-17 § 58, 2018: Ord. 2017-7 § 3, 2017: Ord. 2013-11 § 175, 2013; Ord. 2010-26 § 5, 2010: Ord. 2008-2 § 1 (part), 2008)

17.70.020 Grounds for Revocation of Permit.

A. Grounds for Revocation.

1. General Grounds for Revocation. Except as provided in subsections (A)(2) through (4) of this section, in addition to any specific grounds for revocation of a permit provided for herein, any permit heretofore or hereafter granted for any structure, work, use or activity under and pursuant to this title may be revoked upon any of the following grounds:

a. The development work, structure, use or activity has become detrimental to commerce, navigation or fishing;

b. The development work, structure, use or activity is detrimental to the use, operation or development of Newport Harbor or the Pacific Ocean;

c. The development work, structure, use or activity has become a source of pollution of Newport Harbor or the Pacific Ocean;

d. The development work, structure, use or activity does not comply with the permit or does not meet the standards adopted for such development work or structure;

e. The permittee has failed for a period of sixty (60) days to pay any rent or fee heretofore or hereafter imposed for the occupancy or use of tidelands, filled tidelands or submerged lands;

f. The development work or structure has fallen into a state of disrepair;

g. The space occupied by such work or structure is over public trust land and such space is to be devoted to a more necessary public use;

h. The permittee has breached or failed to comply with the terms or conditions contained in the permit or upon which the permit was granted or provided false or misleading information on an application for a permit or renewal thereof;

i. The development work, structure, use or activity violates the terms of the tidelands trust grants to the City; or

j. There has been a violation of any provision of this title, State or Federal law.

2. Grounds for Revocation of a Live-Aboard Permit. In addition to the grounds for revocation set forth in subsection (A)(1) of this section, any permit granted pursuant to Chapter <u>17.40</u> may be revoked upon a determination that:

a. Permittee has violated, or failed to comply with, any of the provisions or requirements of Chapter <u>17.40</u> or this title;

b. Permittee has discharged raw or treated sewage into the bay or otherwise violated the provisions of Section <u>17.40.100;</u>

c. Permittee has failed to pay any fee required to be paid pursuant to the provisions of Chapter <u>17.40</u> and/or resolution of the City Council; or

d. Permittee, or any person on the vessel, has engaged in conduct which has unreasonably interfered with the health, safety, welfare, or peace of any person.

3. Grounds for Revocation of Mooring Permit. A mooring permit may be revoked upon any of the grounds set forth in subsection (A)(1) of this section or for any of the following:

a. The moored vessel or the mooring equipment has been determined to violate the applicable mooring regulations in Section <u>17.25.020</u>, or any successor section, and the mooring permittee or sub-permittee has not made the necessary corrections or repairs within the time required by the Harbormaster;

b. The mooring permittee or person authorized by the mooring permittee has failed or refused to allow an inspection of the vessel to determine if it is safe, seaworthy and operable, a public nuisance, or in compliance with applicable marine sanitation device requirements including placement of a dye tablet in the marine sanitation device;

c. A person has lived aboard a vessel assigned to a mooring without a live-aboard permit, unless otherwise noted in Section <u>17.60.040(H)</u>; or

d. The mooring permittee has sublet their mooring in violation of this title.

4. Grounds for Revocation of a Marine Activities Permit. A marine activities permit may be revoked upon any of the grounds set forth in subsection (A)(1) of this section or for any of the following:

Chapter 17.70 ENFORCEMENT

a. If any person violates any condition of the marine activities permit within six months of having a previously suspended marine activities permit reinstated, and the violation relates in any way to a condition of the marine activities permit;

b. If any person violates any condition of the marine activities permit three or more times in any twelve (12) month period or any other provision of this Code, State or Federal law, three or more times in any twelve (12) month period, and the violation relates in any way to a condition of the marine activities permit.

B. Notice and Hearing.

General Notice and Hearing Procedures. Except as provided in this title or subsections (B)
 (2) and (3) of this section, any revocation shall require a public hearing before the Harbor
 Commission at which the permittee has an opportunity to be heard.

a. At least fourteen (14) calendar days' notice of such hearing shall be given in accordance with Section 1.05.030 to the permittee shown on such permit, setting out the date, time and place of hearing, and specifying the facts which constitute the grounds for revocation.

b. The Harbor Commission shall preside over the hearing. The Harbor Commission may continue a hearing from time to time and request additional information from city staff or the permittee before rendering its decision. The permittee's nonappearance at the hearing shall constitute a failure to exhaust his or her administrative remedies.

c. At the hearing, the permittee shall be given the opportunity to testify and present evidence and shall raise any and all legal and factual issues concerning the determination under this section. The hearing need not be conducted in accordance with the technical rules of evidence and any relevant evidence may be admitted.

2. Procedure for Revocation of Live-Aboard Permits. If the Harbormaster determines there are grounds for revocation of a live-aboard permit as provided in subsection (A)(2) of this section, he or she shall provide written notice of revocation with service of the notice in accordance with Section 1.05.030, stating the grounds for the action, the effective date of the decision and the right of the permittee to appeal the decision to the Harbor Commission. The permittee shall have fourteen (14) calendar days from the date on which notice is deemed served to request a hearing.

If the permittee does not request a hearing within fourteen (14) calendar days of the date the notice is deemed served, the decision of the Harbormaster shall be final.

Chapter 17.70 ENFORCEMENT

3. Procedure for Revocation of Mooring Permits. If the Harbormaster determines there are grounds for revocation of a mooring permit as provided in subsection (A)(3) of this section, he/she shall provide written notice of the revocation with service of the notice in accordance with Section <u>1.05.030</u> to the permittee shown on such permit, stating the grounds for the action, the effective date of the decision and the right of the permittee to appeal the decision to the Harbor Commission. The permittee shall have fourteen (14) calendar days from the date on which notice is deemed served to request a hearing.

If the permittee does not request a hearing within fourteen (14) calendar days of the date the notice is deemed served, the decision of the Harbormaster shall be final.

C. Decision and Notice. Within a reasonable time of the conclusion of any revocation hearing before the Harbor Commission, the Harbor Commission shall render a decision. The City Clerk shall notify the permittee or applicant of the decision of the Harbor Commission and serve the notice in accordance with Section <u>1.05.030</u>.

D. Effective Date. Except as provided in subsections (B)(2) and (3) of this section, the decision to revoke a permit shall become final once the time period for an appeal or call for review has expired.
(Ord. 2021-3 §§ 5, 6, 2021; Ord. 2020-5 § 1 (Exh. 1) (part), 2020: Ord. 2015-9 §§ 37, 38, 2015; Ord. 2013-1 § 12, 2013; Ord. 2008-2 § 1 (part), 2008)

ATTACHMENT D



City of Newport Beach Revenue Division

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

ACCOUNT SUMMARY

Name:	MAC NEIL, THOMAS B.
Account #	6003381-585841
Customer #	585841
Service Address:	MOORING: J 0107
Statement Date:	3/2/2023
Due Date:	4/1/2023
Total Amount Due:	\$101.15

IMPORTANT INFORMATION

April 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT

BILLING DETAILS

Water Conservation Route: MRG		
CHARGES:	TOTAL:	
MOORING OFFSHORE (MONTHLY)	\$196.80	
BILLING SUMMARY		
Previous/Beginning Balance Payments Applied - THANK YOU Total Adjustments	\$-95.65 \$0.00 \$0.00	
TOTAL AMOUNT DUE	\$101.15	



City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607

07 Account #:

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157

E-mail:FISHINGSTUD@GMAIL.COM

NPX0302A 4000000404 404/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

THOMAS B 3381-585841 585841
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3/2/2023
4/1/2023
\$101.15

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042023001150211900000101154

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

CANCELLING SERVICE:

You may cancel service by going online to www.newportbeachca.gov/quest, then click on "Water Services", then select "Close Water Account". Accounts cannot be closed by phone. You may request a form faxed or mailed to you by calling 949-644-3141. You will be held responsible for all changes until you close your account regardless of move out date.

PAYMENTS:

Payments can be made using your credit card on the Internet at <u>www.newportbeachca.gov/payments</u>, by telephone by calling 949-718-1999, in person at City Hall (bring your payment stub), or by mail using the return envelope enclosed with this mailing. Payments must be received by the due date on this invoice to avoid additional penalties (postmark dates are not acceptable). The City is not responsible for mail delays or online banking service delays. By presenting your signed check to the City of Newport Beach, you authorize the City of Newport Beach to use the account information from the check to make an electronic fund transfer from your banking account for the same amount as the check. If the electronic fund transfer cannot be completed for any reason, the City of Newport Beach may attempt the transfer two additional times.

IMPORTANT NOTICE

Online BillPay - Using the City's Online BillPay Program, City of Newport Beach utility customers are able to view and pay their bills online. Customers can use the website to make one-time or automatic payments by debit card, credit card, or ACH (bank account). To sign up for the Online BillPay Program simply enroll by going to www.newportbeachca.gov/payments. Please reference the customer number found on your billing statement.

PAYMENTS NOT RECEIVED BY DUE DATE ARE SUBJECT TO LATE PAYMENT FEES

The front of this Municipal Services Statement can contain charges for one or more services provided by the City of Newport Beach. Those included in your billing will be listed under the "BILLING DETAILS" section. A brief description of the services that may be included on your statement is provided below

- Water Service: The fixed charge assessed on each water connection is to maintain the water delivery system to your property and is assessed whether or not there is water usage.
- Sewer Service: The fixed charge assessed on each sewer connection is to maintain the sanitary sewer system to your property and is assessed whether or not there is water usage.
- Water Use: This charge is based on the amount of water (measured in Hundred Cubic Feet, HCF. 1 HCF = 748 Gallons) registered by the water meter during the period of time described in the "BILLING DETAILS" section.
- Sewer Use: This charge is based on the amount of water (measured in HCF's) registered by the water meter and is charged at a reduced rate from water.
- Multi-Unit: If your property contains multiple units (duplex, apartments, hotel, hospital) and these units are serviced by a single meter, a fixed fee is charged for each additional residential living unit attached to the meter.
- Recycle: This fixed charge is assessed on all properties that receive refuse collection from the City to pay for third party recycling. The cost of this process is apportioned to each property in an equal amount. The City does not charge for refuse collection.
- Establishment Fee: This fixed charge is assessed when service is established in a customer's name or changed from a tenant's name back into the owners name.
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Online Services www.newportbeachca.gov	General Information	
Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License Sign Up for Select Alerts Many More Online Services Available Permanent Restrictions	 Fire Medic Membership High Water Consumption/Leaks Recycling/Refuse Service Municipal Services Billing Payment Questions Automatic Payment Program Moorings Water Rebate Program Balboa Yacht Basin 	949-644-3383 949-644-3011 949-644-3066 949-644-3141 949-644-3141 949-644-3141 949-270-8159 949-644-3214 949-269-0723
	r that causes runoff.	ions.

- Not repairing water leaks or breaks quickly.
- No irrigation of lawns, shrubs or ornamental landscape during or 48 hours after rainfall.
- No operating a fountain or decorative water feature, unless the water is part of a recirculating system.
- No washing a vehicle (including cars, trucks, boats, trailers and recreational) with a hose. Unless the hose is fitted with a positive shut-off nozzle.

Visit www.ocwatersmart.com to apply for indoor and outdoor water saving rebates.



City of Newport Beach Revenue Division P.O. Box 4923

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

ACCOUNT SUMMARY

Name:	MAC NEIL, THOMAS B.
Account #	6003381-585841
Customer #	585841
Service Address:	MOORING: J 0107
Statement Date:	4/4/2023
Due Date:	5/1/2023
Total Amount Due:	\$308.07
IMPORTANT INFORMATION	4

May 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT

BILLING DETAILS

	BILLING DETAILS		
	Water Conservation Route: MRG CHARGES: MOORING OFFSHORE (MONTHLY)	TOTAL: \$196.80	
	BILLING SUMMARY		
	Previous/Beginning Balance Payments Applied - THANK YOU Total Adjustments	\$101.15 \$0.00 \$10.12	
	TOTAL AMOUNT DUE	\$308.07	
L.,			



City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607

Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

Customer#: Notice Date:	3381-585841 585841
Notice Date:	
	4/4/2023
Due Date:	5/1/2023
Total Amount Due:	\$308.07

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157

E-mail:FISHINGSTUD@GMAIL.COM

NPX0404A 4000000396 396/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042023001165073600000308072

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

Office Hours*

Monday - Thursday 7:30AM - 5:30PM Friday 7:30AM - 4:30PM *excluding holidays

CANCELLING SERVICE:

You may cancel service by going online to www.newportbeachca.gov/quest, then click on "Water Services", then select "Close Water Account". Accounts cannot be closed by phone. You may request a form faxed or mailed to you by calling 949-644-3141. You will be held responsible for all changes until you close your account regardless of move out date.

PAYMENTS:

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PAYMENTS NOT RECEIVED BY DUE DATE ARE SUBJECT TO LATE PAYMENT FEES

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- 5 Sewer Use: This charge is based on the amount of water (measured in HCF's) registered by the water meter and is charged at a reduced rate from water.
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Ohline Services www.newportbeachca.gov	General-Information	
Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License Sign Up for Select Alerts Many More Online Services Available Permanent Restrictions	 Fire Medic Membership High Water Consumption/Leaks Recycling/Refuse Service Municipal Services Billing Payment Questions Automatic Payment Program Moorings Water Rebate Program Balboa Yacht Basin 	949-644-3383 949-644-3011 949-644-3011 949-644-3141 949-644-3141 949-644-3141 949-270-8159 949-644-3214 949-269-0723
	mer is required to comply with the following restrict r automated irrigation systems. er that causes runoff.	lons.

- No washing down hard surfaces including sidewalks and driveways.
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City of Newport Beach Revenue Division

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

Name:	MAC NEIL, THOMAS B
Account #	6003381-585841
Customer #	585841
Service Address:	MOORING: J 0107
Statement Date:	5/3/2023
Due Date:	6/1/2023
Total Amount Due:	\$524.55
MPORTANT INFORMATION	

June 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT

BILLING DETAILS

DILLING DETAILS	-1
Water Conservation Route: MRG	
CHARGES: TOTAL:	
MOORING OFFSHORE (MONTHLY) \$196.80	
BILLING SUMMARY	
Previous/Beginning Balance \$297.95 Payments Applied - THANK YOU \$0.00 Total Adjustments \$29.80	
TOTAL AMOUNT DUE \$524.55	
14	



City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607 Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

Name: MAC NEIL	THOMAS B.
	3381-585841
Customer#	585841
Notice Date:	5/3/2023
Due Date:	6/1/2023
Total Amount Due:	\$524.55
Amount Enclosed:	

Please provide/update the e-mall address and phone number so the City may contact you about water service problems.

Phone:714-222-5157

E-mail: FISHINGSTUD@GMAIL.COM

NPX0503A 4000000398 398/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042023001179832900000524553

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

CANCELLING SERVICE:

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SERVICES The front of this Municipal Services Statement can contain charges for one or more services provided by the City of Newport Beach. Those included in your billing will be listed under the "BILLING DETAILS" section. A brief description of the services that may be included on your statement is provided below

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 Recycle: This fixed charge is assessed on all properties that produce relies that produce r
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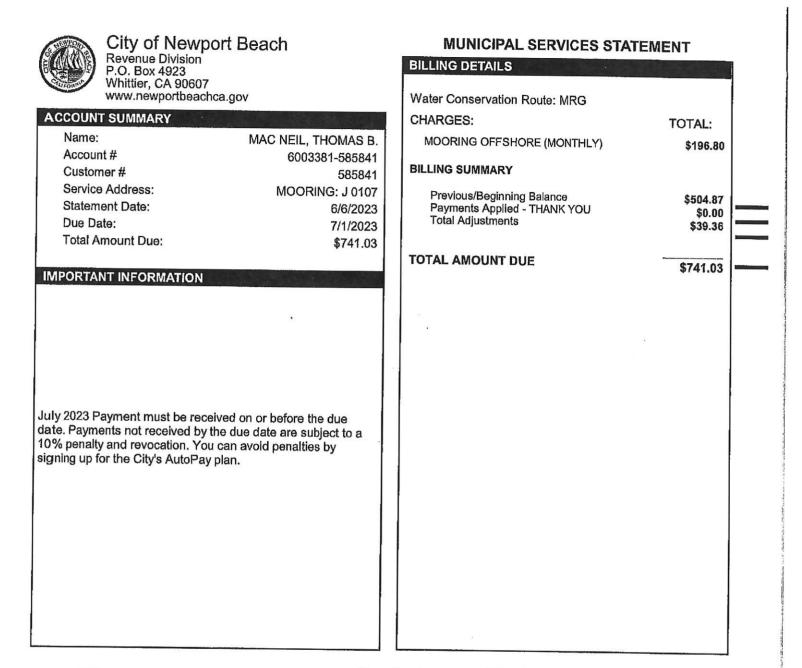
Online Services www.newportbeachca.gov	General Information	
Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License Sign Up for Select Alerts Many More Online Services Available Permanent Restrictions	 Fire Medic Membership High Water Consumption/Leaks Recycling/Refuse Service Municipal Services Billing Payment Questions Automatic Payment Program Moorings Water Rebate Program Balboa Yacht Basin 	949-644-3383 949-644-3011 949-644-3066 949-644-3141 949-644-3141 949-644-3141 949-644-3141 949-270-8159 949-644-3214 949-569-0723
Per the City's Municipal Codes, every water custor • No watering over 15 minutes per station for	ner is required to comply with the following restrict automated irrigation systems.	ions.

- No watering outdoor landscapes in a manner that causes runoff.
- No washing down hard surfaces including sidewalks and driveways.
- Not repairing water leaks or breaks quickly.
- No irrigation of lawns, shrubs or ornamental landscape during or 48 hours after rainfall.
- No operating a fountain or decorative water feature, unless the water is part of a recirculating system.
- No washing a vehicle (including cars, trucks, boats, trailers and recreational) with a hose. Unless the hose is fitted with a positive shut-off nozzle.

Visit www.ocwatersmart.com to apply for indoor and outdoor water saving rebates.

Office Hours*

Monday - Thursday 7:30AM - 5:30PM Friday 7:30AM - 4:30PM *excluding holidays





City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607 Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

C NEIL, THOMAS B.
6003381-585841
585841
6/6/2023
7/1/2023
\$741.03

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157 E-mail:FISHINGSTUD@GMAIL.COM

NPX0606A 4000000389 389/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042023001194745400000741033

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

CANCELLING SERVICE:

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- 30 Lease: This service is for customers who lease City owned property.
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Online Services www.newportbeachca.gov Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License	General/Information 1. Fire Medic Membership 2. High Water Consumption/Leaks 3. Recycling/Refuse Service 4. Municipal Services Billing 5. Payment Questions 4. Automatic Payment Program 949-644-3141 6. Automatic Payment Program 949-644-3141 949-644-3141	
Sign Up for Select Alerts Many More Online Services Available	8. Water Rebate Program 949-644-321	949-644-3214 949-569-0723
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Per the City's Municipal Codes, every water customer No watering over 15 minutes per station for au No watering outdoor landscapes in a manner t No washing down hard surfaces including side Not renairing water leaks or begate evidence	tomated irrigation systems. hat causes runoff.	lons.

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69

Office Hours* Monday - Thursday 7:30AM - 5:30PM Friday 7:30AM - 4:30PM *excluding holidays

IMPORTANT NOTICE



City of Newport Beach

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

Name:	MAC NEIL, THOMAS B
Account #	6003381-585841
Customer #	585841
Service Address:	MOORING: J 0107
Statement Date:	7/6/2023
Due Date:	8/1/2023
Total Amount Due:	\$957.51
ORTANT INFORMATION	

August 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT

BILLING DETAILS	
Water Conservation Route: MRG CHARGES: MOORING OFFSHORE (MONTHLY)	TOTAL: \$196.80
BILLING SUMMARY	¢100.00
Previous/Beginning Balance Payments Applied - THANK YOU Total Adjustments	\$721.35 \$0.00 \$39.36
TOTAL AMOUNT DUE	\$957.51



City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607 Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

Name: MAC NEI	, THOMAS B.
Account #: 60	03381-585841
Customer#:	585841
Notice Date:	7/6/2023
Due Date:	8/1/2023
Total Amount Due:	\$957.51
Amount Enclosed:	

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157

E-mail:FISHINGSTUD@GMAIL.COM

NPX0706A 4000000388 388/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042024801209555000000957514

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

Office Hours*

Monday - Thursday 7:30AM - 5:30PM Friday 7:30AM - 4:30PM *excluding holidays

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- Water Use: This charge is based on the amount of water (measured in Hundred Cubic Feet, HCF. 1 HCF = 748 Gallons) registered by the water meter during the period of time described in the "BILLING DETAILS" section.
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- Recycle: This fixed charge is assessed on all properties that receive refuse collection from the City to pay for third party recycling. The cost of this process is apportioned
 Establishment Fae: This fixed charge is assessed on all properties that receive refuse collection.
- Establishment Fee: This fixed charge is assessed when service is established in a customer's name or changed from a tenant's name back into the owners name.
- Fire Medic: Annual membership fee will cover you and your household within Newport Beach city limits. Guests are also covered in your home. If you are insured, the City of Newport Beach will bill your insurance company and accept reimbursement as payment in full. If you are uninsured, your membership covers you in full for 911 medical services.
- Mooring: This permit fee is assessed on customers who have onshore or offshore moorings.
- Piers: This permit fee is for customers with residential or commercial piers.
- Lease: This service is for customers who lease City owned property.
- Transferred Debt: Unpaid balances on an account in your name that is delinquent for a period greater than 90 days may be transferred to your MSS bill. These accounts can include prior MSS billings, alarm bills, administrative citations, parking tickets, mooring fees, jail bookings fees, damage to City property and any other miscellaneous unpaid debts to the City. These delinquencies can be transferred to your active MSS account.
- Collection Costs: City of Newport Beach Municipal Code 1.05.100 allows the recovery of 100% of all third party costs and charges.

	and charges.	
Online Services www.newportbeachca.gov	General Information	
Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License Sign Up for Select Alerts Many More Online Services Available Permanent Restrictions	 Fire Medic Membership High Water Consumption/Leaks Recycling/Refuse Service Municipal Services Billing Payment Questlons Automatic Payment Program Moorings Water Rebate Program Balboa Yacht Basin 	949-644-3383 949-644-3011 949-644-3066 949-644-3141 949-644-3141 949-644-3141 949-270-8159 949-644-3214 949-569-0723
Per the City's Municipal Codes, every water custor No watering over 15 minutes per station for No watering outdoor landscapes in a manne	mer is required to comply with the following restrict automated irrigation systems. er that causes runoff.	ions.

- No washing down hard surfaces including sidewalks and driveways.
- Not repairing water leaks or breaks quickly.
- No irrigation of lawns, shrubs or ornamental landscape during or 48 hours after rainfall.
- No operating a fountain or decorative water feature, unless the water is part of a recirculating system.
- No washing a vehicle (including cars, trucks, boats, trailers and recreational) with a hose. Unless the hose is fitted with a positive shut-off nozzle.

Visit www.ocwatersmart.com to apply for indoor and outdoor water saving rebates.



City of Newport Beach Revenue Division

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

ACCOUNT SUMMARY Name: MAC NEIL, THOMAS B. Account # 6003381-585841 Customer # 585841 Service Address: MOORING: J 0107 Statement Date: 8/2/2023 Due Date: 9/1/2023 Total Amount Due: \$1,173.99 IMPORTANT INFORMATION

September 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT



City of Newport Beach Revenue Division P.O. Box 4923 Whittier, CA 90607 Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

AC NEIL, THOMAS B.
6003381-585841
585841
8/2/2023
9/1/2023
\$1,173.99

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157 E-mail:FISHINGSTUD@GMAIL.COM

NPX0802A 4000000386 386/1



MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

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CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042024801224416600001173996

IMPORTANT NOTICE

Office Hours*

Friday 7:30AM - 4:30PM

*excluding holidays

Monday - Thursday 7:30AM - 5:30PM

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

Newport Beach City Hall

CANCELLING SERVICE:

You may cancel service by going online to www.newportbeachca.gov/quest, then click on "Water Services", then select "Close Water Account". Accounts cannot be closed by phone. You may request a form faxed or mailed to you by calling 949-644-3141. You will be held responsible for all changes until you close your account regardless of move out date.

PAYMENTS:

Payments can be made using your credit card on the Internet at <u>www.newportbeachca.gov/payments</u>, by telephone by calling 949-718-1999, in person at City Hall (bring your payment stub), or by mall using the return envelope enclosed with this mailing. Payments must be received by the due date on this invoice to avoid additional penalties (postmark dates are not acceptable). The City is not responsible for mail delays or online banking service delays. By presenting your signed check to the City of Newport Beach, you authorize the City of Newport Beach to use the account information from the check to make an electronic fund transfer from your banking account for the same amount as the check. If the electronic fund transfer cannot be completed for any reason, the City of Newport Beach may attempt the transfer two additional times.

Online BillPay - Using the City's Online BillPay Program, City of Newport Beach utility customers are able to view and pay their bills online. Customers can use the website to make one-time or automatic payments by debit card, credit card, or ACH (bank account). To sign up for the Online BillPay Program simply enroll by going to www.newportbeachca.gov/payments. Please reference the customer number found on your billing statement.

PAYMENTS NOT RECEIVED BY DUE DATE ARE SUBJECT TO LATE PAYMENT FEES

SERVICES The front of this Municipal Services Statement can contain charges for one or more services provided by the City of Newport Beach. Those included in your billing will be listed under the "BILLING DETAILS" section. A brief description of the services that may be included on your statement is provided below

- Water Service: The fixed charge assessed on each water connection is to maintain the water delivery system to your property and is assessed whether or not there is water usage.
- Sewer Service: The fixed charge assessed on each sewer connection is to maintain the sanitary sewer system to your property and is assessed whether or not there is water usage.
- Water Use: This charge is based on the amount of water (measured in Hundred Cubic Feet, HCF. 1 HCF = 748 Gallons) registered by the water meter during the period of time described in the "BILLING DETAILS" section.
- Sewer Use: This charge is based on the amount of water (measured in HCF's) registered by the water meter and is charged at a reduced rate from water.
- Multi-Unit: If your property contains multiple units (duplex, apartments, hotel, hospital) and these units are serviced by a single meter, a fixed fee is charged for each additional residential living unit attached to the meter.
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	contractinges,	
Online Services www.newportbeachca.gov	General Information	
Start or Stop Water Service Contest a Parking Citation Buy a Parking Permit Apply for, Cancel or Update Business License Change Mailing Address Pay City Bills View Past Statements for MSS and Business License Sign Up for Select Alerts Many More Online Services Available Permanent Restrictions Per the City's Municipal Codes, every water customer is requ • No watering over 15 minutes per station for automate • No watering outdoor landscapes in a manner that cau • No watering outdoor landscapes in a manner that cau • No trepairing water leaks or breaks quickly. • No irrigation of lawns, shrubs or ornamental landscap • No operating a fountain or decorative water feature, u • No washing a vehicle (including cars, trucks, boats, tra is fitted with a positive shut-off nozzle.	ed irrigation systems. uses runoff. and driveways. De during or 48 - hours after rainfall. unless the water is part of a recirculating sy	/stem

Visit www.ocwatersmart.com to apply for indoor and outdoor water saving rebates.



City of Newport Beach Revenue Division

P.O. Box 4923 Whittier, CA 90607 www.newportbeachca.gov

ACCOUNT SUMMARY

Name:	MAC NEIL, THOMAS B.
Account # Customer #	6003381-585841
Service Address:	585841 MOORING: J 0107
Statement Date: Due Date:	9/5/2023 10/1/2023
Total Amount Due:	\$1,390.47
IMPORTANT INFORMATION	

October 2023 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

MUNICIPAL SERVICES STATEMENT

BILLING DETAILS

BILLING DETAILS		1
Water Conservation Route: MRG		
CHARGES:	TOTAL:	
MOORING OFFSHORE (MONTHLY)	\$196.80	
BILLING SUMMARY		
Previous/Beginning Balance Payments Applied - THANK YOU Total Adjustments	\$1,154.31 \$0.00 \$39.36	
TOTAL AMOUNT DUE	\$1,390.47	
+		



City of Newport Beach **Revenue Division** P.O. Box 4923 Whittier, CA 90607

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:714-222-5157 E-mail:FISHINGSTUD@GMAIL.COM

NPX0905A 400000387 387/1



MAC NEIL, THOMAS D. 3419 VIA LIDO NEWPORT BEACH CA 92663 USA CA 92663-3908

Go online to pay your bills at www.newportbeachca.gov/payments RETURN THIS PORTION WITH YOUR PAYMENT

Name: MA	AC NEIL, THOMAS B.
Account #:	6003381-585841
Customer#:	585841
Notice Date:	9/5/2023
Due Date:	10/1/2023
Total Amount Due:	\$1,390.47
Amount Enclosed:	

Շվեկնդիրությեւթյունիուներությելներություն

CITY OF NEWPORT BEACH PO BOX 4923 WHITTIER, CA 90607-4923

00006042024801239225400001390475

Newport Beach City Hall

100 Civic Center Dr. Newport Beach, CA 92660

Revenue Division 949-644-3141

CANCELLING SERVICE:

You may cancel service by going online to www.newportbeachca.gov/quest, then click on "Water Services", then select "Close Water Account". Accounts cannot be closed by phone. You may request a form faxed or mailed to you by calling 949-644-3141. You will be held responsible for all changes until you close your account regardless of move out date.

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IMPORTANT NOTICE

Online BillPay - Using the City's Online BillPay Program, City of Newport Beach utility customers are able to view and pay their bills online. Customers can use the website to make one-time or automatic payments by debit card, credit card, or ACH (bank account). To sign up for the Online BillPay Program simply enroll by going to www.newportbeachca.gov/payments. Please reference the customer number found on your billing statement.

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- Multi-Unit: If your property contains multiple units (duplex, apartments, hotel, hospital) and these units are serviced by a single meter, a fixed fee is charged for each b additional residential living unit attached to the meter.
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- Fire Medic: Annual membership fee will cover you and your household within Newport Beach city limits. Guests are also covered in your home. If you are insured, the b City of Newport Beach will bill your insurance company and accept reimbursement as payment in full. If you are uninsured, your membership covers you in full for 911
- Mooring: This permit fee is assessed on customers who have onshore or offshore moorings. A
- Piers: This permit fee is for customers with residential or commercial piers. 25
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kanna and a second a s	by of 100% of all third party costs and charges.	
Online Services www.newportbeachca.gov Start or Stop Water Service	General Information	
Contest a Parking Citation	1. Fire Medic Membership	949-644-3383
Buy a Parking Permit	2. High Water Consumption/Leaks	949-644-3011
Apply for, Cancel or Update Business License	3. Recycling/Refuse Service	949-644-3066
Change Mailing Address	4. Municipal Services Billing	949-644-3141
Pay City Bills	5. Payment Questions	949-644-3141
View Past Statements for MSS and Business License	6. Automatic Payment Program	949-644-3141
Sign Up for Select Alerts	7. Moorings 8. Water Rebate Program	949-270-8159
Many More Online Services Available	9. Balboa Yacht Basin	949-644-3214
Permanent Restrictions	S. Balooa facile basili	949-569-0723
Per the City's Municipal Codes, every water customer	is convined to second with the state	u.
 No watering over 15 minutes per station for aut 	is required to comply with the following restrict	ions.
 No watering outdoor landscapes in a manner the 	onateu ingation systems.	
 No washing down hard surfaces including sidev 	nat causes runom.	
 Not repairing water leaks or breaks quickly. 	valks and unveways.	
No irrigation of lawns, shrubs or ornamental lan	decare du in an a	
No operating a fountain or decorating water for	uscape during or 48 - hours after rainfall.	
 No operating a fountain or decorative water feat No washing a vehicle (including care taulo to the second sec	ture, unless the water is part of a recirculating sy	rstem,
 No washing a vehicle (including cars, trucks, boz is fitted with a positive shut-off nozzle. 	ats, trailers and recreational) with a hose. Unless	the hose
in the positive shar-on hozzle.		

Visit www.ocwatersmart.com to apply for indoor and outdoor water saving rebates.

ATTACHMENT E

			M	ACNEITO01	
ACORD	CERTIFIC			in the second	DATE (MM/DD/YYYY)
			ABILITY INSURAN		014010000
THIS CERTIFICATE IS ISSUED A CERTIFICATE DOES NOT AFFIRM BELOW. THIS CERTIFICATE OF REPRESENTATIVE OR PRODUCER	INSURANCE DOF	S NOT CONSTITU	LY AND CONFERS NO RIGHTS , EXTEND OR ALTER THE CO JTE A CONTRACT BETWEEN	UPON THE CERTIFICA OVERAGE AFFORDED THE ISSUING INSURE	ATE HOLDER, THIS
IMPORTANT: If the certificate ho If SUBROGATION IS WAIVED, su this certificate does not confer righ	lder is an ADDITIO	NAL INSURED, the	policy(ies) must have ADDITIO the policy, certain policies may uch endorsement(s).	NAL INSURED provision require an endorseme	ons or be endorsed. ent. A statement on
PRODUCER LICENSE # 0G44983 Hayden Insurance Services, Inc. 151 Shipvard Way Suite 1			CONTACT Michael Hayden NAME: PHONE (A/C, No, Ext):	FAX (A/C, No	
Newport Beach, CA 92663			E-MAIL ADDRESS: michael@haydenin	surance.com	}:
			INSURER(S) AFFO	RDING COVERAGE	NAIC #
INSURED			INSURER A : Concept Special F	Risks Ltd	
Tom Macneil			INSURER B : INSURER C :		
13161 Siskiyou Westminster, CA 92683			INSURER D :		
Westminster, CA 92083			INSURER E :		
COVERAGES			INSURER F :		
V	ERTIFICATE NUN	BER:	and the second state and the	REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POL INDICATED. NOTWITHSTANDING AN CERTIFICATE MAY BE ISSUED OR M EXCLUSIONS AND CONDITIONS OF SU INSR	AY PERTAIN, THE CH POLICIES, LIMITS	INSUDANCE AFEOD	DED BY THE POLICIES DESCRIB BEEN REDUCED BY PAID CLAIMS	R DOCUMENT WITH RESP	THE POLICY PERIOD PECT TO WHICH THIS TO ALL THE TERMS,
COMMERCIAL GENERAL LIABILITY	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF POLICY EXP (MM/DD/YYYY) (MM/DD/YYYY)	LIM	ITS
CLAIMS-MADE OCCUR				EACH OCCURRENCE	S
				PREMISES (Ea occurrence)	S
				MED EXP (Any one person) PERSONAL & ADV INJURY	S
GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	S S
POLICY PRO- JECT LOC				PRODUCTS - COMP/OP AGG	19.0
OTHER:					S
				COMBINED SINGLE LIMIT (Ea accident)	S
ANY AUTO OWNED SCHEDULED AUTOS ONLY AUTOS				BODILY INJURY (Per person)	S
AUTOS ONLY AUTOS HIRED NON-OWNED AUTOS ONLY AUTOS ONLY				BODILY INJURY (Per accident) S
AUTOS ONLY AUTOS ONLY				PROPERTY DAMAGE (Per accident)	S
UMBRELLA LIAB OCCUR					S
EXCESS LIAB CLAIMS-MA	DE			EACH OCCURRENCE	S
DED RETENTION S				AGGREGATE	S
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N			PER OTH- STATUTE ER	
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A			E.L. EACH ACCIDENT	S
If yes, describe under				E.L. DISEASE - EA EMPLOYE	ES
A Watercraft	X CSRY	P213781	5/26/2022 5/25/2023	E.L. DISEASE - POLICY LIMIT	S
	X 55		5/26/2022 5/25/2023	Liability	1,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEI 1983 60' Hatteras HIN #HATBG368M84B Certificate holder named as additional in:	HICLES (ACORD 101, Ad	ditional Remarks Schedu	e, may be attached if more space is requir	ed)	
				5	
CERTIFICATE HOLDER			CANCELLATION		
City of Newport Beach , its commissions, officers, ag and employees	s City Council boar ents, volunteers	rds and	SHOULD ANY OF THE ABOVE D THE EXPIRATION DATE TH ACCORDANCE WITH THE POLIC	FREOF NOTICE WILL	CANCELLED BEFORE BE DELIVERED IN
1600 W. Balboa Ave. Newport Beach, CA 92663			AUTHORIZED REPRESENTATIVE		

ACORD 25 (2016/03)

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The ACORD name and logo are registered marks of ACORD



4/3/2023

MAC NEIL, THOMAS B. 3419 VIA LIDO NEWPORT BEACH, CA 92663

Dear Mac Neil, Thomas B., (Mooring J-0107)

This letter is a courtesy reminder that required insurance documents onfile with the City of Newport Beach Harbor Department, associated with thevessel stored at your permitted off-shore mooring will expire soon, as outlinedbelow:

Document	Expiration			
Vessel Insurance	5/25/2023			

Your assistance in providing a current copy of evidence of insurance coverage for your vessel (certificate of insurance or a declaration page associated with the policy as specified below) should satisfy our office requirements.

Below are the specific City requirements:

Applicant shall maintain Protection & Indemnity insurance with minimum limits of \$300,000 per occurrence, including bodily injury, property damage, wreck removal, defense costs and water pollution liability. The water pollution liability shall cover bodily injury, property damage, defense costs and cleanup costs. The policy shall be endorsed to (1) name the "City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers and employees" as additional insureds, and (2) provide that this insurance is primary and non-contributory with any other insurance or self-insurance available to the City. A certificate of insurance and copies of the additional insured endorsement are required for review and approval by the City. The additional insured endorsement shall be at least as broad as ISO Form CG 20 12 or CG 20 26.

Please e-mail copies of these materials as soon as possible to <u>mvitarelli@newportbeachca.gov</u>, so your records remain current. If you no longer have a vessel on the permitted mooring, documents are not required, simply advise our office that the mooring is vacant, and we will update your file.

On behalf of the Harbor Department team, thank you in advance for your help bringing these files current as related to your vessel, and thanks for your contributions to maintaining Newport Harbor as a clean, safe and enjoyable public resource for the entire community to enjoy.

Regards,

City Harbormaster Harbor Department City of Newport Beach



NOTICE OF VIOLATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663

Case #: HD23-0615 Notice Date: 06/06/2023

Warning Only: X Previously Advised: Final Warning:

A review of the records associated with the permit or vessel located at J-0107 on Tuesday, June 6, 2023, revealed a violation(s) of the Newport Beach Municipal Code.

NEWPORT BEACH MUNICIPAL CODE SECTION / DESCRIPTIONS OF VIOLATION: MC 17.60.040B PERMIT- CONDITIONS

Correction(s) Required:

1. WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING.

2. PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

ALL LISTED VIOLATIONS MUST BE CORRECTED ON OR BEFORE: Monday, June 19, 2023

If the violations are not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100, \$200, \$500, \$1000, \$2000, \$3000) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED, AN

ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Harbor Department for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

Print Name of Officer: Madison Vitarelli

Signature of Officer: Madison Witarelli

Officer ID#: 8162



NOTICE OF VIOLATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663

Case #: HD23-0615 Notice Date: 06/26/2023

Warning Only: X Previously Advised: X Final Warning:

A review of the records associated with the permit or vessel located at J-0107 on Monday, June 26, 2023, revealed a violation(s) of the Newport Beach Municipal Code.

NEWPORT BEACH MUNICIPAL CODE SECTION / DESCRIPTIONS OF VIOLATION: MC 17.60.040B PERMIT- CONDITIONS

Correction(s) Required:

1. WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING.

2. PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

ALL LISTED VIOLATIONS MUST BE CORRECTED ON OR BEFORE: Monday, July 10, 2023

If the violations are not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100, \$200, \$500, \$1000, \$2000, \$3000) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED, AN

ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Harbor Department for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

Print Name of Officer: Madison Vitarelli

Signature of Officer: Madison Witarelli

Officer ID#: 8162



NOTICE OF VIOLATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663

Case #: HD23-0615 Notice Date: 07/11/2023

Warning Only: X Previously Advised: X Final Warning: X

A review of the records associated with the permit or vessel located at J-0107 on Tuesday, July 11, 2023, revealed a violation(s) of the Newport Beach Municipal Code.

NEWPORT BEACH MUNICIPAL CODE SECTION / DESCRIPTIONS OF VIOLATION: MC 17.60.040B PERMIT- CONDITIONS

Correction(s) Required:

1. WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING.

2. PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

ALL LISTED VIOLATIONS MUST BE CORRECTED ON OR BEFORE: Thursday, July 20, 2023

If the violations are not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100, \$200, \$500, \$1000, \$2000, \$3000) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED, AN

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Print Name of Officer: Madison Vitarelli

Signature of Officer: Madison Vitarelli

Officer ID#: 8162



NOTICE OF ADMINISTRATIVE CITATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663 Citation #: H230615A Case #: HD23-0615 Citation Date: 07/24/2023 Time: 10:26AM

A review of the records associated with the permit or vessel located at **J-0107** in the City of Newport Beach, on **Monday**, **July 24**, **2023** revealed a violation(s) of the Newport Beach Municipal Code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

CITATION - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON TUESDAY, JUNE 6, 2023, AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S):

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S): MC 17.60.040B PERMIT- CONDITIONS

CORRECTION(S) REQUIRED:

1. WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING. 2. PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE Sunday, August 6, 2023. If the violation is not corrected by Sunday, August 6, 2023, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO: THOMAS MACNEIL on July 24, 2023.

NAME OF OFFICER: Madison Vitarelli

OFFICER ID #: 8162

SIGNATURE OF OFFICER: Madison Vitarelli

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. For violations that are designated infractions, the fines are \$100 for the first citation, \$200 for the second citation and \$500 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enhancement Zone, the fines for citations are \$300, \$600, and \$1000 respectively. For Violations that are not designated infractions, the fines are \$200 for the first citation, \$300 for the second citation and \$600 for the third and subsequent citations for violations of the same ordinance within one year. For those violations of the same ordinance within one year. For those violations are \$600 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enchancement Zone, the fines for citations are \$1000, \$2000, and \$1000 respectively. For certain violations occuring within a Safety Enchancement Zone, the fines for citations are \$1000, \$2000, and \$1000 respectively. For certain violations specified in I.05.020(F) NBMC, the fines for citations are \$1000, \$2000, and \$3000 respectively. Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within twenty-one (21) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at www.newportbeachca.gov. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing. If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation. Failure of any person to properly file a written appeal within twenty-one (21) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fmes, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance. If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front. A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

Forms\Admin Citation Notice 8/23/16



NOTICE OF ADMINISTRATIVE CITATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663 Citation #: H230615B Case #: HD23-0615 Citation Date: 08/07/2023 Time: 3:38PM

A review of the records associated with the permit or vessel located at **J-0107** in the City of Newport Beach, on **Monday**, **August 7**, **2023** revealed a violation(s) of the Newport Beach Municipal Code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

CITATION - \$200 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON TUESDAY, JUNE 6, 2023, AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S):

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S): MC 17.60.040B PERMIT- CONDITIONS

CORRECTION(S) REQUIRED:

 WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING.
 PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE Wednesday, August 16, 2023. If the violation is not corrected by Wednesday, August 16, 2023, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO: THOMAS MACNEIL on August 07, 2023.

NAME OF OFFICER: Madison Vitarelli

OFFICER ID #: 8162

SIGNATURE OF OFFICER: Madison Vitarelli

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. For violations that are designated infractions, the fines are \$100 for the first citation, \$200 for the second citation and \$500 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enhancement Zone, the fines for citation, \$300 for the second citation and \$600 for the third and subsequent citations of the first citation, \$300 for the second citation and \$600 for the third and subsequent citations for violations are \$100 for the second citation and \$600 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enchancement Zone, the fines for citation, \$300 for the second citation and \$600 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enchancement Zone, the fines for citations are \$400, \$700, and \$1000 respectively. For certain violations specified in I.05.020(F) NBMC, the fines for citations are \$1000, \$2000, and \$3000 respectively. Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within twenty-one (21) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at www.newportbeachca.gov. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing. If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation. Failure of any person to properly file a written appeal within twenty-one (21) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fmes, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance. If you need further clarification about payment of the citation, please email the Revenue Division at <u>revenuehelp@newportbeachca.gov</u>.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front. A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

Forms\Admin Citation Notice 8/23/16



NOTICE OF ADMINISTRATIVE CITATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Bivd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business:

THOMAS MACNEIL

3419 VIA LIDO NEWPORT BEACH, CA 92663 Citation #: H230615C Case #: HD23-0615 Citation Date: 08/17/2023 Time: 8:17am

A review of the records associated with the permit or vessel located at **J-0107** in the City of Newport Beach, on **Thursday**, **August 17**, **2023** revealed a violation(s) of the Newport Beach Municipal Code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

CITATION - \$500 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON TUESDAY, June 6, 2023, AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S):

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S): MC 17.60.040B PERMIT- CONDITIONS

CORRECTION(S) REQUIRED:

1. WE DO NOT HAVE CURRENT INSURANCE FOR YOUR VESSEL ON YOUR MOORING. 2. PLEASE SEND THE CURRENT DECLARATIONS PAGE OF INSURANCE TO MADISON VITARELLI AT MVITARELLI@NEWPORTBEACHCA.GOV

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE Sunday, August 27, 2023. If the violation is not corrected by Sunday, August 27, 2023, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO: THOMAS MACNEIL on August 17, 2023.

NAME OF OFFICER: Madison Vitarelli

OFFICER ID #: 8162

SIGNATURE OF OFFICER: Madison Vitarelli

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. For violations that are designated infractions, the fines are \$100 for the first citation, \$200 for the second citation and \$500 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enhancement Zone, the fines for citation, \$300 for the second citation and \$600 for the third and subsequent citations or the first citation, \$300 for the second citation and \$600 for the third and subsequent citations for violations are \$300, \$600, and \$1000 respectively. For Violations that are not designated infractions, the fines are \$200 for the first citation, \$300 for the second citation and \$600 for the third and subsequent citations for violations of the same ordinance within one year. For those violations occuring within a Safety Enchancement Zone, the fines for citations are \$1000 respectively. For certain violations specified in I.05.020(F) NBMC, the fines for citations are \$1000, \$2000, and \$3000 respectively. Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within twenty-one (21) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at www.newportbeachca.gov. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing. If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation. Failure of any person to properly file a written appeal within twenty-one (21) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

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If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fmes, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance. If you need further clarification about payment of the citation, please email the Revenue Division at <u>revenuehelp@newportbeachca.gov</u>.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front. A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

ATTACHMENT F

Goldfarb, Jeffrey

From: Sent: To: Cc: Subject: Attachments:

Goldfarb, Jeffrey August 24, 2023 3:30 PM FISHINGSTUD@GMAIL.COM Cosylion, Matt meeting in lieu of revoking your mooring permit J-107 letter demanding meting.pdf

Good afternoon. I hope you survived Tropical Storm Hillary well. Attached please find a letter requesting a meeting within the next week as an alternative to our immediately revoking your mooring permit. Please carefully read the letter and then call our office to schedule a meeting. Thank you.



Jeffrey A. Goldfarb Habor Code Enforcement Officer Harbor Department Office: (949) 270-8159 1600 West Balboa Blvd. Newport Beach, CA 92660





CITY OF NEWPORT BEACH

Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

May 5, 2022

Mr. THOMAS BOYD MACNEIL 3419 VIA LIDO NEWPORT BEACH, CA 92663

Delivered via U.S. Postal Service First Class Mail

Dear Mr. MacNeil:

Over the course of the last couple of years, you have been perpetually late on your payment of mooring fees, your mooring overhaul is regularly delinquent, as is your submission of required documentation such as your registration and insurance, and we have fielded numerous complaints about you and/or others on your vessel trespassing on the private property, including but not limited to the property of Lido Yacht Anchorage and the Lido Island Association. Each of these violations, individually, if proven, could result in the revocation of your mooring permit.

Prior to initiating a revocation of your mooring permit, we would like to meet with you to understand why you regularly have problems complying with your obligation as a mooring permittee. Please contact our office at your earliest opportunity to schedule a meeting to occur prior to August 21, 2023, so that we can understand why you are regularly in violation of the City's Harbor Code. Failure to schedule this meeting will result in the commencement of your mooring's revocation. Thank you for your prompt attention to this matter. Since Pely,

Jeffrey A., Goldfarb Code Enforcement Officer Harbor Department City of Newport Beach jgoldfarb@newportbeachca.gov 949-270-8159

ATTACHMENT G



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

August 31, 2023

Mr. Thomas B. MacNeil 3419 Via Lido Newport Beach, CA 92663

Delivered via U.S. Postal Service First Class Mail, emailed to <u>FISHINGSTUD@GMAIL.COM</u> and posted on vessel

Dear Mr. MacNeil:

Newport Beach Municipal Code ("NBMC") Section 17.70.020(B)(3) provides that a mooring permit may be revoked upon a determination by the Harbormaster that the permittee has failed to comply with the terms and conditions of the mooring permit and relevant sections of NBMC Title 17. You are hereby notified that your mooring permit for Mooring J-107 in Newport Harbor is hereby revoked for the following reasons:

- The insurance for your vessel expired on May 25, 2023. Despite numerous repeated requests, you have failed to provide provide proof of insurance for your vessel on Mooring J-107 naming the City as an additional insured to the satisfaction of the Risk Manager as required by Newport Beach Municipal Code Section 17.60040(B)(2)(f) and Condition No. 12 to your mooring permit signed by you on August 29, 2022.
- 2. You have repeatedly been over 2 months late in paying your mooring fees in violation of NBMC Section 17.60.040(B)(2) and Conditions 4 and 5 to your mooring permit signed by you on August 29, 2022, thereby requiring that we send you numerous notices in an effort to collect those delinquent mooring fees. Moreover, at this point in time you are currently delinquent in the payment of mooring fees totaling \$1173.99.
- Since April of 2019, the harbor department has had to sent you 18 notices of violation for various violations of NBMC Title 17, including but not limited to: placing multiple vessels on your mooring (HD19-0237, HD19-0314, HD20-0027); exceeding the time limits on a public dock (HD19-0312, HD19-0425); being over 2 months delinquent on mooring fees (HD20-0408, HD20-1021, HD21-0504, HD21-0614, HD21-1163, HD23-0907); failure to timely provide proof of insurance (HD19-0540, HD21-0622, HD21-1106, HD22-0401); failure to timely have your mooring overhauled (HD19-0314, HD21-1163); exceeding the permitted time in the anchorage (HD20-0849); and failure to timely provide proof of registration (HD19-0314).

You are further notified that you have 14 calendar days (until September 15, 2023 to appeal this revocation to the Harbor Commission. A copy of the appeal application form is attached to this notice, which must be submitted to the City Clerk's Office located at 100 Civic Center Dr., Newport Beach, CA 926587. The decision of the Harbormaster to revoke your mooring permit will be deemed final if you do not submit an appeal application to the Newport Beach City Clerk by September 15, 2023.

Please be advised that NBMC Section 17.60.040(K)(2) provides "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."

It is with great regret that the City has been forced to take this action. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matt Cosylion City of Newport Beach Deputy Harbormaster Harbor Department City of Newport Beach Mcosylion@newportbeachca.gov 949-270-8159

Goldfarb, Jeffrey

From: Sent: To: Subject: Attachments: Goldfarb, Jeffrey September 01, 2023 4:49 PM FISHINGSTUD@GMAIL.COM Notice re Mooring revocation j-107 signed revocation letter.pdf

Good afternoon. I hope you are well. Although we previously handed you the notice at your mooing today, we also need to email it to you. Consequently, please find the attached notice regarding the revocation of your mooring permit. This is a step we regret we have to take. Please carefully read the notice and call if you have any questions. Take care,



Jeffrey A. Goldfarb Code Enforcement Officer Harbor Department Office: (949) 270-8159 1600 West Balboa Blvd. Newport Beach, CA 92660



ATTACHMENT H

Appeal Application



City Clerk's Office 100 Civic Center Drive / P.O. Box 1768 Newport Beach, CA 92658-8915 949-644-3005

Clerk's Date & Time Stamp 9/15/23 CITY CLEREK

Appeals are time sensitive and must be received by the City Clerk within the specified time period from a decision or final action by a decision-maker. It is advisable to consult with the Department managing the issue if there is question with regards to appealing an action. This is an appeal of the:

- CDD222) Community Development Director Action to the Planning Commission \$2116
- □ (CDD222) Zoning Administrator Action to the Planning Commission \$2116
- □ (CDD222) Coastal Development Application CDP Appeal from Zoning Admin to the Planning Commission (only if appeal is solely based on the CDP portion of the application) *No Fee*

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- □ (CDD222) Planning Commission Action to the City Council \$2116
- □ (CDD222) Community Development Director Action to the Harbor Commission \$1250
- □ (CDD222) Harbor Commission Action to the City Council (CDD Planning) \$940
- CDD222) Hearing Officer Action to the City Council \$2116
- □ (CDD223) Building Official/Fire Marshal Action to the Building/Fire Board of Appeals \$1768
- □ (CDD224) Chief of Police Action on an Operator License to the City Manager \$946
- □ (RSS073) City Manager Action on a Special Events Permit to the City Council \$1890
- □ (HBR001) Harbormaster Action to the Harbor Commission \$1250
- (HBR001) Harbor Commission Action to the City Council (Harbor Department) \$940
- CPBW018) Public Works Director Action to Harbor Commission \$1250
- □ (PBW018) Harbor Commission Action to City Council (Public Works Department) \$940
- □ Other Specify decision-maker, appellate body, Municipal Code authority and fee: _

Annallant	Information:
Appenant	information.

Name(s): Thomas Boyd Mac Neil
Address: 3419 Via hido
City/State/Zip: Nouport Beach Ca, 92663
Phone: 714-222-5157 Email: Fishingstud Damail. COM
Appealing Application Regarding: Name of Applicant(s): Tom MacNeilDate of Final Decision: <u>Aug 31 20</u> 3
Project No.:Activity No.:
Application Site Address: 5107
Description of application: <u>pppeal</u> Mouring revocation
Reason(s) for Appeal (attach a separate sheet, if necessary): <u>plecise see</u> <u>a Heloned letter</u>
A
Signature of Appellant: Tom Mac Neil Date: 9-15-2023
FOR OFFICE USE ONLY: Date Appeal filed and Administrative Fee received:
City Clerk cc: Department Director, Deputy Director, Staff, File Updated 8/2523



CITY OF NEWPORT BEACH

Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

August 31, 2023

Mr. Thomas B. MacNeil 3419 Via Lido Newport Beach, CA 92663

Delivered via U.S. Postal Service First Class Mail, emailed to <u>FISHINGSTUD@GMAIL.COM</u> and posted on vessel

Dear Mr. MacNeil:

Newport Beach Municipal Code ("NBMC") Section 17.70.020(B)(3) provides that a mooring permit may be revoked upon a determination by the Harbormaster that the permittee has failed to comply with the terms and conditions of the mooring permit and relevant sections of NBMC Title 17. You are hereby notified that your mooring permit for Mooring J-107 in Newport Harbor is hereby revoked for the following reasons:

- The insurance for your vessel expired on May 25, 2023. Despite numerous repeated requests, you have failed to provide provide proof of insurance for your vessel on Mooring J-107 naming the City as an additional insured to the satisfaction of the Risk Manager as required by Newport Beach Municipal Code Section 17.60040(B)(2)(f) and Condition No. 12 to your mooring permit signed by you on August 29, 2022.
- You have repeatedly been over 2 months late in paying your mooring fees in violation of NBMC Section 17.60.040(B)(2) and Conditions 4 and 5 to your mooring permit signed by you on August 29, 2022, thereby requiring that we send you numerous notices in an effort to collect those delinquent mooring fees. Moreover, at this point in time you are currently delinquent in the payment of mooring fees totaling \$1173.99.
- Since April of 2019, the harbor department has had to sent you 18 notices of violation for various violations of NBMC Title 17, including but not limited to: placing multiple vessels on your mooring (HD19-0237, HD19-0314, HD20-0027); exceeding the time limits on a public dock (HD19-0312, HD19-0425); being over 2 months delinquent on mooring fees (HD20-0408, HD20-1021, HD21-0504, HD21-0614, HD21-1163, HD23-0907); failure to timely provide proof of insurance (HD19-0540, HD21-0622, HD21-1106, HD22-0401); failure to timely have your mooring overhauled (HD19-0314, HD21-1163); exceeding the permitted time in the anchorage (HD20-0849); and failure to timely provide proof of registration (HD19-0314).

You are further notified that you have 14 calendar days (until September 15, 2023 to appeal this revocation to the Harbor Commission. A copy of the appeal application form is attached to this notice, which must be submitted to the City Clerk's Office located at 100 Civic Center Dr., Newport Beach, CA 926587. The decision of the Harbormaster to revoke your mooring permit will be deemed final if you do not submit an appeal application to the Newport Beach City Clerk by September 15, 2023.

Please be advised that NBMC Section 17.60.040(K)(2) provides "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."

It is with great regret that the City has been forced to take this action. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matt Cosylion City of Newport Beach Deputy Harbormaster Harbor Department City of Newport Beach Mcosylion@newportbeachca.gov 949-270-8159

Dear Harbor Commission:

1 Would like to first apologize for my behavior. In Feb. of 2021 1 lost 75% of my ability to walk and Bo' use of both my hands this problem continued for lemonths, 1 eventually resolved the issue but it devistated me emotionally & finacially. I have worked through these issues and am feeling much better and continue to improve daily, if you will please find it in your heart to allow us another opportunity we will follow the rules to a Tand be More responsive and communicative with the Harbor dept. We have paid our insurance till sept 2024 and enclosed our letter of documention, paid all mooring fees corrent, and we have hired THE Marine Construction to haul our mooring 5107. For service. Promise 1 can and will do better we love our mooring and all the people surrounding us please allow me to prove it. Tom Mar New 9-15-2023

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City of Newport Beach Revenue 100 Civic Center Dr Newport Beach, CA 926 949-644-3141 Welcome	•
09/15/2023 01:53PM Meg W. 015589-0004 000083116	
MISCELLANEOUS PBW018 HARBOR APPEALS (LAND AND DOCKS) (2024 Item: PBW018 1 @ \$1,250.0000 PBW018 HARBOR APPEALS (LAND AND DOCKS) (PBW018)	\$1,250.00 \$1,250.00
Subtotal Total	\$1,250.00 \$1,250.00
CASH	\$1,250.00
Change due	\$0.00

Comments: J107

Thank you for your payment

City of Newport Beach COPY DUPLICATE RECEIPT

ATTACHMENT I

ABANDONED VESSEL HD19-0313



NOTICE OF ADMINISTRATIVE CITATION CITY OF NEWPORTBEACH Harbor Department

> 1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No : HD19-0313A Date : 05/29/2019 Account No : HD19-0313

Name of Owner or Business :

MACNEIL, THOMAS BOYD <u>RE: JULIA CAURINE</u> <u>13161 SISKIYOU ST</u> <u>WESTMINSTER CA 92683</u>

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>05/29/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

Citation - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A , AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.20.040 TAMPERING WITH VESSEL

CORRECTION(S) REQUIRED -

1. TAMPERING WITH ANY VESSEL IN THE NEWPORT HARBOR WITHOUT THE APPROVAL OF THE OWNER IS PROHIBITED.

2. MOVING THE JULIE CAURINE (CF 6517CN) FROM MOORING J-107 AND SECURING THE VESSEL TO THE 19TH STREET PUBLIC DOCK WITHOUT THE PERMISSION OF THE OWNER AND THE HARBORMASTER WAS A VIOLATION OF NBMC SECTION 17.20.040C.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS CITATION.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 05/31/2019. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : MACNEIL, THOMAS BOYD DATE : 05/29/2019

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Martin

OFFICER ID # 0309

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. There are three levels of citations that can be issued progressively for most violations. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same ordinance within one year. For certain violations specified in Newport Beach Municipal Code Section 1.05.020 (F), the fines for citations are \$1,000, \$2,000, and \$3,000 respectively. For violations occurring within a Safety Enhancement Zone, the fines for citations are \$300, \$600, and \$1,000 respectively.

Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within thirty (30) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at <u>www.newportbeachca.gov</u>. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing.

If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation.

Failure of any person to properly file a written appeal within thirty (30) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fines, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.



NOTICE OF ADMINISTRATIVE CITATION CITY OF NEWPORTBEACH Harbor Department

1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No : HD19-0312A Date : 05/29/2019 Account No : HD19-0312

Name of Owner or Business :

MACNEIL, THOMAS BOYD RE: JULIA CAURINE 13161 SISKIYOU ST WESTMINSTER CA 92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>05/29/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

Citation - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A , AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.25.010, DOCKING REGULATIONS

CORRECTION(S) REQUIRED -

1. THE USE OF A PUBLIC DOCK WITHOUT APPROVAL FROM THE CITY AND EXCEEDING THE POSTED TIME LIMIT ON THE PUBLIC DOCK IS PROHIBITTED.

2. TOWING THE JULIA CAURINE AND FASTENING/STORING THE VESSEL AT THE 19TH STREET DOCK WITHOUT PRIOR APPROVAL FROMTHE CITY WAS A VIOLATION OF THE DOCKING REGULATIONS LISTED IN NEWPORT BEACH MUNICIPAL CODE 17.25.010.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 05/31/2019. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : MACNEIL, THOMAS BOYD DATE : 05/29/2019

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Mate

OFFICER ID #

0309

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. There are three levels of citations that can be issued progressively for most violations. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same ordinance within one year. For certain violations specified in Newport Beach Municipal Code Section 1.05.020 (F), the fines for citations are \$1,000, \$2,000, and \$3,000 respectively. For violations occurring within a Safety Enhancement Zone, the fines for citations are \$300, \$600, and \$1,000 respectively.

Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within thirty (30) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at <u>www.newportbeachca.gov</u>. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing.

If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation.

Failure of any person to properly file a written appeal within thirty (30) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fines, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

EXPIRED INSURANCE HD19-0540



CITY OF NEWPORT BEACH HARBORMASTER 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 newportharbor.org

8/1/2019

MACNEIL, THOMAS BOYD 13161 SISKIYOU ST WESTMINSTER, CA 92683

Dear Macneil, Thomas Boyd, (Mooring J-0107)

We are writing to you as a courtesy reminder to let you know that one or both of the documents you have on file is expiring as outlined below.

Document	Expiration
Vessel Registration	9/11/2019
Vessel Insurance	Not on File

A current copy of your insurance **Certificate** with policy limits and policy periods must be on file at all time. In addition, a current copy of your **registration or USCG documentation** for the vessel assigned to your mooring. Please mail or e-mail a copy to our office as soon as possible. Updated information can be e-mailed to:<u>Harbormaster@newportbeachca.gov</u>.

If you no longer have a vessel on your mooring, documents are not needed. Please just let us know.

We would like to remind all permittees of City Ordinances under Municipal Code Title 17 which govern Mooring Regulations. A full copy may be found at <u>www.newportharbor.org</u>

Our Harbormaster Team thanks you and we look forward to meeting and working with all mooring permittees in keeping the harbor clean, safe and enjoyable for all.

Regards,

Boust

City Harbormaster Harbor Department City of Newport Beach



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD19-0540 08/06/2019

Name of Owner or Business : THOMAS MACNEIL J-107 13161 SISKIYOU ST WESTMINSTER CA,92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>08/06/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[]
PREVIOUSLY ADVISED	[X]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107).

2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 08/19/2019. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Madison Vitarelli

SIGNATURE OF OFFICER

OFFICER ID # Madison Vitarelli

<u>8162</u>



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD19-0540 08/28/2019

Name of Owner or Business : THOMAS MACNEIL J-107 13161 SISKIYOU ST WESTMINSTER CA,92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>08/28/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[]
PREVIOUSLY ADVISED	[X]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107). 2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE. 3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 09/16/2019. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Madison Vitarelli

SIGNATURE OF OFFICER

OFFICER ID # Madison Vitarelli

8162



NOTICE OF ADMINISTRATIVE CITATION CITY OF NEWPORTBEACH Harbor Department

1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No : HD19-0540A Date : 10/31/2019 Account No : HD19-0540

Name of Owner or Business :

THOMAS MACNEIL J-107 13161 SISKIYOU ST WESTMINSTER CA 92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>10/31/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

Citation - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A , AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT DOCUMENTATION AND INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107).

2. PLEASE SEND THESE DOCUMENTS TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 11/14/2019. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : THOMAS MACNEIL DATE : 10/31/2019

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

OFFICER ID # Madison Vitarelli

8162

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

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If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

EXPIRED INSURANCE HD19-0622 HD19-1106 HD22-0401



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date:

HD21-0622 07/07/2021

Name of Owner or Business : THOMAS MAC NEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA,92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>07/07/2021</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107).

2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 07/19/2021. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

Madison Vitarelli



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD21-0622 07/27/2021

Name of Owner or Business : THOMAS MAC NEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA,92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>07/27/2021</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[]
PREVIOUSLY ADVISED	[X]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

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2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 08/12/2021. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

Madison Vitarelli



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD21-0622 08/18/2021

Name of Owner or Business : THOMAS MAC NEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA,92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>08/18/2021</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[X]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107).

2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 08/30/2021. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

Madison Vitarelli



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD21-1106 12/01/2021

Name of Owner or Business : THOMAS MACNEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA,92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>12/01/2021</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

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2. PLEASE SEND THIS DOCUMENT TO THE HARBORMASTER'S OFFICE.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 12/13/2021. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

Madison Vitarelli

From: Sent: To: Cc: Subject: Goldfarb, Jeffrey December 10, 2021 11:21 AM 'FISHINGSTUD@GMAIL.COM' Cosylion, Matt Mandatory Meeting with the Harbor Department

Good Morning Mr. MacNeil. By way of this email we are notifying you that you will need to attend a meeting with



myself, Harbormaster Blank, and Code Enforcement Supervisor Cosylion sometime prior to December 31, 2021. Over the course of the last couple of years, you have been perpetually late on your payment of mooring fees, your mooring overhaul remains incomplete, you do not have current valid insurance, and we have fielded numerous complaints about you and/or others on your vessel trespassing on the private property, including but not limited to the property of Lido Yacht Anchorage and the Lido Island

Association. We have also received several complaints that someone is living aboard your vessel without the benefit of a live aboard permit. Each of these violations, individually, if proven, could result in the revocation of your mooring permit. It is therefore incumbent upon you to contact our office at your earliest opportunity to schedule that meeting so that we can understand what is going on. The available dates and times for the meeting are: December 17 (1-4 p.m.), 28 (9 a.m.-5 p.m.), 29 (9 a.m. -5 p.m., and 30 (9 a.m.-5 p.m.) Thank you for your prompt attention to this matter. Sincerely,

Jeffrey A. Goldfarb

Harbor Department Code Enforcement Offier jgoldfarb@newportbeachca.gov 949-270-8159

	Tom Mac Neil <fishingstud@gmail.com></fishingstud@gmail.com>
	December 27, 2021 11:07 PM Goldfarb, Jeffrey
Subject:	Letter dated Dec 10th

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

Hello Jefferey, sorry it's taken a bit to get back to you I wanted to at least clear all dues on mooring before I got back to you I feel bad about that I really suck at monthly dues so I mailed a check to the city for 2000 that should take me current and if you will allow me my plan is to have the year paid out in full by the end of Jan say Jan 31 my mooring for j107 was overhauled by chuck South about two months ago I will send an email following this one to him about that I have not seen an invoice yet but I will ask. As far as the live aboard it probably seems like it sometimes because we are constantly working on it this boat had not been used for fishing for a long time and needed allot of work to bring it up and still needs quite a bit but we are getting a hold of it. The boat across from us has a full time crew of 5 it's mainly just my son and I working on this boat it's so much. I'm sorry I did a couple pick ups at lido but the security guard informed me not to a while ago at least 6 months ago and I don't go there anymore. I will try and have my insurance within the next week. It is my goal to have a 6 pack sportfishing company running before this summer so I am going to apply for a live aboard permit tomorrow as this would be ideal for us. I will ask for you tomorrow after noon when I go in there and see if there's any time to talk or set up a time ok. Tom Mac Neil j107

I hope your not too bummed I love this area so much we can do better.



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD22-0401 04/19/2022

Name of Owner or Business : THOMAS MACNEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA,92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>04/19/2022</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. THE HARBOR DEPARTMENT DOES NOT HAVE A COPY OF THE CURRENT INSURANCE FOR THE VESSEL ON YOUR MOORING (J-107).

2. PLEASE SEND THIS DOCUMENT TO THE HARBOR DEPARTMENT.

3. PLEASE PROVIDE OUR OFFICE WITH AN EMAIL TO UPDATE YOUR ACCOUNT.

EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 05/02/2022. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER : Madison Vitarelli

SIGNATURE OF OFFICER

Madison Vitarelli

OFFICER ID #

<u>8162</u>



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number:	HD22
Date:	05/17/

-0401 2022

Name of Owner or Business : THOMAS MACNEIL **MOORING J-107 3419 VIA LIDO**

NEWPORT BEACH CA,92663

An inspection of premises located at 1600 W BALBOA BLVD NB in the City of Newport Beach, on 05/17/2022 revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[]
PREVIOUSLY ADVISED	[X]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

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EMAIL MVITARELLI@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

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THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 05/30/2022. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

Madison Vitarelli PRINT NAME OF OFFICER :

SIGNATURE OF OFFICER

Madison Vitarelli

OFFICER ID #

8162

From:	Goldfarb, Jeffrey
Sent:	June 03, 2022 4:06 PM
То:	'fishingstud@gmail.com'
Subject:	RE: J107 vessel Hooker
Attachments:	ins langauge.pdf

HI Tom. Thanks for the email, but we still do not have a record of your insurance for the vessel. If we do not get it within the next seven days, we will have to start issuing citations. Please light a fire under your insurance agent! Also, to save time, please provide the attached insurance information sheet your agent.

Jeffrey A. Goldfarb Harbor Department Code Enforcement Offier jgoldfarb@newportbeachca.gov 949-270-8159

-----Original Message-----From: fishingstud@gmail.com <fishingstud@gmail.com> Sent: May 25, 2022 3:32 PM To: Goldfarb, Jeffrey <JGoldfarb@newportbeachca.gov> Subject: J107 vessel Hooker

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

Hello Jeff wanted to let you know my insurance is secured through Hayden insurance and you guys should receive your additional insurance cert tomorrow please let me know if this does not happen. Thank you so much for being patient.

Sent from my iPhone

From:Goldfarb, JeffreySent:June 17, 2022 2:29 PMTo:'FISHINGSTUD@GMAIL.COM'Cc:Vitarelli, MadisonSubject:NOTICE OF CITATIONAttachments:j-107.pdf; ins langauge.pdf

Hi Tom. I hope you are doing well. Unfortunately, we still do not have valid insurance from you. Attached please find a



citation for not having provided to us the required insurance. Should you have any questions, please do not hesitate to contact me. Take care,

Jeffrey A. Goldfarb

Harbor Department Code Enforcement Offier jgoldfarb@newportbeachca.gov 949-270-8159



NOTICE OF ADMINISTRATIVE CITATION CITY OF NEWPORTBEACH Harbor Department

1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No : HD22-0401A Date : 06/17/2022 Account No : HD22-0401

Name of Owner or Business :

THOMAS MACNEIL MOORING J-107 3419 VIA LIDO NEWPORT BEACH CA 92663

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>06/17/2022</u> revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

J-107 Citation - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A , AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

ON JULY 7, 2021, DECEMBER 1, 2021, APRIL 19, 2022 AND MAY 17 YOU WERE NOTIFIED THAT YOU HAVE NOT PROVIDED PROOF OF INSURANCE TO THE CITY AS REQUIRED BY NEWPORT BEACH MUNICIPAL CODE ("NBMC") SECTION 17.60.040(B)(2)(F). THESE WARNINGS NOTWITHSTANDING, AND NOT WITHSTANDING THE PHONE MESSAGES WE HAVE LEFT FOR YOU, WE HAVE STILL NOT RECEIVED THE PROOF OF INSURANCE MANDATED BY LAW. FOR THE FOREGOING REASONS, WE HAVE NO CHOICE OTHER THAN TO COMMENCE ISSUING ADMINISTRATIVE CITATIONS. PLEASE BE FOREWARNED THAT NBMC SECTION 1.05.020(B) PROVIDES THAT "EACH AND EVERY DAY A VIOLATION OF THIS CODE EXISTS CONSTITUTES A SEPARATE AND DISTINCT OFFENSE." THIS MEANS THAT CITATIONS CAN BE ISSUED EACH DAY WE ARE NOT IN RECEIPT OF YOUR PROOF OF INSURANCE. MOREOVER, THE CITATION AMOUNT WILL INCREASE WITH EACH SUBSEQUENTLY ISSUED CITATION.

1. TO AVOID THE ISSUANCE OF ANY ADDITIONAL CITATIONS, PLEASE ENSURE THAT THE CITY RECEIVES YOUR PROOF OF INSURANCE MEETING THE REQUIREMENTS OF THE ATTACHED INSURANCE INFORMATION PAGE NOT LATER THAN THE CLOSE OF BUSINESS ON JUNE 23, 2022. WE LOOK FORWARD TO YOUR COOPERATION IN CORRECTING THIS LONG-STANDING VIOLATION. SHOULD YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME AT JGOLDFARB@NEWPORTBEACHCA.GOV

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 06/24/2022. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : THOMAS MACNEIL DATE : 06/17/2022

PRINT NAME OF OFFICER : Jeffrey Goldfarb

SIGNATURE OF OFFICER

Jeffrey Goldfarb

OFFICER ID #

<u>8172</u>

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. There are three levels of citations that can be issued progressively for most violations. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same ordinance within one year. For certain violations specified in Newport Beach Municipal Code Section 1.05.020 (F), the fines for citations are \$1,000, \$2,000, and \$3,000 respectively. For violations occurring within a Safety Enhancement Zone, the fines for citations are \$400, \$700, and \$1,000 respectively.

Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within twenty-one (21) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at **www.newportbeachca.gov**. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing.

If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation.

Failure of any person to properly file a written appeal within twenty-one (21) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fines, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

16	U.S. Postal Service [™] CERTIFIED MAIL [®] RECEIPT Domestic Mail Only			
ц	For delivery information, visit our website	at www.usps.com®		
LILU C	OFFICIAL Certified Mail Fee	USE		
TT	\$ Extra Services & Fees (check box, add fee as appropriate)			
0000	Return Receipt (hardcopy) Return Receipt (hardcopy) Return Receipt (learconic) Certified Mail Restricted Delivery Adult Signature Required Adult Signature Restricted Delivery	Postmark Here		
	Postage			
1970	Sent To			
ū	thomas Northail			
7021	Street and Apt. No., or PQ Box No.			
	NCupart Brach (A 72663			
	PS Form 3800, April 2015 PSN 7530-02-000-9047	See Reverse for Instructions		

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EXPIRED OVERHAUL HD21-1163

South Mooring Co Newport Dredging Co Inc.

Completed Work Order

Service Date

9/23/2021

Name / Addre	SS		
Tom Mac Neil		Mooring	
13161 Siskiyou St Westminster, CA 92683			J-107
Phone	714-222-5157		

Description
Inspected and Overhauled Moorings Inspected Painted Buoys
3200 lbs East End
3200 lbs West End
East End
1/2" Top Chain 3/4" Bottom Chain
West End
1/2" Top Chain 3/4" Bottom Chain
Mooring Line Condition Good
Sales Tax

From:	Goldfarb, Jeffrey
Sent:	December 10, 2021 11:21 AM
То:	'FISHINGSTUD@GMAIL.COM'
Cc:	Cosylion, Matt
Subject:	Mandatory Meeting with the Harbor Department

Good Morning Mr. MacNeil. By way of this email we are notifying you that you will need to attend a meeting with



myself, Harbormaster Blank, and Code Enforcement Supervisor Cosylion sometime prior to December 31, 2021. Over the course of the last couple of years, you have been perpetually late on your payment of mooring fees, your mooring overhaul remains incomplete, you do not have current valid insurance, and we have fielded numerous complaints about you and/or others on your vessel trespassing on the private property, including but not limited to the property of Lido Yacht Anchorage and the Lido Island

Association. We have also received several complaints that someone is living aboard your vessel without the benefit of a live aboard permit. Each of these violations, individually, if proven, could result in the revocation of your mooring permit. It is therefore incumbent upon you to contact our office at your earliest opportunity to schedule that meeting so that we can understand what is going on. The available dates and times for the meeting are: December 17 (1-4 p.m.), 28 (9 a.m.-5 p.m.), 29 (9 a.m. -5 p.m., and 30 (9 a.m.-5 p.m.) Thank you for your prompt attention to this matter. Sincerely,

Jeffrey A. Goldfarb Harbor Department Code Enforcement Offier jgoldfarb@newportbeachca.gov 949-270-8159

From:	Tom Mac Neil <fishingstud@gmail.com></fishingstud@gmail.com>
Sent:	December 27, 2021 11:07 PM
То:	Goldfarb, Jeffrey
Subject:	Letter dated Dec 10th

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

Hello Jefferey, sorry it's taken a bit to get back to you I wanted to at least clear all dues on mooring before I got back to you I feel bad about that I really suck at monthly dues so I mailed a check to the city for 2000 that should take me current and if you will allow me my plan is to have the year paid out in full by the end of Jan say Jan 31 my mooring for j107 was overhauled by chuck South about two months ago I will send an email following this one to him about that I have not seen an invoice yet but I will ask. As far as the live aboard it probably seems like it sometimes because we are constantly working on it this boat had not been used for fishing for a long time and needed allot of work to bring it up and still needs quite a bit but we are getting a hold of it. The boat across from us has a full time crew of 5 it's mainly just my son and I working on this boat it's so much. I'm sorry I did a couple pick ups at lido but the security guard informed me not to a while ago at least 6 months ago and I don't go there anymore. I will try and have my insurance within the next week. It is my goal to have a 6 pack sportfishing company running before this summer so I am going to apply for a live aboard permit tomorrow as this would be ideal for us. I will ask for you tomorrow after noon when I go in there and see if there's any time to talk or set up a time ok. Tom Mac Neil j107

I hope your not too bummed I love this area so much we can do better.

From:	Goldfarb, Jeffrey	
Sent:	February 17, 2022 5:37 PM	
То:	'FISHINGSTUD@GMAIL.COM'	
Subject:	YOUR MOORING OVERHAUL	
Attachments:	j-107.pdf	

Hi Tom. Would you please call you mooring service provider to have them send us the notice that the service on your



mooring has been completed. This has been dragging on for quite a while. See the attached notice. Thanks in advance for your help on this.

Jeffrey A. Goldfarb

Harbor Department Code Enforcement Offier jgoldfarb@newportbeachca.gov 949-270-8159



1600 W, Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date:

HD21-1163 02/17/2022

Name of Owner or Business : TOM MACNEIL J-107 **3419 VIA LIDO NEWPORT BEACH CA,92663**

An inspection of premises located at 1600 W BALBOA BLVD NB in the City of Newport Beach, on 02/17/2022 revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	Ē
FINAL WARNING	[X]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.25.020, BERTHING REGULATIONS 2: MC 17.25.020H MOORING MAINTENANCE

CORRECTION(S) REQUIRED -

1.

DESPITE PRIOR NOTICE, YOUR MOORING OVERHAUL HAS NOT BEEN

COMPLETED. PLEASE CONTACT YOUR MORING SERVICE PROVIDER AND HAVE THEM SEND US NOTICE THAT THE OVERHAUL SERVICE HAS BEEN COMPLETED BY NOT LATER THAN MARCH 3, 2022. THANK YOU IN ADVANCE FOR YOUR PROMPT ASSISTANCE IN RESOLVING THIS ISSUE, SHOULD YOU H AVE ANY QUESTIONS, PLEASE OD NOT HESITATE TO CONTACT ME AT JGOLDFARB@NEWPORTBEACHCA.GOV.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 03/03/2022. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Jeffrey Goldfarb

SIGNATURE OF OFFICER

Jeffrey Goldfarb

OFFICER ID #

8172

South Mooring Co Newport Dredging Co Inc.

Completed Work Order

Service Date

6/13/2019

Name / Addre	SS	
Tom Mac Neil	Mooring	
13161 Siskiyou S		
Westminster, CA	J-107	
Phone	714-222-5157	1

Description
Inspected and Overhauled Moorings Inspected Painted Buoys
3200 lbs East End
3200 lbs West End
East End 1/2'' Top Chain 3/4'' Bottom Chain
West End 1/2" Top Chain 3/4" Bottom Chain
Mooring Line Condition Good Sales Tax

EXPIRED OVERHAUL HD19-0314



1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date:

HD19-0314 05/31/2019

Name of Owner or Business : THOMAS BOYD MACNEIL RE: J-107 13161 SISKIYOU ST WESTMINSTER CA,92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>05/29/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[X]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.25.020, BERTHING REGULATIONS

2: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. PLEASE CONTACT A CITY APPROVED SERVICE PROVIDER TO SCHEDULE THE REQUIRED OVERHAUL OF YOUR MOORING. 2. PLEASE PROVIDE THE CURRENT REGISTRATION AND INSURANCE FOR THE VESSEL ON YOUR MOORING. 3. ONLY ONE DINGHY IS ALLOWED PER MOORING. PLEASE REMOVE ALL OTHER DINGHIES.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 06/07/2019. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Martin

OFFICER ID #

0309

South Mooring Co Newport Dredging Co Inc.

Completed Work Order



Name / Address			
Brian Glick		Mooring	
1453 W Foothill B	lvd		9
Upland CA 91786		J-107	
	,		
Phone	909-921-5881		
			Due Date
r			4/29/2017
		Description	
Inspected and Over Inspected Painted			
3200 lbs East End			
3200 lbs West End			
1/2" and 3/4" Chai	n		
Line Condition Sales Tax	Good		
	,		
		-	

MOORING FEES



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

May 14, 2020

Thomas MacNeil 13161 Siskiyou Street Huntington Beach, CA 92683

Delivered via U.S. Postal Service First Class Mail with email copy to FISHINGSTUD@GMAIL.COM

Dear Mr. MacNeil:

Payment has not been received for your off-shore mooring permit (Mooring # J-107, Account # 6003381-656210) in Newport Harbor. The amount of \$788.76 was due as of May 1, 2020. This amount must be paid in full no later than June 14, 2020.

As you may be aware, when a mooring permittee fails to pay any mooring rent or fee when due and is in arrears for sixty (60) days or more, that mooring permit is subject to revocation [Newport Beach Municipal Code Section 17.70.020(A)(1)(e)].

Your prompt attention to this matter is needed to bring the account current and to avoid the revocation process. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660, first floor, Bay A. All payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

If you believe that the information above is incorrect or if you have other billing questions, please contact Customer Service at the e-mail or phone number above. For any questions regarding your mooring permit, please do not hesitate to call the Harbor Department at (949) 270-8159.

Sincerely,

Matt Cosylion Code Enforcement Supervisor Harbor Department City of Newport Beach <u>mcosylion@newportbeachca.gov</u> 949-270-8164

Cosylion, Matt

From:Cosylion, MattSent:Thursday, May 14, 2020 12:10 PMTo:'FISHINGSTUD@GMAIL.COM'Cc:Vitarelli, MadisonSubject:W-2 and J-107Attachments:J-107 MOORING FEES.pdf; W-2 MOORING FEE.pdf; HD20-0283-
HINVSA_ADM-0000112632.pdf

Good Morning Mr. MacNeil,



I hope this email finds you well and in good health. Attached for your consideration are 3 warning notices regarding your moorings, W-2 and J-107. Please address the following violations:

W-2:

- 1. Send registration and insurance for the yellow Donzi to Madison Vitarelli by this Monday (May 18).
- 2. Complete the overhaul of the mooring
- 3. Pay the past due mooring fees

J-107

1. Pay the past due mooring fees

Please note that failure to address all the violations within the established timelines noted in the attached warning notices will result in referral of your mooring permit(s) to the Harbor Commission for a revocation hearing.

Feel free to call or email me with any questions or concerns.

Sincerely,

Matt Cosylion Harbor Department Code Enforcement Supervisor <u>mcosylion@newportbeachca.gov</u> 949-270-8164

CITY OF NEWPORT BEACH 1600 W. Balboa Blvd., Newport Beach, California 92663 | newportbeachca.gov



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

June 15, 2020

Thomas MacNeil 13161 Siskiyou Street Westminster, CA 92683

Delivered via U.S. Postal Service First Class Mail with email copy to FISHINGSTUD@GMAIL.COM

Dear Mr. MacNeil:

Payment has not been received for your off-shore mooring permit (Mooring # J-107, Account # 6003381-656210) in Newport Harbor. The amount of \$788.76 was due as of May 1, 2020. This amount must be paid in full no later than June 21, 2020.

As you may be aware, when a mooring permittee fails to pay any mooring rent or fee when due and is in arrears for sixty (60) days or more, that mooring permit is subject to revocation [Newport Beach Municipal Code Section 17.70.020(A)(1)(e)].

Your prompt attention to this matter is needed to bring the account current and to avoid the revocation process. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660, first floor, Bay A. All payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

If you believe that the information above is incorrect or if you have other billing questions, please contact Customer Service at the e-mail or phone number above. For any questions regarding your mooring permit, please do not hesitate to call the Harbor Department at (949) 270-8159.

Sincerely,

Matt Cosylion Code Enforcement Supervisor Harbor Department City of Newport Beach <u>mcosylion@newportbeachca.gov</u> 949-270-8164

Cosylion, Matt

From: Sent: To: Subject: Attachments: Cosylion, Matt Monday, June 15, 2020 3:52 PM 'FISHINGSTUD@GMAIL.COM' MOORING FEES J-107.pdf

Good Morning Thomas,



Please review the attached warning notice regarding the past due mooring fees for J-107.

Thank you

Matt Cosylion Harbor Department Code Enforcement Supervisor mcosylion@newportbeachca.gov 949-270-8164

CITY OF NEWPORT BEACH 1600 W. Balboa Blvd., Newport Beach, California 92663 | newportbeachca.gov

Cosylion, Matt

From: Sent: To: Subject: Cosylion, Matt Wednesday, July 22, 2020 3:05 PM 'FISHINGSTUD@GMAIL.COM' J-107 and W-2

Sir,

Please call me to discuss your mooring fees. We need payment ASAP.

Thank you

Matt Cosylion Harbor Department Code Enforcement Supervisor <u>mcosylion@newportbeachca.gov</u> 949-270-8164

CITY OF NEWPORT BEACH 1600 W. Balboa Blvd., Newport Beach, California 92663 | newportbeachca.gov



NOTICE OF ADMINISTRATIVE CITATION CITY OF NEWPORTBEACH Harbor Department

1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No : HD20-0408A Date : 06/22/2020 Account No : HD20-0408

Name of Owner or Business :

THOMAS MACNEIL RE: J-107 13161 SISKIYOU ST WESTMINSTER CA 92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>06/22/2020</u> revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO IGNORE THIS CITATION.

J-107 Citation - \$100 IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A , AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

2: MC 17.70.020A, Past due mooring fees

CORRECTION(S) REQUIRED -

1. THE MOORING FEES FOR J-107 ARE MORE THAN 60 DAYS PAST DUE.

2. PLEASE PAY ALL PAST DUE FEES BY JUNE 29, 2020.

3. FAILURE TO PAY MOORING FEES WILL RESULT IN REVOCATION OF YOUR MOORING PERMIT.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS CITATION.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 06/29/2020. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : THOMAS MACNEIL DATE : 06/22/2020

PRINT NAME OF OFFICER : Ma

Matt Cosylion

SIGNATURE OF OFFICER

Mate

OFFICER ID #

0309

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. There are three levels of citations that can be issued progressively for most violations. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same ordinance within one year. For certain violations specified in Newport Beach Municipal Code Section 1.05.020 (F), the fines for citations are \$1,000, \$2,000, and \$3,000 respectively. For violations occurring within a Safety Enhancement Zone, the fines for citations are \$300, \$600, and \$1,000 respectively.

Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within thirty (30) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at <u>www.newportbeachca.gov</u>. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing.

If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation.

Failure of any person to properly file a written appeal within thirty (30) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fines, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

Cosylion, Matt

From:	Cosylion, Matt
Sent:	Monday, July 27, 2020 2:56 PM
То:	'FISHINGSTUD@GMAIL.COM'
Cc:	Borsting, Kurt
Subject:	J-107, W-2 MOORING FEES

Importance:

High

Good Afternoon Todd,



I hope this email finds you well and in good health. I have called you on multiple occasions regarding the past due fees for your moorings, J-107 and W-2.

I need you to call me back or email me today regarding this matter as your fees are significantly past due. Without a payment plan, both mooring permits will be referred to the Harbor Commission for a revocation hearing.

I implore you not to disregard this email. Please contact me at the number below to discuss this matter in further detail.

Sincerely,

Matt Cosylion Harbor Department Code Enforcement Supervisor <u>mcosylion@newportbeachca.gov</u> 949-270-8164

CITY OF NEWPORT BEACH 1600 W. Balboa Blvd., Newport Beach, California 92663 | newportbeachca.gov



NOTICE OF ADMINISTRATIVE CITATION **CITY OF NEWPORTBEACH Harbor Department**

1600 W. Balboa Blvd Newport Beach, CA 92663 949-270-8159

Citation No: HD20-0408B Date : 07/06/2020 Account No: HD20-0408

Name of Owner or Business :

THOMAS MACNEIL RE: J-107 13161 SISKIYOU ST WESTMINSTER CA 92683

An inspection of premises located at 1600 W BALBOA BLVD NB in the City of Newport Beach, on 07/06/2020 revealed a violation(s) of the Newport Beach Municipal code.

THE NEXT LEVEL CITATION IS NOW PENDING AND YOU MAY BE CITED EACH DAY THE VIOLATION CONTINUES. OTHER ENFORCEMENT ACTION AND PENALTIES MAY ALSO RESULT IF COMPLIANCE IS NOT ACHIEVED OR IF YOU CONTINUE TO **IGNORE THIS CITATION.**

IS NOW DUE AND PAYABLE TO CITY OF NEWPORT BEACH J-107 Citation - \$100

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON N/A, AND YOU HAVE NOT CORRECTED OR **RESOLVED THE VIOLATION(S)**

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

2: MC 17.70.020A, Past due mooring fees

CORRECTION(S) REQUIRED -

1. THE MOORING FEES FOR J-107 ARE MORE THAN 60 DAYS PAST DUE.

2. PLEASE PAY ALL PAST DUE FEES BY JULY 12, 2020.

3. FAILURE TO PAY MOORING FEES WILL RESULT IN REVOCATION OF YOUR MOORING PERMIT.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGARDING THIS CITATION.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 07/12/2020. If the violation is not corrected by the date specified, additional enforcement actions such as administrative citations, administrative penalties, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

RECEIPT ACKNOWLEDGED BY OR MAILED TO : THOMAS MACNEIL DATE : 07/06/2020

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Martin

OFFICER ID #

0309

IMPORTANT - READ CAREFULLY LEGAL REQUIREMENTS

Administrative Citation

Newport Beach Municipal Code Section 1.05.020 provides for the issuance of administrative citations for Municipal Code violations. There are three levels of citations that can be issued progressively for most violations. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same ordinance within one year. For certain violations specified in Newport Beach Municipal Code Section 1.05.020 (F), the fines for citations are \$1,000, \$2,000, and \$3,000 respectively. For violations occurring within a Safety Enhancement Zone, the fines for citations are \$300, \$600, and \$1,000 respectively.

Fines are cumulative and citations may be issued each day the violation exists. A warning, if issued, does not incur a fine and, therefore, may not be appealed.

Rights of Appeal

You have the right to appeal this administrative citation within thirty (30) days from the date of service of the citation together with an advanced deposit of the fine along with a Request for Hearing form, which can be obtained online at <u>www.newportbeachca.gov</u>. An appeal must be in writing and returned to the City's Revenue Division to the attention of "Administrative Hearing Officer." A properly filed appeal will result in an administrative hearing.

If you wish to appeal an administrative citation and can demonstrate an actual financial inability to make the advance deposit of the fine, you may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation.

Failure of any person to properly file a written appeal within thirty (30) CONSECUTIVE days from the date of service of the citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Administrative Citation Department, you may pay online at <u>www.pticket.com/nbadmin</u>, by mail at City of Newport Beach Admin Citation Processing, PO Box 3926, Tustin CA 92781-3926 or in person at 100 Civic Center Drive, Newport Beach. Payment may be made by credit card, personal check, cashier's check, or money order, payable to the City of Newport Beach. Please write the citation or account number on your check or money order. For questions regarding paying a citation, you may contact the Administrative Citation Department at: (800) 696-3996.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Revenue Division. Please follow the instructions on the invoice to ensure proper processing of your payment.

Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of Newport Beach.

Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the invoice from the Revenue Division may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in Newport Beach Municipal Code Section 1.05.100.

Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: administrative penalties, administrative cost recovery, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect all fines, penalties, and costs incurred; to demolish structures or make necessary repairs at the owner's expense; and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please email the Revenue Division at **revenuehelp@newportbeachca.gov**.

If you need further information about the violations and/or how to comply, please call the inspector designated on the front.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations and your rights in that process are found in Newport Beach Municipal Code Chapter 1.05.

Cosylion, Matt

From: Sent: To: Cc: Subject: Cosylion, Matt Tuesday, September 8, 2020 9:40 AM 'FISHINGSTUD@GMAIL.COM' Borsting, Kurt J-107

Sir,



The mooring fees for J-107 are still outstanding, despite our agreement the fees would be paid last week.

Please note that failure to pay the outstanding fees this Friday will result in referral of your mooring permit to the Harbor Commission for a revocation hearing.

Thank you in advance for your attention to this matter.

Sincerely,

Matt Cosylion Harbor Department Code Enforcement Supervisor <u>mcosylion@newportbeachca.gov</u> 949-270-8164

CITY OF NEWPORT BEACH 1600 W. Balboa Blvd., Newport Beach, California 92663 | newportbeachca.gov

1

From:	Goldfarb, Jeffrey
Sent:	Tuesday, December 1, 2020 10:51 AM
То:	'FISHINGSTUD@GMAIL.COM'
Cc:	Cosylion, Matt
Subject:	Overdue mooring fees
Attachments:	overdue mooring fee letter 1.pdf; OVERDUE MOORING FEES J-
	107.pdf

Hello Mr. MacNeil. I hope you had a nice Thanksgiving. I am writing to let you know that you are overdue on your payments for your two moorings as further explained in the two attached letters. Should you have any questions, please do not hesitate to contact our office. Take care,



Jeff Goldfarb Harbor Department Code Enforcement Officer jgoldfarb@newportbeachca.gov 949-270-8163



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

November 30, 2020

Mr. Thomas B. MacNeil 13161 Siskyou St. Westminster, CA 92683

Delivered via U.S. Postal Service First Class Mail, email copy to <u>FISHINGSTUD@GMAIL.COM</u>, and with copy posted on vessel located on mooring J-107.

Dear Mr. MacNeil:

Payment has not been received for your off-shore mooring permit in Newport Harbor (Mooring #J-107, Account #6003381). The amount of \$520.97 was due as of November 1, 2020. This amount must be paid in full by no later than January 3, 2021.

As you may be aware, when a mooring permittee fails to pay any mooring rent or fee when due and is in arrears for sixty (60) days or more, that mooring permit is subject to revocation [Newport Beach Municipal Code Sections 17.60.040(K) (1) and 17.70.020 (A)(1)(e) and (A)(3)].

Your prompt attention to this matter is needed to bring the account current and to avoid the revocation process. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660, first floor, Bay A. All payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

If you believe that the information above is incorrect or if you have other billing questions, please contact Customer Service at the e-mail or phone number above. For any questions regarding your mooring permit, please do not hesitate to call the Harbor Department at (949) 270-8159.

Sincerely,

Matt Cosylion Code Enforcement Supervisor Harbor Department City of Newport Beach <u>mcosylion@newportbeachca.gov</u> 949-270-8164



January 20, 2021

Mr. Thomas MacNeil 13161 Siskiyou St. Westminster, CA 92683

Delivered via U.S. Postal Service First Class Mail and Certified Mail with email copy to <u>FISHINGSTUD@GMAIL.COM</u> and vessel posted on January 20, 2021.

RE: Notice of Intention To Revoke Mooring Permit For Mooring J-107

Dear Mr. MacNeil:

Pursuant to Newport Beach Municipal Code ("NBMC") Sections 17.60.040(K) and 17.70.020(B), you are hereby provided with official notice that the Harbor Master intends to revoke your mooring permit for Mooring J-107.

This proposed revocation is based upon the following:

- Failure to be responsible for permit rent, fees, maintenance and repair of mooring equipment. [NBMC Section 17.60.040(B)(2)(b)]
- Failure to pay any mooring rent or fee when due and is in arrears for a period of sixty (60) days or more. [NBMC Sections 17.60.040(K)(1) and 17.70.020(A)(1)(e) and (A)(3)]
- Failure to comply with the terms or conditions contained in the permit or upon which the permit was granted. [NBMC Section 17.70.020(A)(1)(h)]

If you desire to retain your mooring permit and avoid the revocation, you must bring your account current by paying all past due fees no later than February 3, 2021. The amount currently owed on your account is \$936.65. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660 first floor Bay A. Failure to correct the violations as noted above will result in the Harbor Master revoking your mooring permit as of the close of business on February 3, 2021.

Page 2 Notice of Intent to Revoke Mooring Permit J-107 Permittee - Mr. Thomas MacNeil

If your permit is revoked by the City, NBMC Section 17.60.040(K)(2) requires you to immediately remove the mooring equipment and any moored vessel from Mooring J-107. By way of this letter, you are also provided notice that, should you mooring permit be revoked, you shall have fourteen (14) calendar days from the date on which notice of revocation is provide to you to request an appeal hearing before the Harbor Commission. Failure to request such a hearing shall result in the revocation being deemed final.

Thank you in advance for your prompt attention to this matter. For questions or concerns regarding this letter, please contact me at (949) 270-8159 or <u>igoldfarb@newportbeachca.gov</u>. All billing and payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

Sincerely,

Jeffrey A. Goldfarb Code Enforcement Officer Harbor Department City of Newport Beach jgoldfarb@newportbeachca.gov (949) 270-8159

Goldfarb, Jeffrey

From: Sent: To: Cc: Subject: Attachments: Goldfarb, Jeffrey Friday, May 21, 2021 12:44 PM 'FISHINGSTUD@GMAIL.COM' Cosylion, Matt; Vitarelli, Madison LATE MOORING FEES J-107 MACNEIL LATE MOORING FEES.pdf

I hope you are well. Attached please find a letter from the City of Newport Beach Harbor Department regarding



overdue fees for your mooring. Should you have any questions, please do not hesitate to email me at jgoldfarb@newportbeachca.gov.

Jeff Goldfarb

Harbor Department Code Enforcement Officer jgoldfarb@newportbeachca.gov 949-270-8163

1



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

May 20, 2021

Mr. Thomas B. MacNeil 1316 Siskiyou ST Westminster, CA 92683

Delivered via U.S. Postal Service First Class Mail with email copy FISHINGSTUD@GMAIL.COM

Dear Mr. MacNeil:

Payment has not been received for your off-shore mooring permit in Newport Harbor (Mooring #J-107, Account # 6003381-585841). The amount of \$812.70 was due as of May 6, 2021. This amount must be paid in full by no later than June 6, 2021.

As you may be aware, when a mooring permittee fails to pay any mooring rent or fee when due and is in arrears for sixty (60) days or more, that mooring permit is subject to revocation [Newport Beach Municipal Code Sections 17.60.040(K) (1) and 17.70.020 (A)(1)(e) and (A)(3)].

Your prompt attention to this matter is needed to bring the account current and to avoid the revocation process. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660, first floor, Bay A. All payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

If you believe that the information above is incorrect or if you have other billing questions, please contact Customer Service at the e-mail or phone number above. For any questions regarding your mooring permit, please do not hesitate to call the Harbor Department at (949) 270-8159.

Sincerely,

Jeff Goldfarb Code Enforcement Officer Harbor Department City of Newport Beach jgoldfarb@newportbeachca.gov 949-270-8164



CITY OF NEWPORT BEACH Harbor Department

1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

July 2, 2021

Mr. Thomas B. MacNeil 3419 via Lido Newport Beach, CA 92663

Delivered via U.S. Postal Service First Class Mail with email copy FISHINGSTUD@GMAIL.COM

Dear Mr. Mac Neil:

Payment has not been received for your off-shore mooring permit in Newport Harbor (Mooring J-107, Account # 6003381-585841). The amount of \$621.60 was due as of June 3, 2021. This amount must be paid in full by no later than August 2, 2021.

As you may be aware, when a mooring permittee fails to pay any mooring rent or fee when due and is in arrears for sixty (60) days or more, that mooring permit is subject to revocation [Newport Beach Municipal Code Sections 17.60.040(K) (1) and 17.70.020 (A)(1)(e) and (A)(3)].

Your prompt attention to this matter is needed to bring the account current and to avoid the revocation process. To make payment online please visit <u>https://apps.newportbeachca.gov/billpay/</u>. Telephone payments can be made by calling (949) 718-1999 or in person at the Newport Beach Civic Center located at 100 Civic Center Drive, Newport Beach, CA 92660, first floor, Bay A. All payment related questions can be directed to <u>revenuehelp@newportbeachca.gov</u> or by calling Customer Service at (949) 644-3141.

If you believe that the information above is incorrect or if you have other billing questions, please contact Customer Service at the e-mail or phone number above. For any questions regarding your mooring permit, please do not hesitate to call the Harbor Department at (949) 270-8159.

Sincerely,

Jeffrey A. Goldfarb Code Enforcement Officer Harbor Department City of Newport Beach jgoldfarb@newportbeachca.gov 949-270-8159



NOTICE OF VIOLATION <u>CITY OF NEWPORT BEACH</u> Harbor Department

1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD19-0237 04/23/2019

Name of Owner or Business : MACNEIL, THOMAS BOYD RE: J-107 13161 SISKIYOU ST WESTMINSTER CA,92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>04/23/2019</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

1. ONLY ONE VESSEL IS ALLOWED PER MOORING. 2. PLEASE DO NOT SIDE-TIE TWO VESSELS ON A MOORING.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS REGADING THIS NOTICE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 04/30/2019. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Mate

OFFICER ID #

0309



NOTICE OF VIOLATION CITY OF NEWPORT BEACH Harbor Department

1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Number: Date: HD20-0027 01/12/2020

Name of Owner or Business : THOMAS MACNEIL RE: J-107 13161 SISKIYOU ST WESTMINSTER CA,92683

An inspection of premises located at <u>1600 W BALBOA BLVD NB</u> in the City of Newport Beach, on <u>01/12/2020</u> revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY	[X]
PREVIOUSLY ADVISED	[]
FINAL WARNING	[X]

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 17.60.040B PERMIT REQUIREMENTS

CORRECTION(S) REQUIRED -

 ONLY ONE TENDER IS ALLOWED ON A MOORING.
 PLEASE REMOVE ALL OTHER TENDERS FROM THE MOORING.
 PLEASE PROVIDE A COPY OF THE CURRENT REGISTRATION AND INSURANCE FOR THE TENDER YOU KEEP ON THE MOORING.

EMAIL MCOSYLION@NEWPORTBEACHCA.GOV WITH ANY QUESTIONS OR CONCERNS.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Code Enforcement Division for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 01/20/2020. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER :

Matt Cosylion

SIGNATURE OF OFFICER

Martin

OFFICER ID #

<u>0309</u>



NOTICE OF VIOLATION

CITY OF NEWPORT BEACH HARBOR DEPARTMENT 1600 W. Balboa Blvd, Newport Beach, CA 92663 949-270-8159

Name of Owner or Business: TO

TOM MACNEIL

3419 VIA LIDO #186 NEWPORT BEACH, CA 92663

Warning Only: Previously Advised: Final Warning: X

An inspection of the premises located at **J-0107** on **Saturday**, **January 7**, **2023**, revealed a violation(s) of the Newport Beach Municipal Code.

NEWPORT BEACH MUNICIPAL CODE SECTION / DESCRIPTIONS OF VIOLATION: MC 17.60.040B PERMIT- CONDITIONS

Correction(s) Required:

1. ONLY ONE (TENDER IS ALLOWED ON A MOORING.

2. PLEASE DO NOT KEEP MORE THAN ONE (TENDER ON YOUR MOORING.

3. ALL OTHER TENDERS MUST BE REMOVED.

ALL LISTED VIOLATIONS MUST BE CORRECTED ON OR BEFORE: Monday, January 9, 2023

If the violations are not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100, \$200, \$500, \$1000, \$2000, \$3000) each day. Additional enforcement actions such as administrative citations, administrative penalties, prosecution and/or civil injunction may be utilized to correct this violation(s).

A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED, AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

The City of Newport Beach recognizes that oversights occur and challenges come up. We encourage you to contact the Harbor Department for questions about this notice or to request an extension of time if one is needed. We understand the importance of working together and appreciate your cooperation in this matter.

Print Name of Officer: Matthew Cosylion

Signature of Officer: Matthew Cosylion

Officer ID#: 0309

Case #: HD23-0019 Notice Date: 01/09/2023

Additional Material Presented at Meeting Item No. 6.1 Appeal of Mooring Revocation_Staff Presentation October 11, 2023 Harbor Commission Meeting NEWPORT BEACH HARBOR COMMISSION

MOORING J-0107 REVOCATION APPEAL HEARING OCTOBER 11, 2023

Presented by Jeffrey Goldfarb Code Enforcement Officer



TV

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ALIFOR

Presentation Outline

- Violations
- Relevant Code Sections
- Enforcement Activity
- Revocation Process
- Questions

Mooring J-0107





Summary of Violations

Failure to pay mooring fees

- More than 120 days past due
- Approximately \$1,173.99 in past due fees
- Failure to provide insurance
 - Insurance expired on May 25, 2023
- Failure to comply with terms and conditions of the mooring permit



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Relevant Code Sections

Slide 5

RB2 Ramirez, Brittany, 10/10/2023



166

NBMC Section 17.70.020(A)(3)

3. Grounds for Revocation of Mooring Permit. A mooring permit may be revoked upon any of the grounds set forth in subsection (A)(1) of this section or for any of the following:

a. The moored vessel or the mooring equipment has been determined to violate the applicable mooring regulations in Section 17.25.020, or any successor section, and the mooring permittee or sub-permittee has not made the necessary corrections or repairs within the time required by the Harbormaster;

b. The mooring permittee or person authorized by the mooring permittee has failed or refused to allow an inspection of the vessel to determine if it is safe, seaworthy and operable, a public nuisance, or in compliance with applicable marine sanitation device requirements including placement of a dye tablet in the marine sanitation device;

c. A person has lived aboard a vessel assigned to a mooring without a live-aboard permit, unless otherwise noted in Section 17.60.040(H); or

d. The mooring permittee has sublet their mooring in violation of this title.

BP1	has the permittee violates all four sections or just section a? Perhpahs just highlight the section of the code he has violated
	Blank, Paul, 10/10/2023

NBMC Section 17.70.020(A)(1)(e)(h)

A. Grounds for Revocation.

168

1. General Grounds for Revocation. Except as provided in subsections (A)(2) through (4) of this section, in addition to any specific grounds for revocation of a permit provided for herein, any permit heretofore or hereafter granted for any structure, work, use or activity under and pursuant to this title may be revoked upon any of the following grounds:

e. The permittee has failed for a period of sixty (60) days to pay any rent or fee heretofore or hereafter imposed for the occupancy or use of tidelands, filled tidelands or submerged lands;

h. The permittee has breached or failed to comply with the terms or conditions contained in the permit or upon which the permit was granted or provided false or misleading information on an application for a permit or renewal thereof;

NBMC Section 17.60.040(B)(2)(b)(f)

2. Permit Requirements. A mooring permit may be issued to a maximum of two persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. The mooring permit shall specify the assigned mooring location, the mooring length, and assigned vessel information. Mooring permittee(s) are subject to and shall fully comply with the following conditions:

b. Agree to be responsible for permit rent, fees, maintenance and repair of mooring equipment;

f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;

- Signed mooring permit Feb. 27, 2019
- Signed updated mooring permit Aug. 29, 2022

Past Due Mooring Fees

- Multiple notices in 2020 and 2021
- Monthly invoices past due since April, 2023
- Letter requesting meeting with permittee August 24, 2023

Expired Insurance

- Courtesy letter April 4, 2023
- Notice of Violation June 6, 2023
- Notice of Violation June 26, 2023
- Notice of Violation July 11, 2023
- \$100 Administrative Citation July 24, 2023
- \$200 Administrative Citation August 7, 2023
- \$500 Administrative Citation August 17, 2023

Notice of Revocation – August 31, 2023
Appeal Application – September 15, 2023



Discussion?



Slide 13

BP2 I like the word "Discussion" at the end of a presentation rather than "Questions?". Blank, Paul, 10/10/2023



NEWPORT BEACH Harbor Commission Staff Report

= CITY OF =

October 11, 2023 Agenda Item No. <u>6.2</u>

TO:	HARBOR COMMISSION
FROM:	Chris Miller, Public Works Administrative Manager – 949-644-3043, cmiller@newportbeachca.gov
TITLE:	Variance Request: Vessel Berthing at 1324 E. Balboa Blvd.

ABSTRACT:

Tom LeBeau ("Applicant"), property owner of 1324 E. Balboa Blvd ("Property") has applied for a variance, Variance No. HCVAR2023-002 ("Variance"), from the conditions of Harbor Permit/Approval in Concept 109-1322 ("Permit") restricting the size of the vessel that may be berthed on the east side of the single-finger float adjacent to F Street end in order that he may be able to berth a larger vessel.

RECOMMENDATION:

- 1. Conduct a public hearing;
- 2. Find that the denial of the variance 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; and
- Adopt Resolution HC2023-011 of the Harbor Commission of the City of Newport Beach denying Variance No. HCVAR2023-002 requesting modification of Harbor Permit 109-1322 in order to berth a vessel that exceeds a length of 55-feet and a width of 15-feet on the east side of the float and into F Street end.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

INTRODUCTION:

Background

The subject pier system at the Property is shared with the property at 1322 E. Balboa Boulevard with the float positioned parallel to the F Street end. Property is uniquely shaped with side property lines that are not parallel. Instead, the property lines extend channelward and converge to a point landward of the pier platform. The reason for this unusual lot shape is because E. Balboa Boulevard, F Street and E. Bay Avenue converge at different angles at this location resulting in the necessity of the pier to be equally shared between Property and 1322 E. Balboa Boulevard (Attachment A).

The F Street end is 30-feet wide and has parallel property lines extending bayward. Onshore mooring P-33 is positioned at this City street end.

DISCUSSION:

In October 2014, the Harbor Commission reviewed a dock reconfiguration project request to position the float with a 1-foot setback from the Property's east lot line as shown in the attached aerial exhibits. The Harbor Commission approved the project but restricted the vessels which could be side-tied on the east and west side of the float to maximum lengths of 32-feet each. Additionally, the maximum width of the vessel that could be side-tied to the east side of the float was approved at 13-feet. Applicant agreed and signed the Special Conditions to the Permit, which included these vessel size limits (Attachments C and D). At the time, there were two onshore moorings at F Street, P31 and P33, both permitted to separate, independent parties.

In 2020, Applicant was issued a notice of violation (NOV) for the berthing of a 55-foot vessel, which was in violation of the terms of the Permit, and for extending the length of the float without obtaining a permit. Applicant appealed the NOV and also sought a modification of the Permit's condition restricting maximum vessel size. Sometime later, Applicant removed his 55-foot vessel from the dock.

At its December 2020 meeting, the Harbor Commission set aside the NOV with respect to the unpermitted dock extension. (The appeal of the NOV with respect to the berthing of the 55-foot vessel was not considered as the issue was mooted by Applicant's relocating of his vessel.) The Harbor Commission also granted Applicant's request for modification of the Permit Special Condition that restricted the maximum size of the vessel that could be berthed on the east side of the dock, modifying the vessel size restriction from a maximum length of 32-feet to 55-feet and from a maximum width of 13-feet to 15-feet (Attachments E and F). The Harbor Commission's action was based in part upon Applicant agreeing to remove onshore mooring P-31, for which he has since become the permittee, and surrender it to the City, which would result in an increase of the navigational water space for ingress/egress within the access channel.

<u>Analysis</u>

In 2014, the float was approved to be 1-foot from the east property line adjacent to F Street end. However, Applicant states that the float was ultimately built 1.5-feet from the property line, therefore resulting in his 15-foot vessel effectively encroaching 13.5-feet into the F Street end.

Applicant contends that in 2020, the Harbor Commission approved a "15-foot easement" into F Street end. This 15-foot easement, coupled with Applicant's statement that the float was constructed 1.5-feet from the property line, effectively allows a current, baseline and approved vessel width of 16.5-feet, according to Applicant.

Therefore, Applicant takes the position that based on this approved vessel width of 16.5-feet, he only needs an increased width allowance of "8-inches" in order to accommodate his 17.2-foot wide vessel (Attachment B).

Staff notes, however, that the 2020 Harbor Commission minutes specifically state the Commission's approval of a maximum vessel width of 15-feet. In staff's opinion, the approved maximum vessel width of 15-feet is the controlling measurement when evaluating vessel width compliance. The Harbor Commission did not approve an overall easement, and the distance

between the float and the property line, whether 1-foot or 1.5-feet or "x"-feet, should not be added to the approved 15-foot vessel width restriction. Therefore, Applicant would need a variance of 2.2-feet, not 8-inches, from the approved maximum vessel width.

Historic Use

According to Applicant, the original shared pier system has existed since approximately 1920 at this location. (The City's harbor file for this pier does not include historic documentation from that era.) Applicant states that vessels of varying sizes had been berthed on both the east and west sides of the float throughout the decades. Although this may be accurate, the City's aerial photo collection from the previous decades do not show any vessels side-tied to the east side of the float.

In addition, Applicant states that City staff reviewed the allowable vessel restrictions when Applicant originally purchased Property in 2014. Indeed, it is customary for staff to review the harbor file and/or any berthing restrictions associated with a property during any home purchase with a pier. Applicant interprets these previous allowances as "easement rights".

However, upon the 2014 approval to reconfigure the pier system, Applicant signed new Special Conditions which state that "these conditions supersede all past conditions associated with the property", meaning that previous approvals for various berthing scenarios would no longer be valid.

Required Findings

Newport Beach Municipal Code (NBMC) Section 17.05.140(D)(2) (variances, findings, and decision) authorizes the Harbor Commission to approve or conditionally approve a variance from the standards of Title 17, the design criteria and other applicable standards and policies otherwise applicable to the property only after making all the following findings:

- A. The strict application of this title, the design criteria and other applicable standards and policies otherwise applicable to the property would deny the property owner privileges enjoyed by other property owners in the vicinity, based on special circumstances applicable to the property, including location, shape, size surrounding topography or other physical features.
- B. Strict compliance with this title, the design criteria and other applicable standards and policies applicable to the property would deprive the subject property of privileges enjoyed by other properties in the vicinity.
- C. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.
- D. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the City.
- E. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity.

F. Granting of the variance will not be in conflict with the intent and purpose of this title, the design criteria and any applicable standards and policies approved by the City Council.

SUMMARY AND ALTERNATIVES:

Staff recommends denying the variance request to allow a maximum vessel length of 60-feet and a maximum vessel width of 17.2-feet because the required findings in NBMC Section 17.05.140(D)(2) cannot be met. In general:

- The strict application of this title, the design criteria and other applicable standards and policies otherwise applicable to the property would **not deny** Applicant or the Property privileges enjoyed by other property owners or properties in the vicinity, based on special circumstances applicable to the property, including location, shape, size surrounding topography or other physical features.
- Granting of the variance is **not necessary** for the preservation and enjoyment of substantial property rights of Applicant. To the contrary, granting of the variance **will constitute** a grant of special privilege inconsistent with the limitations on other properties in the City.
- Granting of the variance **will be** detrimental to the harmonious and orderly growth of the City, or will endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity.
- Granting of the variance **will be** in conflict with the intent and purpose of this title, the design criteria and any applicable standards and policies approved by the City Council.

It is acknowledged that the convergence of the three streets creates an unusual property lot line configuration therefore substantiating the need for a shared pier. However, Applicant is currently allowed to encroach upon the F Street end by side-tying a vessel with a maximum length of 55-feet and a maximum width of 15-feet. Despite the unusual lot line configuration of the Property, Applicant is able to make use of the east side of his dock and berth a 55-foot by 15-foot vessel and is thus not deprived of privileges enjoyed by owners or properties in the vicinity. While neighboring properties are prohibited from encroaching beyond the prolongation of their property lines, Applicant has been allowed to encroach beyond his property lines. Approving a vessel width of 17.2-feet would further increase the occupation of the F Street end resulting in decreased public access within the access channel. Thus, granting the requested variance is not necessary for the preservation and enjoyment of substantial property rights of Applicant.

More detailed facts showing why the required findings cannot be made are presented in the draft resolution HC2023-011 (Attachment I).

In lieu of denying the Variance, the Harbor Commission may adopt one of the following alternative courses of action:

1. The Harbor Commission may require changes to the Variance in order to alleviate concerns and in order to be able to make the required findings. If the changes are substantial, the item should be continued to a future meeting to allow staff to make the necessary adjustments and to prepare a revised resolution incorporating the new or revised findings.

2. If the Harbor Commission believes there are sufficient facts to support the findings for variance approval, the Harbor Commission may approve the Variance and provide facts in support of approval. The item should be continued to a future meeting to allow staff to prepare a revised resolution incorporating the requisite findings and facts in support.

ENVIRONMENTAL REVIEW:

The denial of the variance 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.

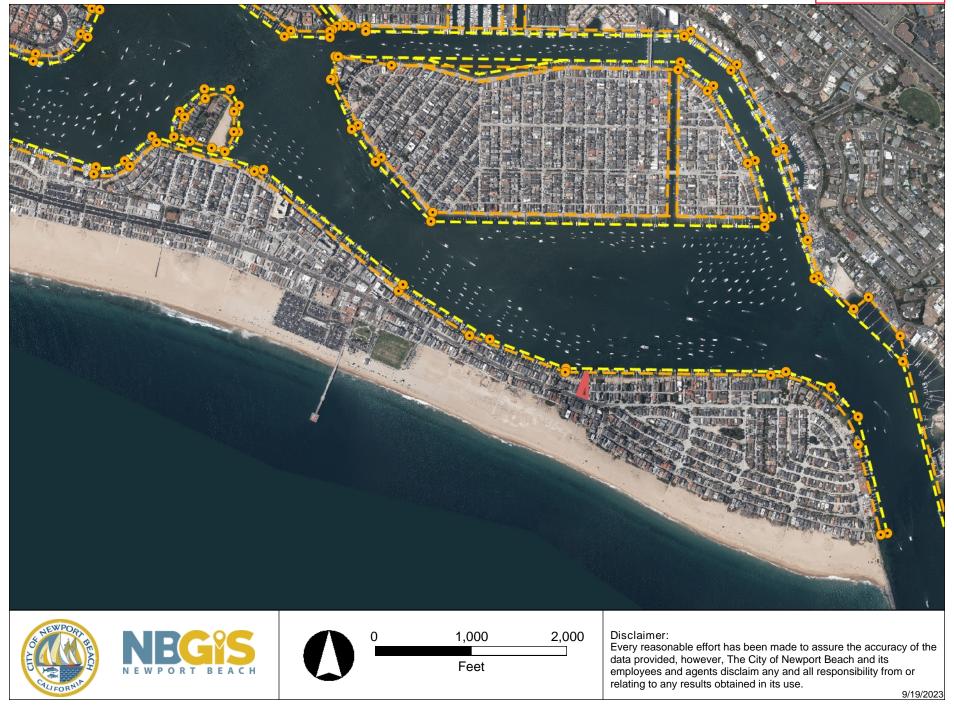
NOTICING:

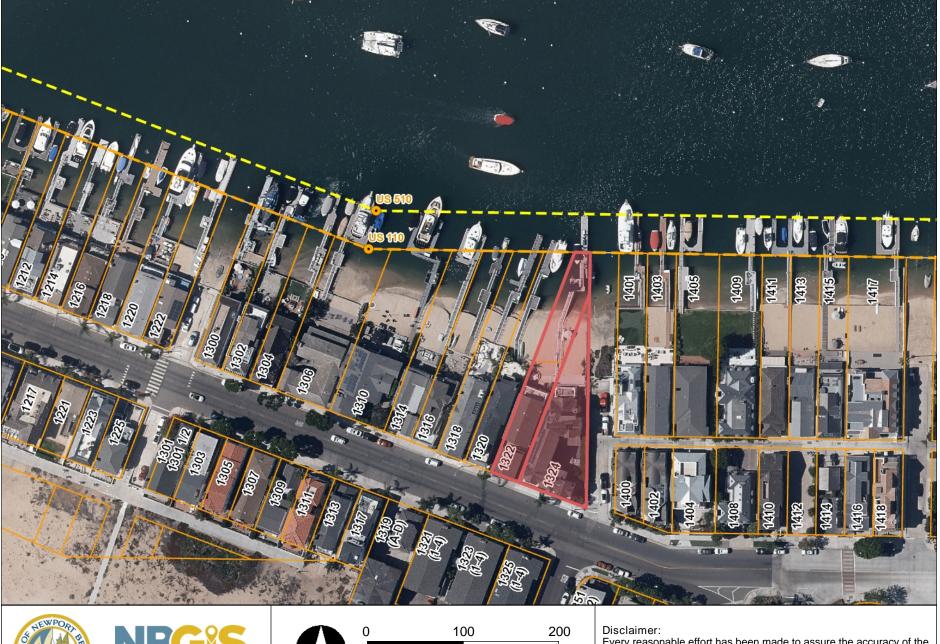
The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item). Notice of this hearing was published in the Daily Pilot newspaper on Saturday, September 30, mailed to all owners and residential occupants within 300 feet of the boundaries of the site (excluding intervening waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled hearing consistent with the Municipal Code (Attachment G). Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

- Attachment A Aerial Photos
- Attachment B Applicant's Variance Submittal
- Attachment C October 2014 Harbor Commission Minutes
- Attachment D December 2014 Special Conditions
- Attachment E December 2020 Harbor Commission Staff Report
- Attachment F December 2020 Harbor Commission Minutes
- Attachment G Public Outreach
- Attachment H Public Comments
- Attachment I Resolution HC2023-011

Attachment A





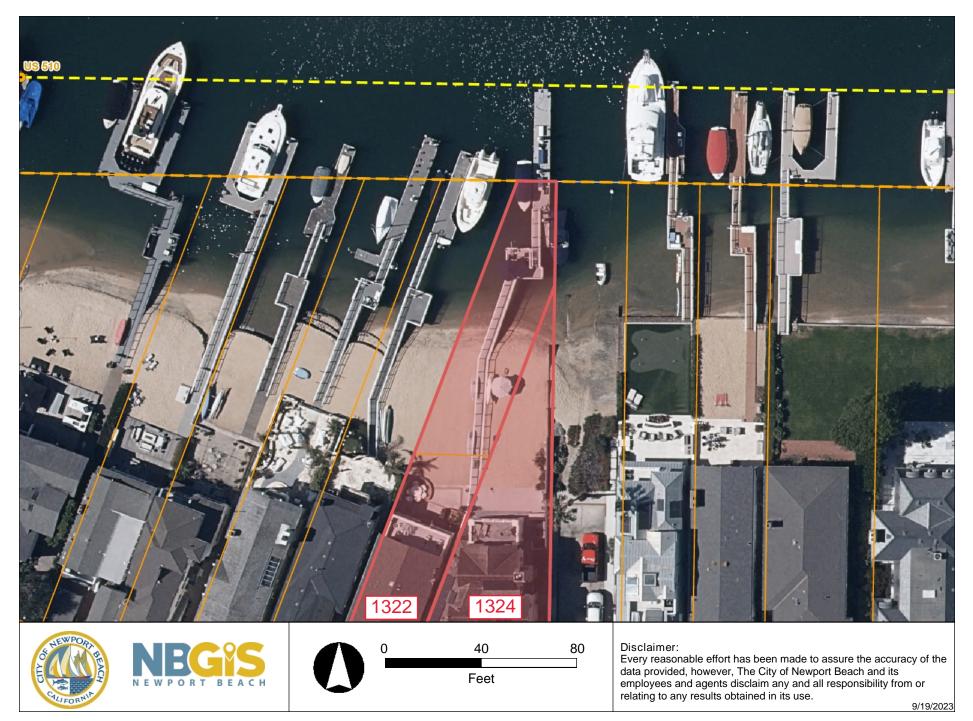
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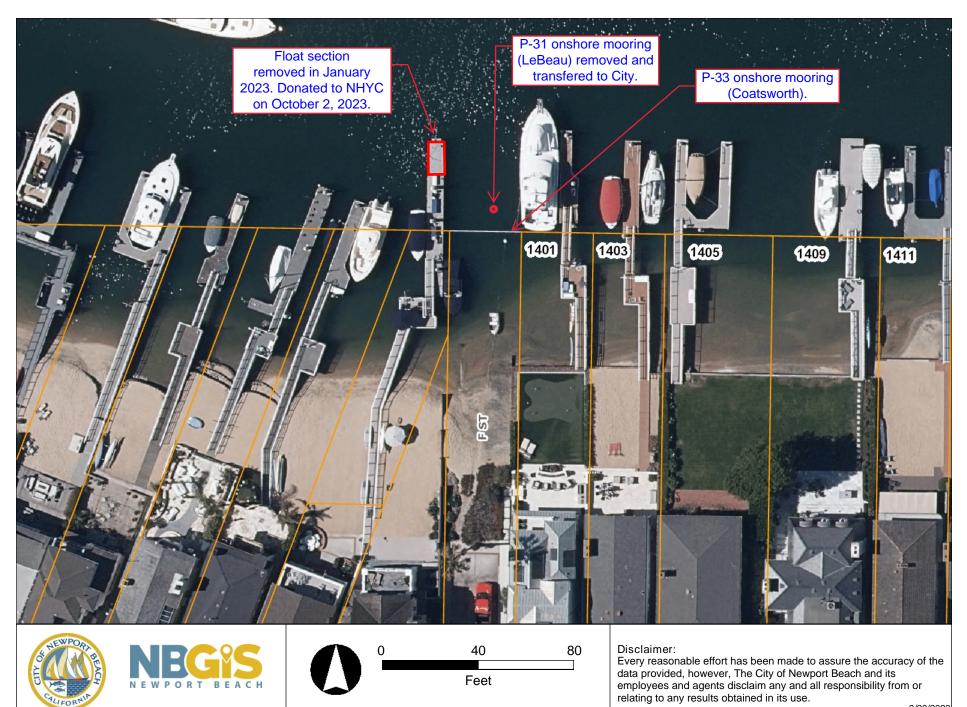
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0 RT BEA С Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use. ______9/19/2023

9/19/2023





Shared Pier at 1322 & 1324 E. Balboa Blvd.

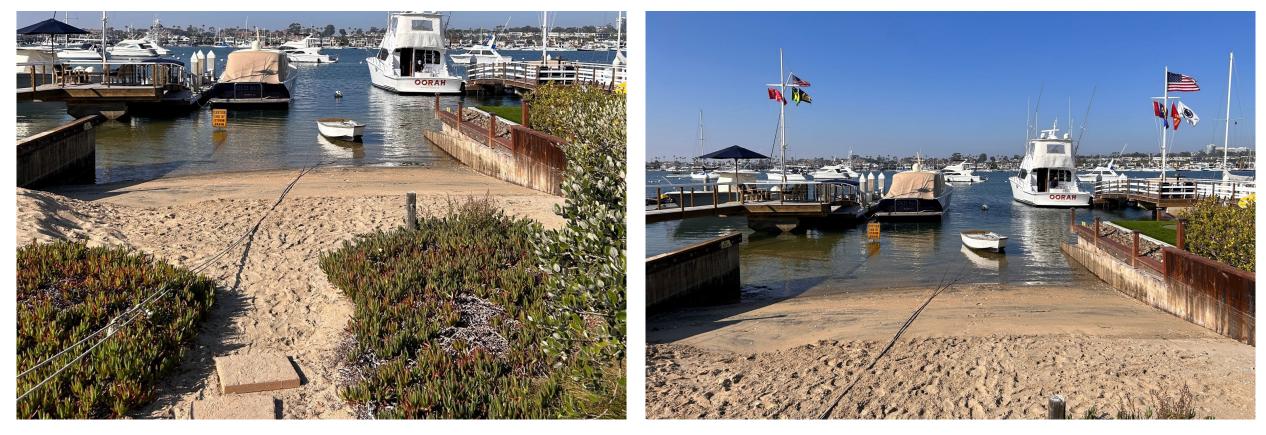


F Street End



F Street End

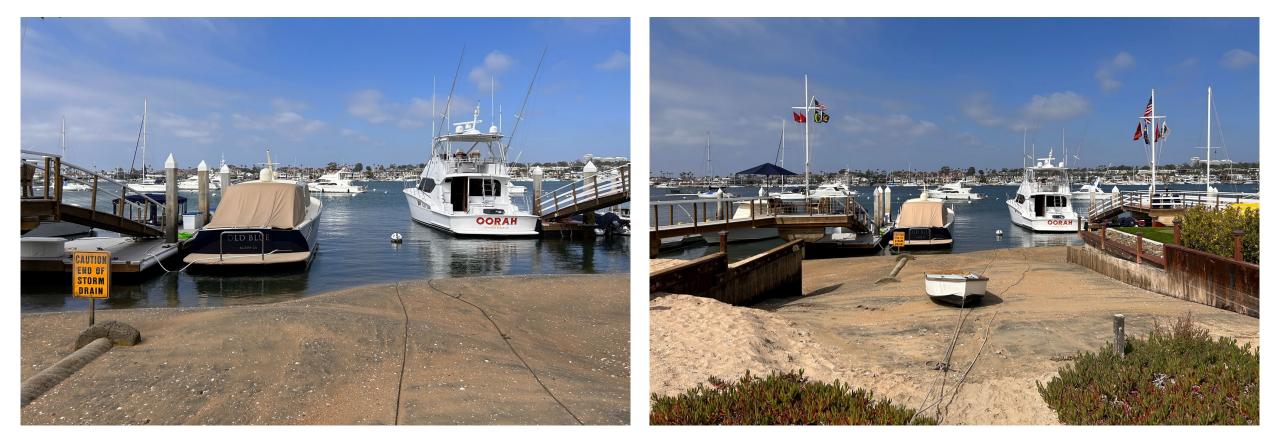
Permitted Vessel Encroachment (55-feet long, 15-feet wide) Storm Drain Onshore Mooring P-33



F Street End (higher tide)



F Street End (lower tide)



Discreti	Development Department ionary Application ner's Affidavit	Attachment B CITY OF NEWPORT BEACH 100 Civic Center Drive Newport Beach, California 92660 949 644-3200 newportbeachca.gov/communitydevelopment
 Check Permits Requested: Approval-in-Concept - AIC # Coastal Development Permit Waiver for De Minimis Development Coastal Residential Development Condominium Conversion Comprehensive Sign Program Development Agreement Development Plan Lot Line Adjustment Project Address(es)/Assessor 	 Lot Merger Limited Term Permit - Seasonal 90 day 90 days Modification Permit Off-Site Parking Agreement Planned Community Development Plan Planned Development Permit Site Development Review – Major Minor Parcel Map 	 Staff Approval Tract Map Traffic Study Use Permit - Minor Conditional Amendment to existing Use Permit Variance Amendment - Code PC GP LCP Zoning Clearance - ADU Use Other:
1324 E. Balboa Blvd APN		
A variance to secure a larger vessel to asking for an additional 8" (.667'). The We are seeking to secure a 17.2' beam	ification (Attach additional sheets if ne the eastern (F Street) side of the dock. There is c existing dock is 1.5 feet off the PL so the current e width boat here. Therefore we are requesting an a already off the property line adds up to the 17.2'	urrently a 15' easement in existence. We are easement allows for a 16.5' beam width boat. additional .667' for a total easement of 15.7'
under penalty of perjury, that the	(I) (We) Blue Sky NPB, e) the owner(s) of the property (ies) involved foregoing statements and answers herein and correct to the best of (my) (our) knowled Title: Preciden	contained and the information herewith
Signature(s):	Title:	Date:
*May be signed by the lessee or by an aut	thorized agent if written authorization from the own	ner of the record is filed concurrently with the

"May be signed by the lessee or by an authorized agent if written authorization from the owner of the record is filed concurrently with the application. Please note, the owner(s)' signature for Parcel/Tract Map and Lot Line Adjustment Application must be notarized.

"Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record. Please review Senate Bill 1439 - Statues 2022 for further information"

2. With respect to a request for a variance, the reviewing authority may approve or conditionally approve a variance from the standards of this title, the design criteria and other applicable standards and policies otherwise applicable to the property only after making all of the following findings:

a. The strict application of this title, the design criteria and other applicable standards and policies otherwise applicable to the property would deny the property owner privileges enjoyed by other property owners in the vicinity, based on special circumstances applicable to the property, including location, shape, size, surrounding topography or other physical features;

The location of the shared 1322/24 pier is at the pinch and turn of the harbor just prior to peninsula point and east of the Pavillion. As a result the property lines ("P/L') of 1324 (abutting F Street) and those of 1322/20 are not parallel and in fact squeeze the1322/24 shared pier and float into a very small area.

The 1322/24 shared pier is said to have been located in this approximate location since 1913 providing for berthing of various boats, some of significant size, on both the east and west side of the float. The location, shape and size of the 1322/24 prolonged property lines considered together with the historical berthing of boats on both sides of the float create the special circumstances which satisfy 2.(a) above.

b. Strict compliance with this title, the design criteria and other applicable standards and policies applicable to the property would deprive the subject property of privileges enjoyed by other properties in the vicinity;

The non parallel prolongated property lines, if they were to be in strict compliance - without variance would deprive the subject 1322/24 property berthing rights equivalent to those neighbors in the immediate area. Of note 1401 E Bay Ave maintains across the F Street city beach easement a larger fishing vessel equal or greater than 65 feet in length over all and 18 feet of beam. Other boats withing the immediate adjacent area exceed the applicates request for berthing variance of 60 feet of LOA and 17.2 feet of width beam. c. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;

The current berthing rights which apply to the eastern side of the 1322/24 shared pier include a 15 feet of beam and 55 feet of length/LOA. This variance was approved by the Harbor Commission at the December 9, 2020 meeting. At the time neither the applicant nor the Commission was aware the in 2014 the float was reduced in size by 4 feet of width and shifted to the west, fully 1.5 feet off the F Street PL. As a result the current vessel is merely 13.5 feet into the F Street easement.

The applicant is seeking to have the commission take the 15 foot of variance from the existing 1324 and F Street PL and add and additional 8 inches of width into the F Street easement. The applicant is seeking to add and additional 5 feet of length over all which will not impact the use of the fairway or the beach/bay access by the public.

d. Granting of the variance will not constitute a grant of a special privilege inconsistent with the limitations on other properties in the City.

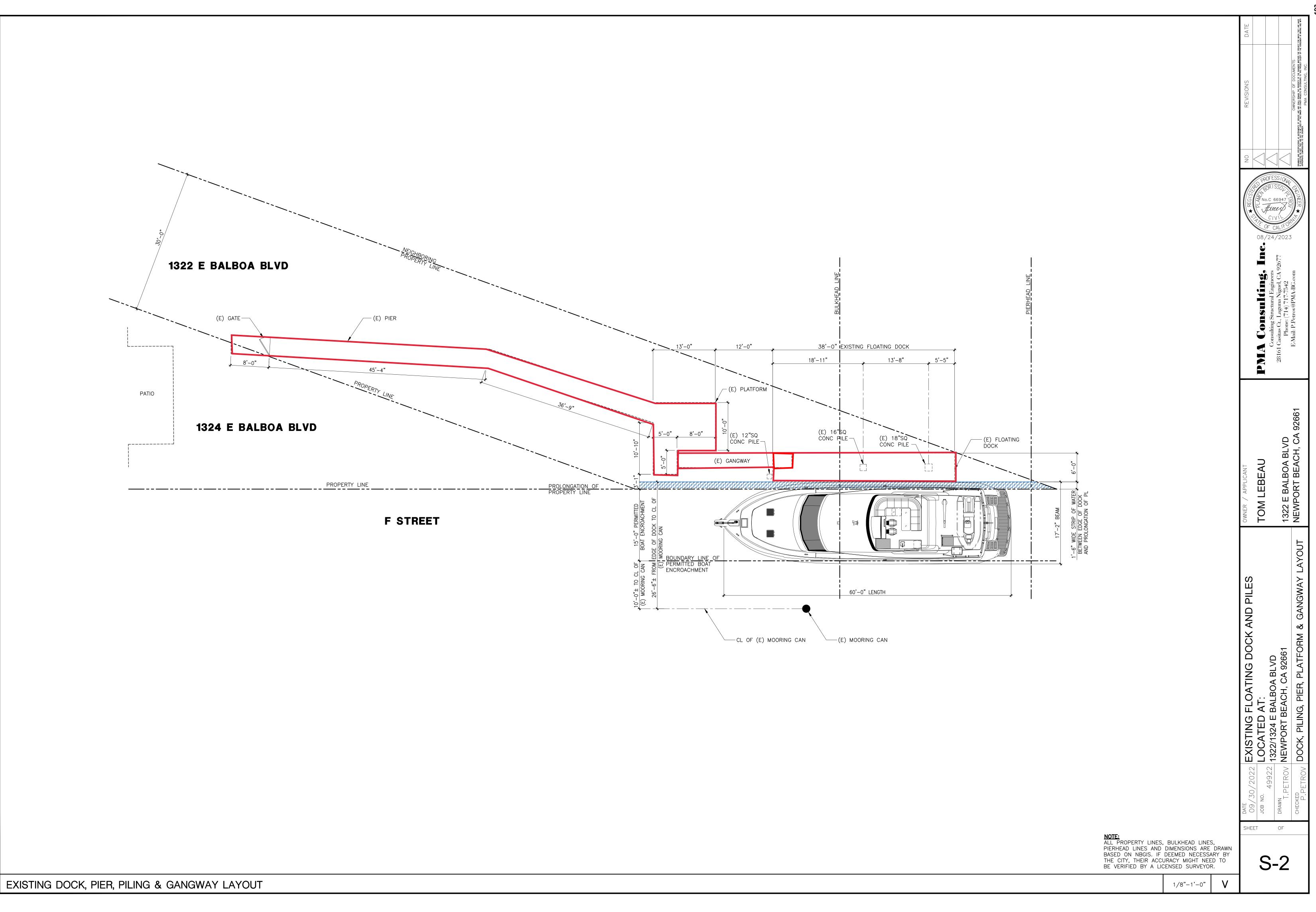
The 1322/24 shared pier and dock has been located in this approximate location since 1913 with the first known permit issued in 1941. Boats of various types and sizes have been berthed on both the east and west sides of the float since that time. Applicant is aware of multiple locations withing the Harbor where variances have been approved and exist. As such applicants request does not constitute a special privilege which is inconsistent with serval other harbor front docks. Furthermore, the 1322/24 pier has had approved berthing on both the east and west sides for over 100 years. Variances have been formally approved by Harbor Commission as it relates to the eastern F Street berth as recently as 2020.

e. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity; and

The applicants request is consistent with the current use of the shared 1322/24 pier. The applicant is making a request for a 8 inches of width beyond its current berthing right on the eastern side of the dock. The small increase in width will not "endanger, jeopardize or otherwise constitute a hazard to the public convenience, health, interest, safety or general welfare of the persons residing or working in the vicinity.

f. Granting of the variance will not be in conflict with the intent and purpose of this title, the design criteria and any applicable standards and policies approved by the City Council.

The applicants request does not impact those policies approved by the City Council.





August 16, 2023

Building Division City of Newport Beach 100 Civic Center Dr. Newport Beach, CA 92660

RE: Mooring of a 60ft instead of 55ft long boat to an (E) floating dock, located at: 1324 E. Balboa Blvd. Newport Coast, CA 92661

WSA Job #7557

To whom it may concern:

We have studied the effect of replacing the existing 55ft long boat with a 60ft boat on the existing floating dock at the referenced property and have concluded that based on section 3404A.4 of CBC 2022 the existing piles will safely support the proposed boat.

Please see the following pages as supporting documents.

Respectfully submitted,



Masoud Jafari, S.E. Principal

Hi Lisa,

Thank you for summarizing some of Chris Miller's thoughts as it relates to our pending October '23 application to Harbor Commission. Admittedly the history of our dock since our acquisition of the 1324 property is a bit dense. I thought I might share our perspectives and some of the nuances of our several trips to Harbor Commission.

Brief History:

We purchase the old home located at 1324 E. Balboa early in 2014. The original house was constructed in approximately 1913 and has had a shared pier and dock with the adjacent property located at 1322 E Balboa since approximately 1920 (1322 E Balboa Blvd was completed in 1920). The shared pier was placed roughly between the properties and the original float had dimensions of 10 feet wide and 24 feet in long. The float was located to the east directly on the 1324/F Street PL and extended 10 feet to the west - fully crossing the 1320 prolonged property line. The 1322/24 pier and float had remained in this position most of 90 years, with boats of varying sizes berthed on both the east and west side of the float.

It is important to note that when we purchased the house we had to go thru some back and forth with Shannon Levin and Chris Miller as to our rights to berth a boat in the F street end easement. Our F Street/eastern side of the float berthing rights were confirmed by Harbor Resources (Levine) by email.

Original 2014 Dock Reconfiguration

In 2014/2015 we pulled permits to tear down the old residence at 1324 and planned to reconfigure the dock. We were scheduled for a 2014 Harbor Commission hearing to review our reconfiguration plans. These plans were focused on slimming down the float from 10X24 to 6.5X38. Our plans included, most importantly, moving the float over to the west of the F Street PL by 1 foot to ease congestion in the street end (at the time there were 2 shore moorings in the F Street end) and stripping 2.5 feet of the west side of the float to make more room for boats to navigate between the west side of our dock and the 1320 dock. Our efforts were focused on creating room for everybody to share the water, our neighbor to the west (1320) and the shore mooring owners at the F Street end.

Ms. Levine at Harbor Resources also needed to establish boat sizes for both the east and west side of the 1322/24 dock. As noted, for over 90 years we had boats berthed on both sides of the 1322/24 float. Ms. Levine went into the 2014 HC meeting with a Staff Report that requested a 15 foot of beam for easterly, F Street berth. During the hearing the HC asked what size boat the applicant planned to berth, which at the time was a 34' by 13' boat. Since that was the boat we owned, and planned to berth on the eastern F Street side the HC felt that was the appropriate allocation of beam was equal to the boat we planned to berth 13 feet. The HC was also concerned that enough space be made available for the 2 shore moorings and public assess.

It important to stress that we were not making a request for anything relating to berthing at the 2014 HC hearing as we have had easement rights to the water F Street for over 90 years This was confirmed by Harbor Resources (Miller and Levine) prior to the 2014 HC hearing. The restriction was just added, and we agreed, during the hearing by HC.

Our dock application was ultimately approved thru the City, CC and Army Corp. One special note was during construction, by Swift Slip, the float was actually made thinner, to 6 feet wide by taking an additional 1/2 a foot off of the F Street PL. This was signed off on in the field and approved by the city at the time. In the end, the actual float is 6' x 38' rather than the 6.5' x 38' the plans show.

December 2020 Harbor Commission Hearing:

We were scheduled for a HC hearing in December of 2020 to address an appeal of a Harbor Department violation and to consider a request to expand the beam and length assignments for the berthing on the east F Street side of the 1322/24 float. We were seeking to expand berthing from 34' x 13' to 55' x 15' (which matched the specifications of yacht that was moored at the float). The request was based on the applicant's acquisition of one the 2 shore mooring located in the F Street end and offer by the applicant to retire the mooring and remove the mooring ball and tackle permanently.

Several factors were considered by the HC during the 2020 hearing 1) were the existing piles large enough to support the new larger berth? 2) does the applicant meet all of the tests for a variance and 3) would the retiring of the existing shore mooring considered together with the expansion of the berthing beam and length actually open up more water than having 2 shore moorings and a berthing right of 34' x 13' that was previously approved

It was determined during the hearing and through a review of the materials provided by both Staff and the applicant that 1) two of the 3 piles would need to be "upsized" from standard 12 inch piles to one 16 inch pile located in the center of the float and one 18 inch pile at the bayward end of the float (that work is complete) 2) all of the conditions for the variance were deemed to be satisfied with particular focus on the fact that the lot lines between 1322/24 are not parallel and that 1324 lot location is at one of the more severe turns in the bay, much like the Warmington lot, creating a "pinch" at the public F street end and the 1324 lot. 3) It was determined that the net effect of removing the shore mooring permanently, considered together with the 55' x 15' berthing adjustment dramatically opened up and improved public access to the public at F Street. This is especially true, like the Warmington case, if the effects of the F Street storm drain located along the 1324 PL makes access impaired in any case in front of the requested berth. Removing the westerly mooring vastly improved access, opening up water by removing tackle and the mooring can along the 1324 eastern berth.

Oct '23 Proposal to HC

We are seeking to expand our berthing rights on the eastern side of the 1322/24 float along the F Street end from 55' x 15' to 60' x 17.2'. The applicant will note that the existing float is located 1.5 feet to the west of the F Street PL within the applicant's water boundary. We are seeking an expansion of the street end easement to 15.8 feet of beam beyond the 1324 water boundary and 5 feet of length. We believe the same questions should be considered, 1) do the exiting piles support the expansion of beam and length of the applicant's request? 2) does the applicant meet all of the conditions established in MCT17 for HC to grant the variance request? 3) Is public access to the street end significantly impaired by the applicants request AND is the current access if granted still better than what existing when 2 shore moorings were located in the street end considered together with the original 2014 berthing assignment of 34' x 13'?

The applicant has made gathered some findings and observations for Staff to consider as to the questions above 1) Simpson Engineering has provided a stamped letter that the existing piles are adequate to support the applicants request of a 60' x17.2' vessel 2) the applicant's request meets all of the conditions set forth for consideration of the variance in MCT17; that is nothing has changed since the applicants 2020 request except that the neighbor has berthed a larger vessel than that the applicant is requesting; giving greater support for one of the findings (that the applicant should not be denied use of a vessel that others neighbors in the area enjoy) 3) there remains significantly more open water, even with the approval of applicants current request than there was with 2 shore moorings and the 2014 berthing rights of 34' x 13'. In fact, the remaining mooring is fully 29' from the eastern side of the 1322/24 float. Assuming the street end is 30' wide and the fact that 1322/24 float is 1.5' off the PL, the remaining mooring is fully 12.5't east of the proposed berth and that mooring is 3' from the western F street PL. The F Street end maintains nearly 15' open water Further, the existing storm drain makes public access substantially more difficult along the eastern side of F street, directly in front of the berthing the applicant is requesting.

Further Consideration: the applicant is willing to accept Special Conditions to the 1322/23 Dock permit, included in the Dock permit issued by the Harbor Department, much like the berthing approval (maximum) that the permittee will not make further application to the HC with respect to berthing size beyond the current request of 60' X17.2'.

As we are not seeking a variance to make permanent temporary improvements (as defined by MCT17 and outlined within the City's LCP) and are merely making a berthing request we do not feel that anything more than the above outlined restriction in the form of Special Condition within the existing dock permit are required to guarantee this consideration.

Conclusion:

For the reasons highlighted in this email, we sincerely hope that Staff will support our application. We understand that it may appear that the applicant keeps making request to expand berthing on the eastern side of the existing 1322/24 float. The applicant wishes to highlight that the 2014 application was a dock reconstruction request, and it was the HC who insisted on berthing that matched the applicants then current vessel and in fact Harbor Resources supported a 15', rather than the assigned 13' of beam. Further, the applicants 2014 Dock reconfiguration opened up more water between 1320 float and the 1322/24 float. In addition, the reconfiguration in the end moved the float to the west off the F street PL by fully 1.5'.

The applicant's first request for a change in beam and length was made in Dec 2020. This request was made based again on the applicant opening up additional water. The applicant purchased one of the two the mooring, retired it to the city removing the tackle and mooring ball dramatically opening up the street end to public use. Again the applicant was asking "for" something by giving "up" something that benefited public access to the bay.

The current application, the applicant's 2nd and *FINAL* request also gives "up" something. It includes the stipulation that a special condition will be added to the dock permit to guaranty the pen ultimate nature of the applicants request and asks the HC and Staff to consider that fully 1.5 feet of the requested beam expansion is contained within the applicant's water boundary.

Respectfully,

Tom LeBeau Blue Sky NPB, LLC

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES City Council Chambers Monday, October 13, 2014 6:30 PM

Attachment C (See page 4)

1) CALL MEETING TO ORDER

The meeting was called to order at 6:30 PM.

2) ROLL CALL

Commissioners:	Brad Avery, Chair Paul Blank David Girling Bill Kenney Duncan McIntosh (Absent) Joe Stapleton
	Joe Stapleton
	Doug West
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Staff Members: Chris Miller, Harbor Resources Manager Shannon Levin, Harbor Resources Supervisor (Absent) Kelsey Kenz, Public Works Administrative Specialist

Council Liaison: Council Member Nancy Gardner

3) <u>PLEDGE OF ALLEGIANCE</u> – Chair Avery

4) PUBLIC COMMENTS

Chair Avery invited those interested in addressing the Harbor Commission to do so at this time. There was no response and Chair Avery closed the Public Comments portion of the meeting.

5) APPROVAL OF MINUTES - September 10, 2014 Minutes

Motion: 6 ayes, 0 noes and 1 absent. Approved.

6) CURRENT BUSINESS

1. Water Propelled Vessels: Ad Hoc Committee Recommendation

The Water Propelled Vessel Ad Hoc Committee will present their recommended course of action on this issue to the Harbor Commission who will then form a recommendation to forward to the City Council.

Recommendation:

Approve the Water Propelled Vessel Ad Hoc Committee's recommendation and forward to the City Council.

Commissioner Stapleton recused himself from this matter due to a potential conflict with Stapleton's involvement with the Chamber of Commerce as one of the subject operators is a member of the Chamber. Stapleton departed the Chambers. Commissioner Kenney provided a report addressing definitions, types of devices, current operator, background, related Council actions and directions, makeup of the ad hoc committee, issues to be studied, community outreach meetings, assessment by the Coast Guard whether to regulate these types of vessels, results of observations by the ad hoc committee, restrictions placed on the commercial operation of these types of vessels in other areas, types of equipment currently available, training and safety practices of each existing operator, and public concerns. He referenced an email from Steve Rosansky, President of the Chamber of Commerce, in support of Jetpack America and water-propelled vehicles allowed in the Harbor, and he read it into the record.

Commissioner Kenney reported that no specific location within the Harbor, could be designated for this type of use, and activity could exceed current speed restrictions in the Harbor. Additionally, he noted there is potential for accidents and injuries. He added that because the vessels or equipment can be operated outside of the Harbor, commercial operators would still have an economically viable business model if the Harbor Commission and/or Council elect to restrict this type of activity. He presented the Commission's recommendation that both the commercial and private operation of vessels propelled by water, above the surface, be prohibited within Newport Harbor.

Discussion followed regarding the Coast Guard's determination, studies in regards to noise, difficulties regarding obtaining a Code Enforcement noise assessment, whether the current operator permit will be amended, and providing general recommendations to Council.

Harbor Resources Manager Chris Miller reported that the current permit expires in May 2015, and depending on Council's action, that specific permit will be handled at the City Council level.

Ensuing discussion pertained to what would happen to the current operator should Council approve the Harbor Commission's recommendation. It was noted that there is currently an operator that conducts business solely outside of the Harbor. Customers are picked up at a dock and the operation occurs outside of Big Corona.

Mr. Miller added that no one would be allowed to operate a commercial business from a public dock. Special events/circumstances are considered/approved on a case-by-case basis. He added that he would not recommend granting exceptions. Brief discussion followed regarding parasailing and Jet Ski operators in the area, and speed limits that need to be achieved for Jetpacks.

Chair Avery opened public comments.

Dean O'Malley, Jetpack America, stated his willingness to work with the City regarding this matter. He reported working closely with the Coast Guard in San Diego in efforts to set up a national standard for safety and protocol. He requested continuing the matter in order to allow for the Coast Guard to set rules in place, applying not only to Newport Beach, but across the country. He reported that the company is flexible and brings a different kind of draw to the City. Mr. O'Malley reported they are able to move the operation around and will try to be respectful of neighbors in terms of noise. He added that moving the operation onto the ocean will bring new safety concerns. He reported that they are considering moving the operation to other cities, and stated that having access to docks would help. Additionally, he hoped to be given a chance to prove that their operation can work.

Mr. Miller reported that the Commission may postpone the decision at this time. However, there is a moratorium in place for the City to accept incoming applications, and Mr. Miller addressed the timing for Council consideration and rollout.

Judy Cole urged the Commission to accept the ad hoc Committee's recommendation noting that this is not only about one business, but rather what is best for the Harbor and its users.

Jim Haas, Coast Guard Auxiliary District Director Chief for Prevention, reported that this matter is new to them and they are trying to gather facts at this time including safety factors and types of licensing needed. He reported working with the Coast Guard in San Diego to develop a plan and determine how the Coast Guard feels about this issue.

Billy Whitford, Newport Aquatic Center, noted that safety is an issue of great concern, especially as it relates to private operators. He added that the practice is not a "fit" in the harbor especially as it is not regulated and there are many human-operated vessels in the Harbor. He reported that a more appropriate area for operation would be outside of the Harbor and at Big Corona.

There being no others wishing to address the Harbor Commission, Chair Avery closed public comments.

Motion: Commissioner Blank made a motion to approve the Water Propelled Vessel Ad Hoc Committee's recommendation and forward to the City Council. Chair Avery seconded the motion, which carried with 6 ayes, 0 noes and 1 absent. Approved.

Chair Avery commented on the increasing intensity of use in the Harbor and the need for balance. He thanked Mr. O'Malley for his cooperation.

Commissioner Kenney added that it was a difficult decision to make, and commented on the importance of safety on the water.

2. Harbor Commission Goals: Review Proposed 2014-15 Goals

The Harbor Commission Goals Ad Hoc Committee will review the proposed Commission goals for 2014-15 and will recommend approval.

Recommendation:

 Approve the Harbor Commission 2014-15 Goals Ad Hoc Committee's recommendation.
 199

 Commissioner West referenced comments received from the Harbor Commission at the last meeting and

presented details of twelve objectives for the Commission's consideration. Some are carried over from last year, some have evolved and some are new. In addition to listing the objectives, he addressed the suggested Commissioners making up the Ad hoc committees for each.

Discussion followed regarding party boats, overhangs, reviewing the Harbor Element and Harbor Management Plans, and creating a partnership with the Harbor business community.

Council Member Gardner commented on the importance of maintaining Harbor-related businesses in the City and the issue regarding overhangs.

Commissioner Girling stated that he will join Commissioner McIntosh in the Ad Hoc Subcommittee regarding Objective No. 10.

Commissioner West agreed with the need to maintain a focus on Harbor businesses. He noted that Objective No. 7 deals with that issue, to an extent.

Council Member Gardner suggested that referring to the Harbor Element and Harbor Management Plans would be a good foundation. She added that there will be big changes towards the beginning of the year and that the Harbor Commission will have a big role in bringing new Council Members up to speed. She suggested a goal of protecting businesses vital to the continuation of boating on the harbor. She added that City Council will review the Commission's objectives and there could be creative thinking at that point. In response to Mr. Miller's question, Council Member Gardner indicated that it would be beneficial to wait until the new Council to present the Harbor Commission's goals and objectives.

Discussion followed regarding addressing the objective relative to maintaining Harbor businesses. Commissioner Blank suggested replacing the objective regarding the Harbor Summit with the goal of protecting businesses vital to the continuation of boating on the harbor. Council Member Gardner added that the Harbor Summit could evolve into a strategy for achieving that goal. Discussion followed regarding having Commissioner Stapleton lead that subcommittee.

Commissioner West indicated that Objective No. 7 is evolving to address the preservation of Harbor-related businesses. He stood down as a member of that Subcommittee and added Commissioner Stapleton to same so that the Subcommittee would include Commissioners Blank, Girling and Stapleton.

Discussion followed regarding Objective No. 4 (vessel overhang). It was noted that if the Harbor Commission does not do something on the issue, it will be decided by default. Chair Avery agreed that the issue needs to be addressed.

Discussion followed regarding boats parked in the Bay Club and the fact that there are no current limits. Mr. Miller added that the Commission could decide on a specific overhang rule, measured in feet, or one that varies for different areas in the Harbor. Commissioner West stated that an objective should be made regarding an overhang limit. Council Member Gardner commented on the work done by former Commissioner Rhyne on the matter, and suggested contacting her and asking her to provide a proposal which the Commission could then consider. Discussion followed regarding identifying an ad hoc committee to work on the issue.

Commissioner Blank commented on Objective No. 5 relative to public outreach, and opined that progress has been made on the issue. He wondered when that objective could be declared complete. Commissioner West agreed that it may not be necessary to carry it as a specific objective but could be the new culture of the Harbor Commission. Commissioner Girling noted that of all the objectives, that one is potentially ongoing and noted the need to stay focused on it. Council Member Gardner noted that the Commission reaching out to the public must be careful that it is not reaching out on behalf of Council as well. She added that it is a delicate path and suggested being cautious. Commissioner West suggested eliminating Objective No. 5.

Chair Avery reported that the list will continue to be refined by the ad hoc committee.

Commissioner West reported that he will also work on the language for Objective No. 7. Mr. Miller noted that this item will be continued and will be brought to the Commission at its meeting in November with the goal of presenting to Council in January 2015.

It was noted that the Chair will make the presentation to Council.

Chair Avery opened public comments.

Pete Swift, Swift Slip Dock and Pier Builders, commended the ad hoc subcommittee for its work and placed emphasis on Objective No. 1 relative to the issue of eelgrass. He reported that every permit seeks to make the area smaller which in turn promotes larger boats. He added that it is difficult to rebuild boat docks, and the biggest weapon against rebuilding docks is the eelgrass. He encouraged the Harbor Commission to continue a program relative to eelgrass. He addressed the costs of mitigation and noted the importance of the issue.

There being no others wishing to address the Harbor Commission, Chair Avery closed public comments. 200

3. Dock project

The applicant proposes to reconfigure the existing dock and pier at 1322-1324 East Balboa Blvd. The subject pier is a shared residential pier.

Recommendation:

Advise staff and provide comment on the proposed dock and pier configuration.

Harbor Resource Manager Miller provided details of the report addressing location, property lines, existing conditions, dimensions of the existing pier and the proposed pier, background, conditions allowing encroachment into the street-end, proposed configuration, limits on the size of vessel that could side-tie on either side, and the possibility of establishing a beam-width limitation. He reported receiving a letter of support for the project from 1320 East Balboa Blvd. and reported that since this has been previously allowed, staff is requesting feedback and ideas from the Commission to permit the application.

In response to Commissioner Girling's question regarding why a boat was allowed to pull in closer, Mr.

Miller suggested letting the applicant reply. Additionally, Commissioner Girling asked if the boat on the west side of the pier would be allowed to encroach on 1320 East Balboa Blvd. Mr. Miller responded that it will not and that the intent is for the vessel not to encroach.

Discussion followed regarding having pictures displayed in the future rather than an aerial photo, recommendations in the staff report for 15 feet on the east and 10 feet on the west, this being an unusual case, public street ends, and the importance of maintaining public access to the Harbor.

Mr. Miller noted that if this were a new applicant, it would not be allowed. However, since it is an existing pier, staff supports the project and approval is recommended.

Discussion followed regarding visual encroachments. It was noted that with a 15 foot beam, the boat would be limited to 32 feet and that it is uncommon for a 32 foot boat to have a 15 foot beam.

Commissioner Kenney reported that staff's recommendation is to keep a 10 foot beam on the east side. He suggested a restriction may not be necessary on the west side as long as the boat does not cross the property line.

Commissioner Blank clarified that it is 15 feet on the west side and 10 feet on the east side.

Mr. Miller stated that in theory, there should not be a beam restriction on the west side because the property line is somewhat like a fence that goes out into the water, which by default, restricts the beam allowed.

Discussion followed regarding whether the applicant would accept a 10 foot beam on the east side, existing fenders and the rationale of moving it closer.

Chair Avery invited the applicant to address the Commission.

Tom LeBeau, applicant, reported that the project is designed to create greater access for everyone. He added that on the street side, there is a storm-water outflow pipe and addressed the primary view. He reported that pulling the boat landward opens up access and commented on the objectives and rationale of the project.

Chair Avery expressed concerns with the public water in front of F Street. He stated the need to ensure that the public gets some renumeration for the loss of water.

Mr. Miller referenced Council's direction to only charge for the float, the gangway and the pier.

Mr. LeBeau stated they are paying for the float. He added that the pier, gangway and float will be smaller than what currently exists.

Discussion followed regarding existing and proposed measurements, ensuring that the public is not negatively affected, moving the patio closer in to provide better access on the west side, the possibility of moving the float, existing shore moorings and the possibility of going to a 13 foot beam.

Mr. LeBeau indicated he is willing to work with staff and the Harbor Commission on this issue.

It was noted that as boats get wider, they get exponentially larger.

Ensuing discussion pertained to the need to work together to find a solution agreeable to all, limiting the beam to 13 feet.

Mr. Miller clarified a restriction of a 13 foot beam on the east side and 32 feet long on both sides (current conditions).

Member of the Commission concurred to approve the project as discussed above.

7) SUBCOMMITTEE REPORTS

Commissioner Blank reminded the assembly of a special Harbor Commission meeting on Saturday, November 15, 2014, at 8:30 AM in the conference room of the Harbor Patrol Center. The meeting will be subject to the Brown Act and light refreshments will be served. The Commission will recess and reconvene on the ferry for a tour of the Harbor. He distributed talking point assignments and the route. It was noted that there will be a regular Harbor Commission meeting on Monday, November 17, 2014. **201** Commissioner Blank added that ferry capacity is limited and that spaces will be allotted on a first-come, first-served basis. If everyone cannot be accommodated, a second similar meeting will be held in the future.

Discussion followed regarding noticing for the special meeting and providing publicity including an announcement on the City's website. It will be placed on the City calendar and the agenda will be posted in the usual places. It was suggested to give the information to the City's Public Information Officer as well as City Manager Kiff to include in his weekly email.

Ensuing discussion pertained to distribution lists and the possibility of merging the various lists.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES

Council Member Gardner reported that the Planning Commission approved the Balboa Marina West project. She suggested that the Harbor Commission may want to speak at the Coastal Commission meeting relative to the new public dock. She commented on the experience of Commissioner West on the issue of eelgrass and felt that his expertise may be beneficial.

9) <u>QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED</u> <u>ISSUES</u>

Harbor Resources Manager Miller reported that staff is currently reviewing proposals for a marine engineering consulting firm to design docks and help with permitting and water-quality issues. He added that an RFP was issued and staff will be evaluating the responses and develop a recommendation. Additionally, he provided an update on eelgrass and the RGP-54 as well as on the topic of the water bus, the public pier project and finials.

Commissioner Kenney commented on the art deco design of the public pier finials, and commended staff for improving the docks.

- 10) <u>PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH</u> <u>COUNCIL LIAISON OR HARBOR RESOURCES MANAGER</u> - None
- 11) <u>COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A</u> <u>FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)</u> - None
- 12) DATE AND TIME FOR NEXT MEETING: Monday, November 17, 2014, 6:30 PM (different day than usual)
- 13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:24 PM. The next regular meeting of the Harbor Commission will be held on Monday, November 17, 2014, at 6:30 PM.

1 Jank

Attachment D



HARBOR RESOURCES DIVISION 829 Harbor Island Drive

Newport Beach, CA 92660 (949) 644-3034 / Fax (949) 723-0589

Special Conditions

December 18, 2014

1322-1324 East Balboa Blvd

With reference to the plans currently under consideration at the above referenced address to reconfigure or modify the dock system or bulkhead, the following conditions will now be in effect:

1. The project proponent is aware of the Harbor Permit Policies (Council Policy H-1) and Title 17 of the City of Newport Beach Municipal Code. The project proponent understands that the above referenced structure(s) is under the purview of these Policies and Codes.

2. Any future work on the above mentioned structure(s) requires permits with the City of Newport Beach and any other applicable agencies. Painting and work considered to be cosmetic in nature does not require a permit.

3. The conditions set forth in this document pertain to the proposed dock system and/or bulkhead under consideration. Any future modifications or alterations to the dock system and/or bulkhead may require new conditions which may override or change these conditions. These conditions supersede all past conditions associated with this property.

4. Only marine oriented uses are allowed on the pier, pier platform, gangway and float. Patio furniture, plants etc...are not permitted.

5. In accordance with Municipal Code 10.08.030 A. the project proponent shall obtain the proper permits for equipment and materials storage. "Except as otherwise provided in this section, no person shall use any public street, sidewalk, alley or parkway or other public property for the purpose of storing or displaying any equipment, materials or merchandise, or any other commercial purpose. B. Public streets, sidewalks, alleys, or parkways may be used for the purpose of selling, storing, or displaying any equipment, material, merchandise or for other commercial purposes in the following cases: ...For the temporary storage of construction equipment or material provided a permit is issued pursuant to Chapter 12.62 of this Code and the storage is consistent with provisions of the Uniform Building Code."

6. The project shall be implemented in conformance with the Local Coastal Program - Coastal Land Use Plan.

7. In accordance with Municipal Code 10.28.040 the following noise regulations apply: "A. Weekdays and Saturdays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of seven a.m. and six-thirty p.m., nor on any Saturday except between the hours of eight a.m. and six p.m. B. Sundays and Holidays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity of a person of normal sensitivity of a person of normal sensitivity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any Sunday or any federal holiday."

8. Maximum allowable vessel lengths on both sides of the float is 32'.

11. The maximum beam of a vessel that is permitted to side-tie to the easternmost side of the float (1324/F Street) is 13'.

Shannon in, Harbor Resources

Applicant Signature

Joint Pier Applicant Signature (if applicable)

Print Name

Date



NEWPORT BEACH Harbor Commission Staff Report

December 9, 2020 Agenda Item No. <u>6.1</u>

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster, (949) 270-8158 kborsting@newportbeachca.gov

= CITY OF =

TITLE:Item 1: Appeal of Harbor Department Notice of Violation - Harbor Permit 109-1322Item 2: Request to Amend Harbor Permit 109-1322 and associated Special Conditions

ABSTRACT:

Appeal of the August 18, 2020 Notice of Violation on Harbor Permit 109-1322 (Miller, 1322 E. Balboa Boulevard and LeBeau, 1324 E. Balboa Boulevard) ("Permit") for: 1) dock exceeding the maximum size authorized by the Permit; and 2) vessel berthed in excess of the permitted maximum length and beam.

Request by Permittees to amend the Permit, namely: elimination of vessel length restriction; modification to current vessel beam restriction; and elimination of a condition requiring permits by the City of Newport Beach ("City") and any other applicable agencies for work on the dock structure.

RECOMMENDATION:

Item 1: Appeal

- 1) Deny the appeal; and
- 2) Determine this action is categorically exempt under Sections 15321 (Enforcement Actions) and 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 changes to the environment, directly or indirectly.

December 9, 2020 Page 2

Item 2: Permit Amendment

- 1) Approve the request to amend the Permit in part, with respect to the maximum vessel length and beam restrictions, with the following conditions:
 - a) Allow an increase to vessel beam restrictions from the current maximum of 13 feet to the proposed maximum of 15 feet, approve increase of maximum vessel length from the current maximum vessel length of 32 feet – to a maximum LOA of 55 feet (per the engineers report) and apply to vessels berthed on and secured to the easternmost side of the existing City approved dock system, and that no changes to existing maximum vessel size be considered to other sections of the dock system;
 - All vessels berthed on the existing City approved dock system, do so in a manner which is compliant with vessel overhang restrictions, as outlined in Title 17 of the City of Newport Beach Municipal Code;
 - c) Provide plans and specifications from a qualified engineer to determine maximum vessel length on the easternmost side of the dock and secure all required permits from the City of Newport Beach and all other required governmental agencies;
 - d) Require the removal of the modifications to the permitted structure, in particular the dock float sections;
 - e) Require applicant to pay any additional fees based on the additional two-foot encroachment into the public right of way.
 - f) Permittee shall transfer the permit for the on-shore mooring adjacent to this dock (P-31) to the City at no charge.
- 2) Deny the request to maintain the non-permitted floats.
- 3) Deny request to eliminate Permit special condition #2, which states: "Any future work on the above-mentioned structure(s) requires permits with the City of Newport Beach and any other applicable agencies. Painting and work considered to be cosmetic in nature does not require a permit".
- Determine this action is not subject to CEQA pursuant to Sections 15301 (existing facilities); 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Appeal of Notice of Violation - Harbor Permit 109-1322, and Request to Amend Permit and associated Special Conditions

> December 9, 2020 Page 3

FUNDING REQUIREMENTS:

Should the Harbor Commission approve the recommendation to remove on-shore mooring P-31, the City would not receive the \$505.44 annual rental of the mooring. The applicant would be required to pay for the additional encroachment into the public right-of-way.

BACKGROUND

O'Malley Miller and Tom LeBeau ("Permittees"), of 1322 E. Balboa Boulevard and 1324 E. Balboa Boulevard, respectively, share a dock and are joint permittees under the Permit.

The Permit consists of an Approval in Concept dated October 20, 2014 and Special Conditions dated December 18, 2014, which were signed by the Permittees on July 20, 2015 (Attachments B and C). (See also Harbor Commission staff report and minutes of October 13, 2014, Attachment A.) The Permit also required a Coastal Development Permit which was approved by the Coastal Commission on February 19, 2015 (Attachment D). The Permit limits the length of vessels that can be berthed on either side of the dock system to a maximum of 32 feet and limits the beam of allowable vessels berthed on the easternmost side of the dock at a maximum of 13 feet.

Two permitted on-shore moorings exist at the F Street end adjacent this dock. City aerial photos show that both of these moorings have been used to store small watercraft since at least 1990 (Attachment E). Permittee LeBeau acquired one of those onshore moorings (P-31) on August 1, 2020 and removed the tackle, with the approval of the Harbor Department.

On August 18, 2020, the Harbor Department issued a Notice of Violation (NOV) to Permittees for their dock structure, which exceeds the permissible length, and for the oversized vessel berthed at their dock (Attachment F). Aerial records show that the dock has been modified and is now approximately 55 feet in length, in excess of the permitted 38-foot maximum length (Attachment G). The float sections of the dock were constructed or installed without a permit and are in violation of the Permit's special conditions: *"Any future work on the above-mentioned structure(s) requires permits with the City of Newport Beach and any other applicable agencies."* As engineered, the float sections allow the dock to accommodate a vessel up to 40 feet in length. The NOV requested the removal of the non-permitted float sections and the oversized vessel.

A variety of correspondence has occurred between the applicants and the City. In addition, the City has received several letters in support of the application (Attachment H). Mr. LeBeau filed an appeal of the NOV on October 7, 2020 (Attachment I). Several letters of support for Mr. LeBeau have been received and all correspondence between staff and Mr. LeBeau referenced above can be found in (Attachment H).

Appeal of Notice of Violation - Harbor Permit 109-1322, and Request to Amend Permit and associated Special Conditions

> December 9, 2020 Page 4

On November 17, 2020, Mr. LeBeau was issued Harbor Development Permit M2020-0060 for the removal/replacement of two pilings, which will make it possible to berth a larger vessel on the eastern side of the dock (Attachment J).

Mr. LeBeau has relocated the oversized vessel berthed at the dock and thus that part of the NOV has been corrected. The violation of the maximum dock dimensions remains outstanding.

DISCUSSION:

Item 1: Appeal

The appeal of the NOV is based on the following grounds:

- 1) No known or referenced municipal code noted in Violation 1,
- 2) No permit violation exists, and
- 3) Violation 2 has been corrected.

The appeal calls "Violation 1" the requirement that any future work on the dock system requires permits from the City and applicable agencies, and calls "Violation 2" the maximum allowable length (32') and beam (13') for a vessel that is permitted to side-tie on the easternmost side of the float.

As noted above, "Violation 2" is most since Permittee has relocated the oversized vessel.

However, the first and second grounds for the appeal ("Violation 1" and "no permit violation exists") lack merit. The Permit allows a dock and berthed vessel in accordance with specified maximum sizes. Any deviation from those dimensions are contrary to the express conditions of the Permit and also sections 17.50.090 and 17.50.010 of the Newport Beach Municipal Code.

NBMC Section 17.50.090 provides in pertinent part:

Structure without Permit Declared a Nuisance – Abatement - ... every structure maintained in or over the waters of Newport Harbor without a current valid permit existing therefor when required by this chapter, or maintained in a manner or for a purpose other than or different from that provided in the permit, shall constitute a nuisance and shall be immediately abated and may be removed.

NBMC Section 17.70.010 provides in pertinent part:

Declaration of Nuisance – Abatement - Any building, structure, or vessel set up, erected, constructed, altered, enlarged, converted, moved or maintained in or over the waters of Newport Harbor or the Pacific Ocean contrary to the provisions of this Code,

Appeal of Notice of Violation - Harbor Permit 109-1322, and Request to Amend Permit and associated Special Conditions

December 9, 2020 Page 5

and any use of any land, water, building or premises established, conducted, operated or maintained contrary to the provisions of this Code, shall be and the same is declared to be unlawful and a public nuisance

Permittees are obligated to comply with all applicable provisions of the municipal code in addition to the terms of their Permit. Constructing and maintaining a dock structure in excess of the explicitly permitted dimensions and maintaining a vessel in excess of the explicit dimensions is a violation of the Permit and the municipal code. Accordingly, the appeal should be denied, and the NOV upheld.

Item 2: Request to Amend Permit

Permittees request amendment of the Permit's current vessel length restrictions and current beam restriction associated with the easternmost side of the float. In support of their Permit amendment request, Permittees propose the permanent removal of on-shore mooring P-31 adjacent to their dock as a means by which to improve the aforementioned public access. Permittee LeBeau currently holds the permit for P-31. Several letters of support were received (Attachment H).

At the time these vessel limitations were established, the configuration of the dock is specified to be 36 feet (L) x 6.5 feet (W). Subsequent City approved as-built drawings of the dock, from 2015, reflect the actual dimensions as being 38 feet (L) and 6 feet (W).

When evaluating the Permittee's proposal, related to maintaining unobstructed public access from this location, the following factors were considered by staff:

- 1) the approved and constructed dock structure is six-inches more-narrow than originally planned (six feet as-built width vs. six-and-a-half feet proposed width);
- 2) that the proposed elimination of the adjacent on-shore mooring, would result in eliminating the potential of storing a vessel at the adjacent street end, resulting in adding approximately six to seven feet of useable water space leading to the Bay from this launching/landing site (based on the expected beam of vessels which typically are stored at such on-shore mooring locations);
- 3) the Applicants are requesting the allowance of a vessel's maximum beam, at this easternmost side of the dock, not to exceed fifteen feet.

Based on these factors, staff's position is that unobstructed access for the public to gain entry to the Bay from this location - would be improved by approximately four-and-a-half feet, with the implementation of the applicants' request.

December 9, 2020 Page 6

With regards to the request to eliminate the vessel LOA on the easternmost side of the dock, staff's concern is the structural integrity of the dock to support a vessel of any size. The applicant has engaged a qualified engineer to perform the necessary calculations, has submitted the plans through the Community Development Department and Public Works Department and received a new Harbor Permit M2020-0060 (Attachment I). Per the engineer's report, the maximum LOA for a vessel on the easternmost side of the dock is 55 feet.

Applicants are also requesting the elimination of an existing special condition associated with their permit, that states "Any future work on the above mentioned structure(s) requires permits with the City of Newport Beach and other applicable agencies. Staff does not support this request as the Harbor Commission and the City do not have jurisdiction over other agencies.

ENVIRONMENTAL REVIEW:

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 changes to the environment, directly or indirectly, or is categorically exempt, pursuant to Sections 15301 (existing facilities), 15302 (Replacement or Reconstruction), and 15321 (Enforcement Actions).

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). This public hearing was noticed to all residents within a 300' radius per NBMC 21.62.020(B)(2)(c).

ATTACHMENTS:

- Attachment A Harbor Commission Staff Report and Minutes Oct. 13, 2014
- Attachment B Harbor Permit 109-1322 Approval in Concept Oct. 20, 2014
- Attachment C Special Conditions Harbor Permit 109-1322 Dec. 18, 2014
- Attachment D Coastal Development Permit
- Attachment E Aerial Photos of Dock System (2014, 2016, 2018, and 2020)
- Attachment F Notice of Violation August 18, 2020
- Attachment G Photo of Non-Permitted Float
- Attachment H Correspondence
- Attachment I Appeal Request, 10-7-2020
- Attachment J Harbor Permit M2020-0060

Attachment I

(see page 2)

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES Zoom Virtual Meeting, Newport Beach, CA Wednesday, December 9, 2020

5 p.m.

1) CALL MEETING TO ORDER

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

2) <u>ROLL CALL</u>

Commissioners:	William Kenney, Jr., Chair Scott Cunningham, Vice Chair Ira Beer, Secretary Marie Marston, Commissioner Steve Scully, Commissioner Gary Williams, Commissioner Don Yahn, Commissioner
Staff Members:	Carol Jacobs, Assistant City Manager Kurt Borsting, Harbormaster Chris Miller, Public Works Manager Yolanda Summerhill, Assistant City Attorney Jeremy Jung, Deputy City Attorney Jennifer Biddle, Administrative Support Specialist

3) PLEDGE OF ALLEGIANCE – Vice Chair Cunningham

4) PUBLIC COMMENTS

Jim Mosher noted that in the City Charter, Section 704 encouraged Boards and Commissions to adopt bylaws. He suggested the Commission adopt by-laws because the Commission was becoming a more formal body. He advised the Commission to move to a format that mirrored the Planning Commission's process of providing a Resolution when an action is taken.

Maureen Cotton, President of Central Newport Beach Community Association, remarked that the newly installed recycling facility for boat oil was placed in an inappropriate area of Veterans Memorial Park. Since concerns were brought forward, staff has locked the building and has delayed the official opening of the recycling facility. Staff was exploring if the facility should be moved to the overflow parking area in Marina Park. She concluded that the existing Harbor Island Drive recycling facility needs improvements.

Assistant City Manager Carol Jacobs confirmed that staff continues to work with Ms. Cotton regarding the recycling facility.

5) APPROVAL OF MINUTES

1. Minutes of the November 9, 2020, Harbor Commission Special Meeting

Secretary Beer commented that on Page 6, paragraph 8 of the minutes, it should reflect that he clarified that the draft language in Policy H-3 does state that if a mooring houses a vessel that exceeds the intended length of that row, upon transfer the vessel would revert to the intended length of that row. On Page 5 under Recommendation Item 2, he suggested replacement language for his comments. He announced he would send his revisions to staff.

Commissioner Marston remarked on Page 2, the fourth paragraph from the bottom, it should say 1987 instead of 1978 and to clarify on the same page at the bottom that the replacement dock should not be

further out than the existing dock is. On Page 3, 8th paragraph, she suggested to replace the word Condition with Findings and clarify the language regarding the sentence that read "the other docks were built that way, approved and therefore are existent."

Chair Kenney requested that on Page 3, paragraph 6, the word long be changed to far, and on Page 4, paragraph 5, change the word deems to deemed.

Jim Mosher appreciated Commissioner Marston pointing out the inconsistency that was made in his comments and clarified that the Council had to make Conditions, but in the staff report they were called Findings. Policy H-1 lists the items as Conditions. He agreed that the word criteria should be changed to Condition.

Commissioner Scully moved to approve the draft Minutes of the November 9, 2020 meeting as amended. Secretary Beer seconded the motion. The motion carried by the following roll call vote:

Ayes:	Chair	Kenney,	Vice	Chair	Cunningham,	Secretary	Beer,	Commissioner	Marston,	
	Commissioner Scully, Commissioner Williams, Commissioner Yahn									
Nays:	None									
	N. La va a									

Abstaining: None Absent: None

6) <u>PUBLIC HEARINGS</u>

1. Item 1: Appeal of Harbor Department Notice of Violation – Harbor Permit 109-1322 Item 2: Request of Amend Harbor Permit 109-1322 and associated Special Conditions

Appeal of the August 18, 2020 Notice of Violation on Harbor Permit 109-1322 (Miller, 1322E.Balboa Boulevard and LeBeau, 1324 E. Balboa Boulevard) ("Permit") for: 1) dock exceeding the maximum size authorized by the Permit; and 2) vessel berthed in excess of the permitted maximum length and beam.

Request by Permittees to amend the Permit, namely: elimination of vessel length restriction; modification to current vessel beam restriction; and elimination of a condition requiring permits by the City of Newport Beach ("City") and any other applicable agencies for work on the dock structure.

Recommendation:

Item 1: Appeal

- 1) Deny the appeal; and
- 2) Determine this action is categorically exempt under Sections 15321(Enforcement Actions) and 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and15060(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 changes to the environment, directly or indirectly.

Item 2: Permit Amendment

- 1) Approve the request to amend the Permit in part, with respect to the maximum vessel length and beam restrictions, with the following Conditions:
 - a) Allow an increase to vessel beam restrictions from the current maximum of 13feetto the proposed maximum of 15 feet, approve increase of maximum vessel length from the current maximum vessel length of 32 feet-to a maximum LOA of 55 feet (per the engineers report) and applied to vessels berthed on and secured to the easternmost side of the existing City approved dock system, and that no changes to existing maximum vessel size be considered to other sections of the dock system;

- All vessels berthed on the existing City approved dock system, do so in a manner which is compliant with vessel overhang restrictions, as outlined in Title 17 of the City of Newport Beach Municipal Code;
- c) Provide plans and specifications from a qualified engineer to determine maximum vessel length on the easternmost side of the dock and secure all required permits from the City of Newport Beach and all other required governmental agencies;
- d) Require the removal of the modifications to the permitted structure, in particular the dock float sections;
- e) Require applicant to pay any additional fees based on the additional two-foot encroachment into the public right of way;
- f) Permittee shall transfer the permit for the on-shore mooring adjacent to this dock(P-31) to the City at no charge.
- 2) Deny the request to maintain the non permitted floats.
- 3) Deny request to eliminate Permit special condition # 2, which states: "Any future work on the above - mentioned structure(s) requires permits with the City of Newport Beach and any other applicable agencies. Painting and work considered to be cosmetic in nature does not require a permit"
- Determine this action is not subject to CEQA pursuant to Sections 15301 (existing facilities); 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Harbormaster Kurt Borsting announced that the appellant was appealing Notice of Violation on Permit 109-1322 and was requesting to amend Permit 109-1322 and associated Special Conditions. The property owners at 1322- and 1324-Balboa Boulevard shared a dock and they are joint permittees under the existing Dock Permit. In 2014 the permittees requested a permit to reconfigure the dock and that permit was approved by the City which included several Conditions. The new dock was approved to be built to 38-feet in length and 6-feet wide. One Condition listed in the permit limited the length of the vessels berthed on either side of the dock to a maximum of 32-feet as well as a Condition that limited the beam of a vessel berthed on the east side of the dock to a maximum of 13-feet. Recently one of the permittees received an approval to remove the buoy and tackle from on-shore mooring P-31 which was located at the street end east of the dock. Harbor staff became aware that a vessel that exceeded the beam length was being stored at the dock. Harbor staff continued to investigate and discovered through aerial photos and physical observation that the existing dock had been illegally extended on both ends. On August 18, 2020, the Harbor Department issued a Notice of Violation which requested that the permittees remove the oversize vessel and dock extensions. The vessel has been relocated, but the permittees were appealing the Notice of Violation for the nonpermitted floats. Staff's recommendation was to deny the appeal. In parallel to the appeal, the permittees were requesting that the restrictions on the length of a vessel and beam be amended as well as remove P-31 as a way to improve public access from the street end. After further investigation, staff has concluded that the existing dock is narrower than was originally planned. By eliminating the on-shore mooring it would add an additional 6- to 7-feet of usable water space for the public. The permittees have submitted plans, which were approved by Public Works, to increase the size of the pilings supporting the 38-foot dock which would allow for the safe berthing of a vessel up to 55-feet in length. Based on all the factors, Staff recommended that the request to amend the permit be approved as it relates to the maximum length and beam restriction. The new permit would include the following Conditions: That the beam restriction would now allow a 15-foot beam as well as allow the maximum length of a vessel to be 55-feet to only the east side of the dock, all vessels berthed at the dock were subject to the City's existing overhang restrictions, provide specifications from a qualified engineer about the size of a boat that could be stored at the dock safely, remove the existing non-permitted float sections, pay the additional fee based on the additional 2-foot encroachment into the public right of way, and transfer on-shore mooring P-31 to the City at no charge. Staff also recommended that the Commission deny the request to maintain the non-permitted floats and deny the request to eliminate Permit Special Condition #2.

In reply to Secretary Beer's inquires, Harbormaster Borsting confirmed that the subsequent City approved drawing showed a 38 by 6-foot dock. He clarified that per Section NBMC 17.25.020(C.2), a 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. Public Works Manager Chris Miller added that it does not matter how long the vessel is, it just cannot extend beyond the end of the finger by its beam.

In response to Commissioner Marston's questions regarding permitting requirements for a temporary float and other temporary floats within the Harbor, Harbormaster Borsting reiterated that if a person wished to extend the length of their dock then they would have to go through the permitting process. He answered that there are floats throughout the Harbor that may not have permits.

In answer to Commissioner Scully's query regarding previous violations, Harbormaster Borsting was not aware of any previous violations.

In response to Commissioner Yahn's inquiries about the pilings and would the dock maintain its structural integrity if the float extension were removed, Harbormaster Borsting confirmed that the applicant has agreed to upgrade the pilings and the dock would maintain its structural integrity.

Omalley Miller remarked that the family company owns the house at 1322 Balboa which was similar to the other permittee's situation. The Notice of Violations was sent to the neighbors in the family's name instead of the family business which caused embarrassment to the owners. He emphasized that all over the Harbor there were docks that have extensions on them. He asked the Commission why he and his neighbor were being reprimanded when other docks within the Harbor were doing the same thing.

Tom Le Beau reported that it was confirmed by Harbormaster Borsting that there were no registered public complaints regarding the beam length of the boat or the temporary floats and that the Notice of Violation was based on City inspection. He was told by the prior Harbormaster that permits were not required for temporary floats as long as they were not permanently or structurally attached to the permitted portion of the float and could easily be moved. The bayward float is constantly moved and the beachside float is used by boat cleaners. He emphasized that the Notice of Violation he received was the third violation that has been issued in the past 10-years where there were no public complaints filed. There were no permits issued for jet docks that have temporary floats. He noted that he has counted approximately 360 non-permitted floats within the Harbor. He was frustrated that staff had agendized the items together, that staff did not provide clarification on what his neighbor and himself violated, and that the violations were listed under their names instead of under the business's names. He concluded that several neighbors have submitted letters of support for the permittee's dock and that the Commission should hold a study session to address the problem instead of singling out individual persons.

In reply to Commissioner Scully's question, Mr. Le Beau confirmed that the bayward float is not used as a dock.

Commissioner Yahn thanked the applicant for showing all the pictures of the other docks that hold a similar configuration.

In reply to Chair Kenney's queries, Mr. Le Beau answered that the length of the bayward float was 10feet by 6-feet and the distance from the end of the permanent dock to the pier headline was roughly 5 to 6-feet. He confirmed that a precedent would not be set if the Notice of Violation was rescinded because other docks were already adding temporary floats. He explained that the bayward float is not used for his boat, but for a dingy. Chair Kenney commented that staff's recommendation was to change the beam width listed in the permit in return for the removal of the mooring and the dock could be permanently extended by 10-feet.

Jim Mosher remarked that the images that were shown appeared to be structures rather than vessels and that the pilings on a permitted dock can be increased in size merely by getting a counter approval. He reminded the Commissioners that all structures within the water require City permits and a Coastal Development Permit. He predicted that the recommendation to increase the pilings would require an amendment to the existing Coastal Commission Permit. He wanted to know why it is only 1 ½-feet from the shared property line? He wanted to why the City was allowing any encroachment into the public right of way and does the City currently charge other properties an encroachment fee and how much?

Assistant City Manager Jacobs emphasized that Staff are not targeting the permittees and it came to staff's attention when Mr. Le Beau asked about the removal of on-shore mooring P-31. She disclosed that during her discussions with the permittees, they expressed that the float was not removable. If the Commission wished to explore policy changes to address non-permitted floats, staff would happily assist with that.

Deputy City Attorney Jeremy Jung commented that each item should be addressed separately. The lack of enforcement does not prove any kind of selective or discriminatory enforcement.

Vice Chair Cunningham expressed that the issue of floats needed to be addressed and rules needed to be set in place. He supported rescinding the Notice of Violation and he supported the recommendations made in the staff report regarding the permit amendments.

Secretary Beer requested the permittees to forward their photo presentation to the Commission. He shared that the docks in the images were not an apple for apple comparison because many of them did not include floats that extend bayward. Also, the vessel that was berthed at the dock was in the public waterway, was larger than what was permitted, and the permittees never approached the City to amend the existing permit. With all the evidence he determined that the permittees were not being singled out. He referenced the Coastal Commission Permit which indicated strong language regarding the concern about not extending bayward, protecting marine resources such as the Eel Grass, and not allowing further encroachment. He predicted that the Coastal Commission will have their own ruling about the removal of the mooring. He agreed with the permittees that a policy needed to be implemented regarding floats.

Commissioner Marston agreed with Secretary Beer that the Harbor Commission may not have the authority to act if the Coastal Commission must get involved to change the original permit. She shared that the current situation is not in conformance with the current permit requirements.

Chair Kenney understood that there were no listed restrictions regarding vessel size in the Coastal Commission Permit but there was a restriction to the size and configuration of the dock and encroachment.

Commissioner Scully agreed that a policy is needed for floats.

Commissioner Williams noted that based upon cleat placement and the wheels at the end of the dock, it suggested that the temporary float would only be usefully in its existing location.

Commissioner Yahn agreed that there are many violating docks in the Harbor that need to be addressed. In response to his question regarding Dock Specifications and that there is no policy for temporary floats, Public Works Manager Miller confirmed that was correct.

Chair Kenney concurred that floats need to be addressed and he agreed with Secretary Beer's comment regarding the Coastal Commission encroachment requirements. He suggested that the permittees explore and possibly pursue a permanent extension to the dock. He shared that the issue was not with the temporary float but the extension from the dock bayward.

Secretary Beer generally agreed with the beam encroachment changes but wanted to see Conditions added and to have staff verify if the Coastal Commission would have to be the body to amend the permit. He suggested that the 2-foot requested encroachment be of equal value to the market rent of the mooring and that the fee would stay with the property going forward. He felt that the float was more permanent than temporary and should be removed.

Commissioner Marston disclosed that there were too many unknowns in terms of the Coastal Commission's determination and suggested to postpone or grant a temporary allowance until a policy is made.

Commissioner Scully predicted that the bayward float has been used as a dock and he supported the removal of the float. He also supported the beam extension.

Commissioner Yahn supported the beam extension and mitigation for the mooring removal. He requested further clarification regarding the revenue that would have been generated from the annual fees for the mooring. He supported rescinding the Notice of Violation only with the understanding that the Commission will explore a policy regarding floats.

Chair Kenney noted that one alternative was to allow Mr. Le Beau to retain ownership of the mooring but a Condition on the permit would be to make sure that the tackle was removed and he would be responsible for the current annual mooring permittees. The other option was to dedicate the mooring back to the City which would result in the City losing future revenue. He supported the granting of the beam extension with Conditions. If the Coastal Commission approved the dock extension then he supported it, but he felt the float was permanent.

Public Works Manager Miller commented that regarding vessels and berthing, Coastal Commission generally did not participate in those decisions. They were mainly concerned about permanent dock structures. If the permittees decided to make the dock extension permanent, the permittees would have to go through the approval process.

In reply to Secretary Beer's question, Deputy City Attorney Jung concurred that the Commission could require that a fee be paid for the encroachment to the City equal to the revenue that would be generated from the mooring.

Vice Chair Cunningham advised the Commission to decide whether the permittee keep the mooring and pay the revenue, or gift the mooring back to the City. He felt having an ongoing fee would be too cumbersome to track.

In reply to Vice Chair Cunningham's question of where the permittees amendable to paying the annual mooring fees and address any Coastal Commission issues, Mr. Le Beau disclosed that he is amenable to whatever direction the Commission decided to make.

In answer to Commissioner Yahn's query regarding encroachment fees, Public Works Manager Miller noted that the City has not been charging an encroachment fee to the permittees. The Property Administrator calculates the encroachment fees.

In reply to Chair Kenney's question of if rescinding the Notice of Violation would set a precedent, Deputy City Attorney Jung answered no, it would not set a precedent.

Vice Chair Cunningham moved to rescind the Notice of Violation based on the fact that there is no specific policy regarding temporary floats. Commissioner Yahn seconded the motion. The motion carried by the following roll call vote:

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

 Nays:
 Secretary Beer, Commissioner Scully, Chair Kenney

 Abstaining:
 None

 Absent:
 None

Chair Kenney moved the approval of the 55-foot limitation, the 15-foot beam limitation, and everything in the staff report except for Item 1d and Item 2. Secretary Beer seconded the motion. The motion carried by the following roll call vote:

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

Nays:NoneAbstaining:NoneAbsent:None

7) CURRENT BUSINESS

1) Report on Harbor Commission Objective 4.4-Harbor Attendance Study

The Harbor Commission adopts annual goals and objectives to focus their efforts on various areas of the Harbor. In 2020, one of their focuses was to support staff in completing a Harbor Attendance Study. With the support of staff and various Harbor stakeholders, the study is now complete.

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.

Commissioner Scully expressed that many stakeholders participated in the study and the study determined that approximately 7,120,819 people use the Harbor.

Chair Kenney found the report to be impressive and he pointed out that most of the for-profit businesses take place on the waterside versus the land side.

Vice Chair Cunningham believed that the study is a living document and that the data will continue to be refined over time.

Commissioner Marston suggested to include in the graph how many entities fall under each category. In answer to her questions regarding Discovery Cube and growth, Commissioner Scully reported that Discovery Cube took over the Fun Zone. Vice Chair Cunningham noted that the Fun Zone is now for sale. Commissioner Scully believed that any growth would come from future development.

Commissioner Yahn disclosed that the study is helpful information when advocating for resources.

In response to Chair Kenney's ask about retail, Commissioner Scully confirmed that retail was included and is listed in the for-profit category.

Chair Kenney recommended that the study be presented to City Council.

Secretary Beer predicted that the annual stakeholder counts will be helpful in the discussion with the Coast Guard regarding the west anchorage.

2) Harbor Commission 2020 Objectives

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

Recommendation:

- 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) and15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14,Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

<u>Functional Area 1:</u> Chair Kenney announced that Council will review the Commission's recommended changes to Section 17.10 on January 12th, 2021. No progress was made on Objective 1.2, 1.3 had been removed, and 1.4 work continues which included permit policy and outreach meetings.

<u>Functional Area 2:</u> Secretary Beer reported that the west anchorage was moving forward with the outreach program. Work continued the H-3 Policy and the Ad Hoc Committee continues to work with staff regarding public float enhancements.

<u>Functional Area 3:</u> Vice Chair Cunningham disclosed that the process to renew the RGP54 Permit is coming to fruition. Regarding 3.1, several virtual calls were set up with various officials in Washington D.C. The dredging of the entrance has been delayed. The contract was out for bid and staff expected to have the contract closed by Christmas 2020.

<u>Functional Area 4:</u> Commissioner Scully noted there was no progress on 4.1 and 4.3 and 4.4 has been completed.

Functional Area 5: Commissioner Yahn had no report.

3) Harbormaster Update - November 2020

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

Recommendation:

- 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) and15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Borsting reported that on November 5, 2020, the west anchorage proposal was submitted to the United States Coast Guard. Public outreach efforts for the west anchorage included informational sections on the new website, online surveys, and outreach to stakeholder groups and the public. The United States Coast Guard responded and recommended that temporary buoys be installed at the longitude and latitude locations for infield inspection which took place on November 20, 2020. The online survey had received 186 responses and the survey will conclude on December 30, 2020. The data collected from the survey will be sent to the United States Coast Guard as part of the proposal. He disclosed that he spoke at the Yachtsman's Luncheon on November 11th, 2020 where he provided an overview of summer and fall operations. The marina continued to see an uptick in visitors and rentals of offshore moorings.

In answer to Commissioner Scully's question regarding the square footage of the west anchorage and how it compared to the current anchorage, Secretary Beer answered that the west anchorage is roughly 3.3 acres. He reported that the United States Coast Guard indicated that they would present the proposal to their supervisor for approval, who then would forward it to the Director for approval, who then submits it for federal approval and the whole process can take 1- to 3-years. The United States Coast Guard was amenable to having a temporary anchorage be installed.

In response to Commissioner Yahn's question of if there was any feedback from the Yachtsman Club regarding Harbor Operations and how staff plans to manage potential Christmas boat parades, Harbormaster Borsting disclosed that there was not a lot of constructive criticism provided at the luncheon. He reported that Harbor safety is the number one priority and Harbor Staff as well as the Sheriff's Department, City lifeguards, and the City's Police Department will be monitoring the festivities.

In reply to Chair Kenney's query, Harbormaster Borsting confirmed that boat parades do need permits, but many people were not following the City's structure. Chair Kenney was concerned about rogue boaters.

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

Chair Kenney announced that the City Council has appealed the Commission's approval for the dock reconfiguration project at 944 Via Lido Nord and that appeal will be heard on January 12, 2020. Also, on January 12, 2020 the Commission's proposed modifications to Section 17.10 will be heard by City Council.

9) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR-RELATED ISSUES

In reply to Commissioner Scully's question regarding a time limit for appeal presentations, Assistant City Manager Jacobs shared that the Commission can set time limits as long as the time limit applies to all appeals. Chair Kenney concurred that a policy could be established that would apply to any presenters.

Commissioner Yahn advised the Commission to follow the appeal for the project at 944 Via Lido Nord and that the outcome may cause implications on how the Commission uses Policy H-1. Commissioner Marston advised the Commission that it would be helpful if the City Attorney could advise us if Policy H-1 is law or guidance.

In answer to Chair Kenney's inquiry regarding the status of day use of offshore moorings, Harbormaster Borsting shared that there were issues with the software platform, but the program is planned to launch in January of 2021.

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

Vice Chair Cunningham wanted to have a discussion regarding hard revenues and where the money comes from and where the money goes. Commissioner Yahn and Commissioner Marston agreed with that suggestion.

Secretary Beer suggested having a discussion regarding floats and forming an action plan. Commissioner Scully and Chair Kenney supported that suggestion.

In answer to Chair Kenney's query of can the Commission consider revisions to Policy H-1, Assistant City Manager Jacobs confirmed that the Commission can make recommendations for Policy H-1. Chair wished to see that agendized as well as receive an update on the recycling facility at Veterans Memorial Park at the next meeting.

11) DATE AND TIME FOR NEXT MEETING: Wednesday, January 13, 2021, at 5:00 p.m.

12) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 9:11 p.m.



CITY OF NEWPORT BEACH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday**, **October 11, 2023**, at **5:00 p.m.** or soon thereafter as the matter shall be heard, a public hearing will be conducted in the Council Chambers at 100 Civic Center Drive, Newport Beach. The Harbor Commission of the City of Newport Beach will consider approval of the following application:

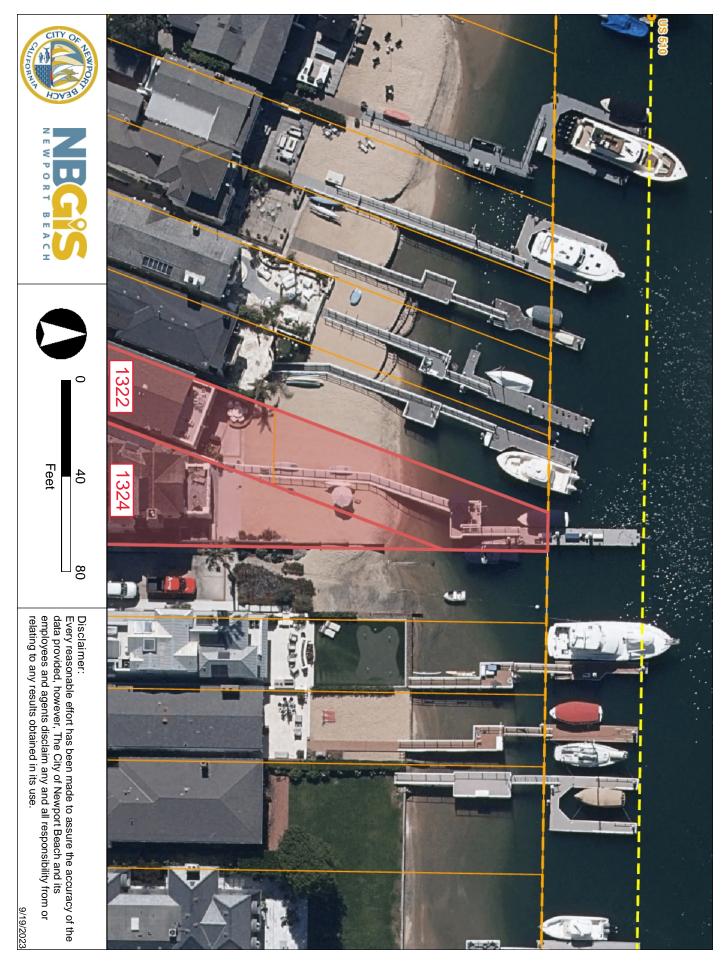
Variance request to modify the conditions of the existing permit that limit the vessel size that may be berthed on the east side of the single-finger float located at 1324 E. Balboa Blvd. in order to be able to berth a 60-foot long by 17.2-foot wide vessel.

This request is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (Preliminary Review) and Section 15301 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and it will involve negligible or no expansion of existing or former use, and is not subject to 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 Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

All interested parties may appear and present testimony regarding this request. If you challenge the request in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapter 17.65. These applications may be continued to a specific future meeting date, and if such an action occurs, additional public notice of the continuance will not be provided.

The agenda, staff report, and corresponding documents will be available by end of business day on the Friday preceding the public hearing, and may be reviewed at the City Manager's Office (Bay E-2nd Floor), at 100 Civic Center Drive, Newport Beach, California, CA 92660 or at the City of Newport Beach website at <u>www.newportbeachca.gov</u> Individuals not able to attend the meeting may contact the Public Works Department or access the City's website after the meeting to review the action on these applications. All mail or written communications (including email) from the public, residents or applicants regarding an agenda item must be submitted by 5 p.m. on the business day immediately prior to the meeting. This allows time for the Harbor Commission to adequately consider the submitted correspondence. While the City does not expect there to be any changes to the above process for participating in this meeting, if there is a change, the City will post the information as soon as possible to the City's website.

For questions regarding the public hearing item, please contact Chris Miller, Public Works Administrative Manager, at <u>cmiller@newportbeachca.gov</u> Project File No.: 1324 E. Balboa Blvd. Variance Request





April 10, 2023

ATTN: PLANNING DEPARTMENT CITY OF NEWPORT BEACH, CA 100 CIVIC CENTER DRIVE NEWPORT BEACH, CA 92660

RE: 1324 E BALBOA BLVD, NEWPORT BEACH, CA 92661 APN(S) 048-162-33, 048-162-46

I hereby certify that the attached radius map and ownership records are the most current records available from the Orange County Assessor's office of all persons to whom property is assessed.

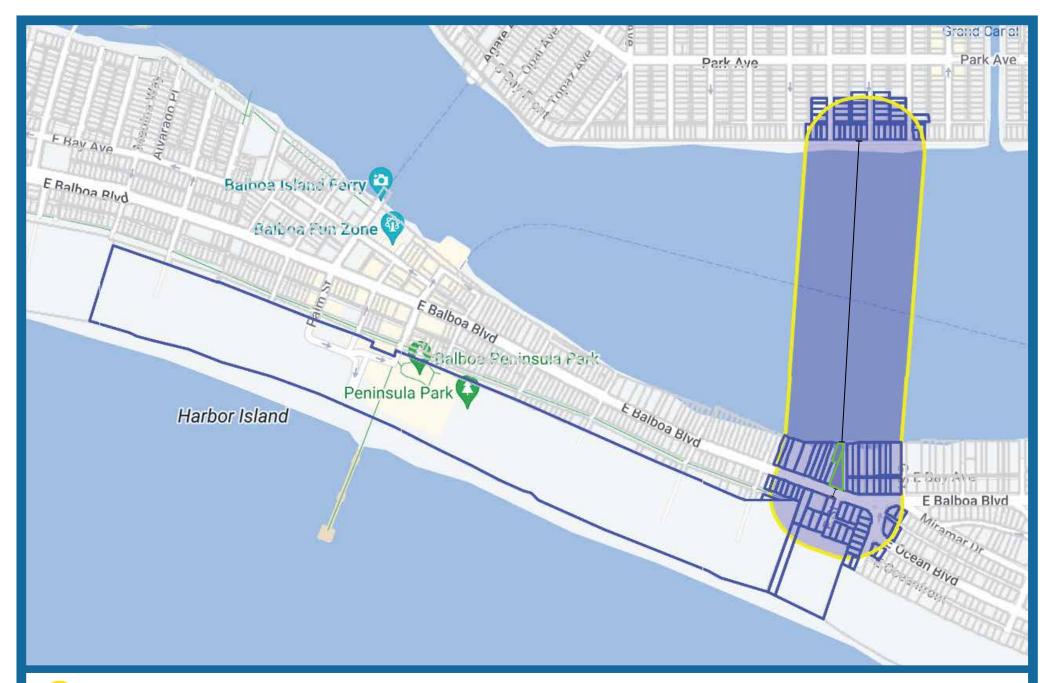
The ownership records provide parcel numbers, full names when available, and mailing addresses for all properties within a 300-foot radius extending from the exterior boundaries of the above-mentioned parcel(s) excluding any intervening waterways or right-of-ways. Further, the information is based upon the most up-to-date records of the Orange County Assessor's office and is deemed reliable but is not guaranteed.

If you have any questions regarding this package, please contact us.

Sincerely,

eumen

Katie Newman Ownership Listing Solutions



300-FOOT RADIUS FROM EXTERIOR BOUNDARIES OF SUBJECT PARCEL EXCLUDING INTERVENING RIGHTS-OF-WAYS AND WATERWAYS

SUBJECT PARCEL(S) APN 048-162-33, 048-162-46 1324 E BALBOA BLVD, NEWPORT BEACH, CA 92661



May 23, 2023

Attachment H

Mr. Paul Blank Harbormaster City of Newport Beach 1600 W Balboa Blvd Newport Beach, CA 92663

Re: Berth Expansion - Eastern (F Street) side of the 1322/1324 Shared Pier

Dear Harbormaster Blank,

My wife and I reside at 1401 E Bay Ave on the far eastern side of the F Street easement. Tom and Kathy LeBeau live on the opposite, western side of F Street. Mr. LeBeau currently berths his yacht, Old Blue, on the eastern side of his shared dock along western side the F Street beach right of way.

I understand that Mr. LeBeau is requesting that the Harbor Commission approve a small expansion of his berthing rights of approximately 2 feet of width/beam and 7 feet of length. This expansion by itself will not encumber our ability to berth or navigate our boat which is berthed at our bay dock adjacent to the western side of the F Street beach right of way. Given our location we understand that we are the only neighbor who might be impacted by this specific expansion request by Mr. LeBeau.

We are concerned that the two mooring cans located in the right of way could impact our property line if both had boats attached to those cans at a later date. It is our understanding that these cans are entitled to hold boats up to 18'. I don't think there would be room to access the beach. We would also be concerned if the LeBeau's were to sell the property. We would request their expansion only be applicable to his residence during his ownership. This area is a public right of way and we have no control over its use.

Mr. LeBeau has been a friendly and considerate neighbor. We support Mr. LeBeau's application, as we understand it and as described above, for the expansion of his berthing rights on the western side of F Street.

Thank you,

Kent and Virginia K. Valley

1401 E. Bay Ave Newport Beach, CA 92661

August 14, 2023

Mr. Chris Miller Manager Public Works Department City of Newport Beach 100 Civic Center Dr. Newport Beach, CA 92660

Re: Berth Expansion - Eastern (F Street) side of the 1322/1324 Shared Pier

Dear Mr. Miller,

My name is O'Malley Miller. I am the Manager of the California limited liability company, 1322 Balboa Partners LLC, which owns the property located at 1322 E. Balboa Blvd. 1322 Balboa Partners LLC also owns a 50% TIC interest in the shared pier located at 1322/1324 E. Balboa Blvd. Mr. Thomas LeBeau is the Manager of Blue Sky NPB, LLC which owns the property located at 1322/1324 E. Balboa Blvd. Blue Sky NPB, LLC also owns a 50% TIC interest in the shared pier located at 1322/1324 E. Balboa Blvd.

I understand that Mr. LeBeau is requesting that the Harbor Commission approve a small expansion of the berthing rights on the eastern side of our shared pier of approximately 2.2 feet of width/beam and 6 feet of length over all/LOA. We understand that the berthing right on the eastern/F Street side of our shared pier is currently 15 feet of width/beam and 55 feet of length/LOA.

We are told by Mr. LeBeau that this small expansion will not effect in any way whatsoever our rights to berth or navigate a boat which is berthed adjacent to the western side of the shared 1322/1324 shared pier. Given our location and our shared ownership of the 1322/1324 shared pier we believe that we are the only neighbor who might be impacted by this specific expansion request by Mr. LeBeau. Please let me know if we are mistaken in these regards.

Mr. LeBeau is a friendly and considerate neighbor and fellow TIC owner. We support and approve Mr. LeBeau's application, as described above, for the expansion of his/the berthing rights on the eastern side of our shared 1322/1324 shared pier.

Thank you,

auchil

O'Malley Miller 1322 Balboa Partners, LLC 1322 E. Balboa Blvd Newport Beach, CA 92661

From:	Kent Valley <krvalley4@gmail.com></krvalley4@gmail.com>
Sent:	October 02, 2023 12:43 PM
То:	Miller, Chris
Subject:	Posted Notice of Public Hearing1324E Balboa Blvd.

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

Mr. Miller: We live at 1401 E Bay Ave. I read the posted notice and was surprised the Staff report will not be available until the end of the business day on Friday October 6th which really means it won't be available to read fully until Monday. I did submit a letter of su[pport under certain conditions. I don't have control over the public water and right of way which this area is. I keep our boat within the property line as most residents on the bay do.

I do not want anything to occur within the public property that will affect my property. My concern is the two moorings that are entitled to use the public right of way. They are both entitled to a 18' boat. which are tied to a line between the shore and the buoy. In order for the boat to motor or row out to the bay they need to pass the buoy or adjacent boat. The space is limited and if oars are extended they may scrape the adjacent boat. I have no idea why I should have to point this out to the staff but want to make sure it is considered.

I am also concerned that if the entitlement is granted it does not automatically extend to the next property owner. We have a good relationship with the existing owner but may not with another party. Is there a reason the staff report can not be viewed online when it is ready?

October 2, 2023

Newport Beach Harbor Commission c/o Mr. Chris Miller Newport Beach Public Works 100 Civic Center Drive Newport Beach, CA 92660

Re: 1322/24 Shared Pier. Eastern Berth Expansion, HC Hearing Oct. 11, 2023

Mr. Miller,

My name is Stephen Coatsworth. I am the permitee of shore mooring P-33. I have been using the P-33 shore mooring, almost daily, for many years. I am aware that Mr. LeBeau has requested that the Harbor Commission consider granting a slightly larger vessel than currently permitted on the eastern side of the 1322/24 shared pier. The boat that is currently berthed at that location is Old Blue which is approximately 55'X15'.

The posted public notice indicates that Mr. LeBeau would like to expand the berth on the eastern side of the 1322/24 float to 60'X17'.2". As you know F Street had previously held 2 shore moorings. I understand the Mr. LeBeau purchased the permit for one of the F Street moorings then turned it over the City for permanent retirement. This left my shore mooring, P-33, as the sole remaining F Steet mooring.

When F Street had two active shore moorings and a storm drain aligned on the eastern side of the F Street end beach and water access was difficult. With now just one shore mooring, P-33, significantly more free water access (even considering the proposed berth expansion) than existed previously with 2 shore moorings. For this reason, I support Mr. LeBeau's application for a slightly larger 60'X17'.2" berth. Mr. LeBeau has always been considerate and makes every effort to share the water with all stakeholders and visitors. The acquisition and retirement of P-31 has had a profound and lasting positive effect on opening up F Street. In my opinion Mr. LeBeau's expanded berthing request will have no noticeable of functional impact on water access at F Street.

Thank you,

tephen Coatsworth 10-2-2023

Stephen Coatsworth P-33 (949) 422-7865 (m)



October 2, 2023

Mr. Thomas LeBeau NHYC Member 1324 E. Balboa Blvd Newport Beach, CA 92661

Re: Donation/Gift 15'X6' Float

Mr. LeBeau,

Thank you for your donation and gift of the lightly used dock float (dimensions of 15'X6'). Our staff will be down to your residence to pick up the float on Tuesday October 3. Your gift will help our staff manage our small boat sailing fleet by serving as a meaningful addition to our attempts to store our Harbor 20s within confines of our mooring field.

Thank you again for your contribution.

Best,

Raymond Jacobi

Ray Jacobi General Manager Newport Harbor Yacht Club

RESOLUTION NO. HC2023-011

A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA DENYING VARIANCE NO. HCVAR2023-002 REQUESTING MODIFICATION OF HARBOR PERMIT 109-1322 IN ORDER TO BERTH A VESSEL THAT EXCEEDS A LENGTH OF 55-FEET AND A WIDTH OF 15-FEET ON THE EAST SIDE OF THE FLOAT AND INTO F STREET END

THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. Tom LeBeau ("Applicant") is the owner of the property at 1324 E. Balboa Boulevard ("Property") and shares a pier and dock with the adjacent property at 1322 E. Balboa Boulevard. Applicant has filed an application for a variance (Variance No. HCVAR2023-002) from Harbor Permit/Approval in Concept 109-1322 ("Permit") in order to be able to berth a larger vessel on the east side of the single-finger float adjacent to the F Street end.
- 2. The Permit, which was issued in 2014/2015, originally imposed a maximum size restriction on the vessel that may be berthed on the east side of the single-finger float to a length of 32-feet and width of 13-feet.
- 3. In 2020, Applicant was issued a notice of violation (NOV) for the berthing of a 55-foot vessel, which was in violation of the terms of the Permit, and for extending the length of his dock and float without obtaining a permit. Applicant appealed the NOV and also sought a modification of the Permit's condition regarding maximum vessel size. Applicant also removed his 55-foot vessel from his dock. At its December 2020 meeting, the Harbor Commission set aside the NOV with respect to the unpermitted dock extension. (The appeal of the NOV with respect to the berthing of the 55-foot vessel was not considered as the issue was mooted by Applicant's relocating of his vessel.) The Harbor Commission also granted Applicant's request for modification of the vessel berthing restriction and modified the Permit to increase the vessel size restriction to a maximum length of 55-feet and maximum width of 15-feet ("Vessel Restriction").
- 4. Applicant now desires further modification of the Vessel Restriction in order to berth a vessel measuring 60-feet in length and 17.2-feet in width.
- 5. The Property has an unusual lot line configuration due to its location at the convergence of E. Balboa Boulevard, F Street and E. Bay Avenue.
- 6. Applicant's dock is adjacent to the F Street end. The east side of the float was approved under a 2014 permit to be set back 1-foot from the property line bounding F Street end. Applicant states that the float was ultimately built 1.5-feet from the property line.

- 7. The Permit allows Applicant to berth a vessel with a maximum length of 55-feet and maximum width of 15-feet on the east side of the dock. Depending on the actual distance of the setback of the float, Applicant's vessel encroaches between 13.5-feet and 14-feet into F Street end.
- 8. A single onshore mooring, P-33, exists at the F Street end. A second onshore mooring, P-31, which was permitted to the Applicant, had also existed in the street end but it was removed after Applicant surrendered it to the City in 2020 as a condition of approval of the Vessel Restriction.
- 9. The Vessel Restriction allows Applicant to berth a vessel on the east side of his dock while minimizing impact to navigation within the F Street end channel and maintaining public access to the water.
- 10. A public hearing was held on October 11, 2023 at the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq*. ("Ralph M. Brown Act") and NBMC Section 17.05.140(B). Evidence, both written and oral, was presented to, and considered by, the Harbor Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

 The denial of the variance request 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.

SECTION 3. REQUIRED FINDINGS.

Variance

Section 17.05.140(D)(2) of the Newport Beach Municipal Code (NBMC) sets forth the findings and facts in support that must be made in order for a variance to be granted. Not all of the findings can be made and thus the variance request must be denied. (The referenced Attachments are found in the Staff Report.)

Finding:

A. NBMC section 17.05.140(D)(2)(a). The strict application of this title, the design criteria and other applicable standards and policies otherwise applicable to the property would deny the property owner privileges enjoyed by other property owners in the vicinity, based on special circumstances applicable to the property, including location, shape, size, surrounding topography or other physical features.

Facts in Support of Findings:

- 1. The convergence of E. Balboa Boulevard, F Street and E. Bay Avenue create an unusual property lot line configuration therefore substantiating the need for a shared pier between Property and 1322 E. Balboa Boulevard.
- 2. From 2014/2015, Applicant was permitted to berth a vessel sized 32-feet in length and 13-feet in width on the east side of his dock. The vessel size restriction was increased in 2020 by the Harbor Commission to 55-feet (length) and 15-feet (width). This Vessel Restriction of the Permit allows Applicant to make use of the east side of dock while minimizing the impact to navigation within the F Street end channel and maintaining public access to the water.
- 3. The Vessel Restriction does not deny Applicant privileges enjoyed by other property owners in the vicinity because despite the unusual lot line configuration of the Property, Applicant is able to make use of the east side of his dock and berth a 55-foot by 15-foot vessel.

Finding:

B. NBMC section 17.05.140(D)(2)(b). Strict compliance with this title, the design criteria and other applicable standards and policies applicable to the property would deprive the subject property of privileges enjoyed by other properties in the vicinity.

Facts in Support of Findings:

1. The facts cited above as to why Finding A cannot be made also show that this Finding B cannot be made. Applicant is able to berth a 55-foot by 15-foot vessel on the east side of his dock and thus is not deprived of privileges enjoyed by other properties in the vicinity, which have similarly-sized vessels berthed within their respective property lines.

Finding:

C. NBMC section 17.05.140(D)(2)(c). Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Findings:

 Applicant currently enjoys a privilege to berth a vessel with a maximum length of 55-feet and a maximum width of 15-feet and to encroach into the F Street end. This privilege of berthing vessels is equivalent to neighboring properties with similar sized vessels that berth within their respective property lines. Thus, granting the requested variance is not necessary for the preservation and enjoyment of substantial property rights of Applicant.

Finding:

D. NBMC section 17.05.140(D)(2)(d). Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on the other properties in the City.

Facts in Support of Findings:

 Applicant currently enjoys a special privilege to berth a vessel with a maximum length of 55-feet and a maximum width of 15-feet and to encroach into the F Street end. Neighboring properties are prohibited from encroaching beyond the prolongation of their property lines. Granting the requested variance would constitute a grant of special privilege as Applicant would have greater privileges as compared to adjacent owners and would result in his increased encroachment into F Street end and decrease public access and impair navigability.

Finding:

E. NBMC section 17.05.140(D)(2)(e). Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity.

Facts in Support of Findings:

1. Applicant currently enjoys a privilege to berth a vessel with a maximum length of 55-feet and a maximum width of 15-feet and to encroach into the F Street end. The F Street end is 30-feet wide, and with a proposed vessel width of 17.2-feet (minus any float setback distance), the proposed vessel would encroach into the F Street end by more than half the overall street end width. Onshore mooring P-33 is also positioned within the F Street end. Granting the requested variance would jeopardize and affect the public convenience, interest and general welfare of persons residing or working in the vicinity as it would impair navigability and decrease public access.

Finding:

F. NBMC section 17.05.140(D)(2)(f). Granting of the variance will not be in conflict with the intent and purpose of this title, the design criteria and any applicable standards and policies approved by the City Council.

Facts in Support of Findings:

 Approving a vessel width of 17.2-feet would further increase the encroachment of the F Street end by Applicant, resulting in decreased public access within the access channel. This would afford Applicant greater privileges compared to the neighbors. Therefore, granting the variance will conflict with the title, the design criteria and any applicable standards and policies approved by the City Council.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED BY THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH:

- 1. The Harbor Commission finds the denial of the Variance request 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.
- 2. Based on the failure to make the requisite findings, the Variance request to modify Harbor Permit 109-1322 in order to allow Applicant to berth a larger vessel on the east side of the single-finger float adjacent to the F Street end is denied.
- 3. This action shall become final and effective fourteen (14) days following the date of adoption of this Resolution unless within such time an appeal or call for review is made in accordance with the provisions of NBMC Chapter 17.65 (Appeals or Calls for Review).

PASSED, APPROVED, AND ADOPTED THIS 11th DAY OF OCTOBER, 2023.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:

Steve Scully, Chair

BY:__

Marie Marston, Secretary

From:	Sherman Stacey <sstacey@gaineslaw.com></sstacey@gaineslaw.com>
Sent:	October 08, 2023 8:11 PM
То:	Scully, Steve; Beer, Ira; Yahn, Don; Cunningham, Scott; Marston, Marie; Williams, Gary; Svrcek, Rudy
Cc:	Miller, Chris; Blank, Paul; Harp, Aaron; R Schult; Rebecca Thompson
Subject:	Application for Variance - Agenda Item 6.2 - October 11, 2023

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

Dear Commissioners:

I will appear before you on October 11, 2023, in opposition to a requested variance for 1322-1324 East Balboa Boulevard set as your Agenda Item 6.2. I represent Robert W. Schult, the owner of the home at 1320 East Balboa Boulevard. My first request is that you postpone the hearing date. Mr. Schult only became aware of the application for variance when he received notice of the hearing on Thursday, October 6, 2023. The staff report was not available until late in the afternoon of October 7.

I will do my best to fully present Mr. Schult's objections in writing by Tuesday, October 10. I am surprised that we were not aware of the variance application being filed as I had made a Public Records Act request for 1322-1324 East Balboa on August 7, 2023. Although between August 17 and September 28, the City produced 350 documents with thousands of pages, the variance application was not among them. But at least I have some history related to this joint use pier.

In short, allowing a vessel to be permanently moored in the projection of a public street end is <u>very rare</u> in Newport Harbor. For more than a decade, the applicant has sought to increase the space outside his property line projections from the 13 beam feet he willingly agreed to in 2014. The applicant made some dock improvements with permits, and others without necessary permits or inconsistent with approved permits. In 2020, at the applicant's behest, the Harbor Commission approved modifying the permitted vessel beam from 13 feet to 15 feet and length from 32 feet to 55 feet. Now, that is not enough for the applicant who seeks to encroach in public waters within the street end by an additional 2.2 feet. Each time the applicant claims that it is just a little expansion. The expansion should stop.

As a result of the location of the float to accommodate the applicant's desired larger boat, the use of the west side of that float (Mr. Schult's side) forces any boat more than 25 feet in length to cross over Mr. Schult's projection. The City issued Notices of Violation to enforce Mr. Schult's rights. As a result, the applicant sued both the City and Mr. Schult. The applicant claims that Mr. Schult could not have a boat larger than 32 feet, even though Mr. Schult meets all setbacks and is entirely within his projections. It is inconsistent for the applicant to claim that he needs a 17.2 foot beam and a 60 foot boat to enjoy the rights enjoyed by others, and simultaneously claim that his conforming neighbor cannot have a boat larger than 32 feet.

Setting aside the facts which give rise to the current dispute, the staff report makes clear why the evidence does not support the findings under Municipal Code Section 17.05.140.D.2. The applicant is not deprived of anything because he can only permanently moor a 55 foot boat with a 15 foot beam and not a 60 foot boat with a 17.2 foot beam.

Thank you for your consideration of this email and your future consideration of our objections.

Sherman L. Stacey Gaines & Stacey LLP 3197-A Airport Loop Dr. Costa Mesa, CA 92626 Tel: 949-640-8999 Fax: 714-434-1111

Biddle, Jennifer

From:	Sherman Stacey <sstacey@gaineslaw.com></sstacey@gaineslaw.com>
Sent:	October 09, 2023 11:42 AM
To:	Blank, Paul
Cc:	Scully, Steve; Biddle, Jennifer; Rebecca Thompson
Subject:	RE: Application for Variance - Agenda Item 6.2 - October 11, 2023
Follow Up Flag:	Follow up
Flag Status:	Flagged
Categories:	Red Category

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

Paul,

Thank you. I have made other inquiries. I may or may not know the answer by Wednesday.

Sherman L. Stacey Gaines & Stacey LLP 3197-A Airport Loop Dr. Costa Mesa, CA 92626 Tel: 949-640-8999 Fax: 714-434-1111

From: Blank, Paul <PBlank@newportbeachca.gov>
Sent: Monday, October 9, 2023 11:37 AM
To: Sherman Stacey <sstacey@gaineslaw.com>
Cc: Scully, Steve <sscully@newportbeachca.gov>; Biddle, Jennifer <JBiddle@newportbeachca.gov>; Rebecca Thompson
<rthompson@gaineslaw.com>
Subject: RE: Application for Variance - Agenda Item 6.2 - October 11, 2023

Howdy Mr. Stacey:

I am responding in the interest of time and without doing all the research necessary to get you a definitive answer. I cannot find proof of an amended CDP in the files to which I have access.

The revised/amended CDP if it was executed would be in the files associated with the construction of that residential pier permit.

Those files reside at City Hall with the Community Development folks.

Because this is a residential pier permit, the files may also reside with the Public Works team that handles those specific permits.

The pier permit file for the shared pier at 1322/1324 E Balboa Blvd. is available for inspection via a public records request or by visiting City Hall and making the request in person.

I am sorry to have to send you off in a different direction for the answer.

For future reference, we here in the Harbor Department are responsible for berthing-related matters. Our colleagues up at City Hall are responsible for construction-related matters. We here in Harbor do take responsibility for some construction-related code enforcement when directed to do so by our colleagues in Community Development or Public Works.

Best,



Paul Blank Harbormaster Harbor Department Office: 949-270-8158

1600 W Balboa Blvd Newport Beach, CA 92663

From: Sherman Stacey <<u>sstacey@gaineslaw.com</u>>
Sent: October 09, 2023 9:29 AM
To: Blank, Paul <<u>PBlank@newportbeachca.gov</u>>
Cc: Scully, Steve <<u>sscully@newportbeachca.gov</u>>; Biddle, Jennifer <<u>JBiddle@newportbeachca.gov</u>>; Rebecca Thompson
<<u>rthompson@gaineslaw.com</u>>
Subject: RE: Application for Variance - Agenda Item 6.2 - October 11, 2023

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

Paul,

Thank you for your response. I have been reviewing documents provided by the City. On December 23, 2020, the City sent Tom Lebeau a letter stating that he had to obtain an amendment to his 2014 CDP for the dock reconfiguration to allow the changes approved by the Harbor Commission on December 9, 2020. I have attached that letter. Subsequently, emails were exchanged in the City to halt any inspections until this CDP amendment was satisfied. I have attached those emails.

Yesterday, I observed that the 16" and 18" pilings had replaced the prior 12" pilings and that the unapproved landward dock extension was still below the gangway. I cannot find any record that an amendment to the CDP was ever obtained. Do you have any such record?

Sherman L. Stacey Gaines & Stacey LLP 3197-A Airport Loop Dr. Costa Mesa, CA 92626 Tel: 949-640-8999 Fax: 714-434-1111

From: Blank, Paul <<u>PBlank@newportbeachca.gov</u>>
Sent: Monday, October 9, 2023 8:19 AM
To: Sherman Stacey <<u>sstacey@gaineslaw.com</u>>
Cc: Scully, Steve <<u>sscully@newportbeachca.gov</u>>; Biddle, Jennifer <<u>JBiddle@newportbeachca.gov</u>>;
Subject: RE: Application for Variance - Agenda Item 6.2 - October 11, 2023

Good Morning Mr. Stacey:

Thank you for your input on this important matter.

I can assure you your input will be made part of the public record when this matter is heard by the Harbor Commission.

Please reach out if I can be of further assistance.



Paul Blank Harbormaster Harbor Department Office: 949-270-8158

1600 W Balboa Blvd Newport Beach, CA 92663

From: Sherman Stacey <<u>sstacey@gaineslaw.com</u>> Sent: October 08, 2023 8:11 PM

To: Scully, Steve <<u>sscully@newportbeachca.gov</u>>; Beer, Ira <<u>Ibeer@newportbeachca.gov</u>>; Yahn, Don <<u>DYahn@newportbeachca.gov</u>>; Cunningham, Scott <<u>Scunningham@newportbeachca.gov</u>>; Marston, Marie <<u>Mmarston@newportbeachca.gov</u>>; Williams, Gary <<u>Gwilliams@newportbeachca.gov</u>>; Svrcek, Rudy <<u>Rsvrcek@newportbeachca.gov</u>>

Cc: Miller, Chris <<u>CMiller@newportbeachca.gov</u>>; Blank, Paul <<u>PBlank@newportbeachca.gov</u>>; Harp, Aaron <<u>aharp@newportbeachca.gov</u>>; R Schult <<u>rwschult@gmail.com</u>>; Rebecca Thompson@gaineslaw.com> Subject: Application for Variance - Agenda Item 6.2 - October 11, 2023

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setbacks and is entirely within his projections. It is inconsistent for the applicant to claim that he needs a 17.2 foot beam and a 60 foot boat to enjoy the rights enjoyed by others, and simultaneously claim that his conforming neighbor cannot have a boat larger than 32 feet.

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Thank you for your consideration of this email and your future consideration of our objections.

Sherman L. Stacey Gaines & Stacey LLP 3197-A Airport Loop Dr. Costa Mesa, CA 92626 Tel: 949-640-8999 Fax: 714-434-1111



Memorandum

DATE:	October 9, 2023
TO:	HARBOR COMMISSION
FROM:	Chris Miller, Public Works Administrative Manager – 949-644-3043,
	<u>cmiller@newportbeachca.gov</u>
TITLE:	Agenda Item No. 6.2: Variance Request: Vessel Berthing at 1324 E.
	Balboa Blvd.

ABSTRACT:

This item is an application from Tom LeBeau ("Applicant"), property owner of 1324 E. Balboa Blvd ("Property") for a variance, Variance No. HCVAR2023-002 ("Variance"), from the conditions of Harbor Permit/Approval in Concept 109-1322 ("Permit") restricting the size of the vessel that may be berthed on the east side of the single-finger float adjacent to F Street end in order that he may be able to berth a larger vessel.

RECOMMENDATION:

Continue the item to a date to be determined.

DISCUSSION:

Applicant is requesting the item be postponed to a date to be determined.



Additional Material Recieved Item No. 6.2 Variance Request - Staff Memo October 11, 2023 Harbor Commission Meeting

CITY OF NEWPORT BEACH PUBLIC WORKS DEPARTMENT 100 Civic Center Drive Newport Beach, CA 92660 newportbeachca.gov/publicworks 949-644-3311

Memorandum

From: Chris Miller, Public Works Manager

Date: October 19, 2023

Mr. Miller

Re:Variance Request: Vessel Berthing at 1324 E. Balboa Blvd.APPLICATION WITHDRAWN

On October 18, 2023, Tom LeBeau, applicant for variance request HCVAR2023-002 (1324 E. Balboa Blvd), permanently withdrew his application. It will no longer be considered by staff, Harbor Commission, or another body at any future hearing.



NEWPORT BEACH Harbor Commission Staff Report

October 11, 2023 Agenda Item No. 7.1

то:	HARBOR COMMISSION
FROM:	Chris Miller, Administrative Manager, 949-644-3043 <u>cmiller@newportbeachca.gov</u>
TITLE:	2024 Harbor and Beaches Master Plan – Review

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ABSTRACT:

Staff will provide an overview of the 2024 Harbor and Beaches Master Plan ("Plan"). The Harbor Commission is requested to provide an initial Plan review this evening, then consider it for approval at the November meeting.

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, 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:

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 also considered to be a planning document to assist in the creation of the annual Capital Improvement Program which ultimately becomes part of the City's annual budget.

The Harbor Commission is requested to provide initial feedback at tonight's meeting. Then, at the November meeting, the Harbor Commission may provide additional input and approve the

document which will be finalized and forwarded to the City Council's Finance Committee for review.

Attached is the current, approved 2023 Plan. Please note that general proofreading (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).

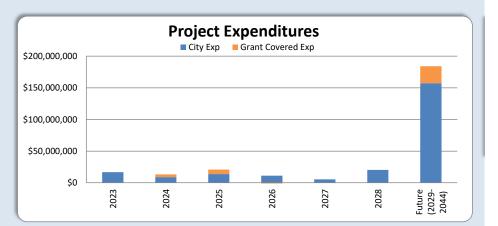
ATTACHMENTS:

Attachment A – 2023 Harbor and Beaches Master Plan

Attachment A

HARBOR & BEACHES MASTER PLAN DASHBOARD

Harbor and Beaches Master Plan Funding Balance \$35,000,000 \$30,000,000 \$25,000,000 \$20,000,000 \$15,000,000 \$10,000,000 \$5,000,000 \$0 Future (2029-2044) 2025 2026 2028 2023 2024 2027

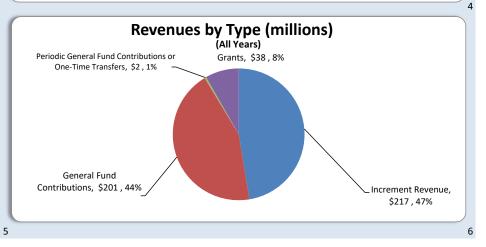


With external contributions (grants) as indicated on project list

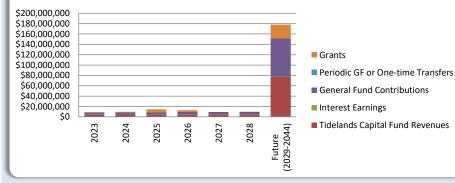
1

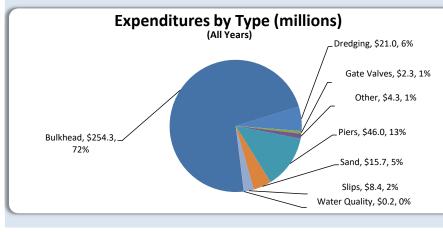
3

Debt Service as % of Dedicated Revenues 35.00% 30.00% 25.00% 20.00% 15.00% 10.00% 5.00% 0.00% 2025 2026 2028 2023 2024 2027 Debt Service - as % of Revenues



All Estimated Revenue Sources





244

HARBOR & BEACHES MASTER PLAN PROJECTS

Last Updated: 02/08/2023

2023

			Units		Today's Unit		Estimated		FY Design Star	t FY Const Start	FV Cost Est @2.5%	External	
Ref #	Project	Category	Measurement	Total Units	Cost	Current Age:	Useful Life	Project Estimate	Year	Year	Growth	Contributions	Net Proposed Cost
UTILITI	· · ·	•••				-							-
32	Tide Gate Valves (Peninsula): Replace	Gate Valves	EA	39	\$50,000	**	25	\$1,950,000	2025	2030	\$2,317,937		\$2,317,937
	SUBTOTAL							\$1,950,000			\$2,317,937	\$0	\$2,317,937
BULKH	EAD/STRUCTURES												
8	Bulkhead (American Legion): Repair	Bulkhead	LF	1	\$1,700,000	66	40	\$1,700,000	2019	2022	\$1,742,500		\$1,742,500
39	Lower Castaways: Bulkhead Only	Bulkhead	LF	265	\$7,000	**	80	\$1,855,000	2025	2027	\$2,047,573		\$2,047,573
41	Balboa Island, N, S, E & GC: Boardwalk & Perimeter Drainage Sys	stem Other	SF	92,000	\$25	**	80	\$2,300,000	2026	2030	\$2,733,977		\$2,733,977
	only (Little Island not include ~42k SF)												
45	Balboa Island, N, S, E & GC: Replace Seawall SBF	Bulkhead	LF	4,386	\$7,000	93	81	\$30,703,596	2026	2028	\$34,738,301		\$34,738,301
46	Balboa Island, N, S, E & GC: Replace Seawall GC and EBF	Bulkhead	LF	4,386	\$7,000	93	80	\$30,703,596	2026	2028	\$34,738,301		\$34,738,301
47	Balboa Island, N, S, E & GC: Replace Seawall NBF	Bulkhead	LF	4,386	\$7,000	93	82	\$30,703,596	2026	2030	\$36,496,927		\$36,496,927
61	Bulkhead (American Legion): Replace	Bulkhead	LF	336	\$7,000	66	80	\$2,352,000	2051	2070	\$7,506,872		\$7,506,872
65	Bulkhead (West Newport): Replace	Bulkhead	LF	1,722	\$7,000	**	80	\$12,054,000	2023	2041	\$18,800,126		\$18,800,126
66	Bulkhead (Corona Del Mar): Replace	Bulkhead	LF	175	\$7,000	**	80	\$1,225,000	2042	2045	\$2,108,925		\$2,108,925
67	Bulkhead (Promontory Bay): Replace	Bulkhead	LF	1,158	\$7,000	58	80	\$8,106,000	2042	2045	\$13,955,058		\$13,955,058
69	Bulkhead (Rhine Wharf): Replace	Bulkhead	LF	343	\$7,000	63	80	\$2,401,000	2046	2049	\$4,562,603		\$4,562,603
71	Bulkhead (Street Ends - Peninsula): Replace	Bulkhead	LF	2,217	\$7,000	**	80	\$15,519,000	2023	2056	\$35,055,107		\$35,055,107
27	Bulkhead (Balboa Yacht Basin): Replace	Bulkhead	LF	1,370	\$7,000	38	80	\$9,590,000	2063	2065	\$27,053,344		\$27,053,344
37	Bulkhead (Marina Park): Replace	Bulkhead	LF	857	\$7,000	8	80	\$5,999,000	2093	2095	\$35,497,451		\$35,497,451
	SUBTOTAL							\$155,211,788			\$257,037,064	\$0	\$257,037,064
PUBLIC	PIERS - REPAIR / REPLACE												
11	Public Pier (15th St): Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
12	Public Pier (19th St): Float only	Piers	EA	1	\$100,000	**	20	\$100,000	2021	2025	\$105,063		\$105,063
13	Public Pier (Coral Ave): Float only	Piers	EA	1	\$75,000	38	20	\$75,000	2021	2025	\$78,797		\$78,797
14	Public Pier (Fernando St): Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
15	Public Pier (M St): Float only	Piers	EA	1	\$100,000	**	20	\$100,000	2021	2025	\$105,063		\$105,063
16	Public Pier (Opal Ave): Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
17	Public Pier (Park Ave): Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
18	Public Pier (Washington St): Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
28	Ocean Piers Maintenance (Balboa and Newport)	Piers	EA	1	500,000	83	0	\$500,000	2023	2024	\$512,500		\$512,500
29	Public Pier (29th St): Pier, Gangway & Float	Piers	EA	1	\$150,000	**	20	\$150,000	2022	2024	\$153,750		\$153,750
30	Public Pier (Emerald Ave): Float only	Piers	EA	1	\$75,000	37	20	\$75,000	2021	2025	\$78,797		\$78,797
	Public Pier (Sapphire Ave):Float only	Piers	EA	1	\$60,000	**	20	\$60,000	2021	2025	\$63,038		\$63,038
42	Balboa Yacht Basin Marina (Slips): Replace	Slips	Slips	172	\$35,000	38	40	\$6,020,000	2023	2025	\$6,324,763		\$6,324,763
	Public Pier (15th St): Pier	Piers	EA	1	\$125,000	**	20	\$125,000	2031	2034	\$164,011		\$164,011
	Public Pier (Coral Ave): Pier only	Piers	EA	1	\$125,000	38	20	\$125,000	2031	2034	\$164,011		\$164,011
	Public Pier (Emerald Ave): Pier only	Piers	EA	1	\$125,000	37	20	\$125,000	2031	2034	\$164,011		\$164,011
55	Public Pier (Fernando St): Pier only	Piers	EA	1	\$125,000	**	20	\$125,000	2031	2034	\$164,011		\$164,011
	Public Pier (M St): Pier only	Piers	EA	1	\$150,000	38	20	\$150,000	2031	2034	\$196,813		\$196,813
57	Public Pier (Opal Ave): Pier only	Piers	EA	1	\$125,000	**	20	\$125,000	2031	2034	\$164,011		\$164,011
						**							
	Public Pier (Park Ave): Pier only	Piers	EA	1	\$125,000		20	\$125,000	2031	2034	\$164,011		\$164,011
59	Public Pier (Sapphire Ave): Pier only	Piers	EA	1	\$125,000	**	20	\$125,000	2031	2034	\$164,011		\$164,011
60	Public Pier (Washington St): Pier only	Piers	EA	1	\$150,000	**	20	\$150,000	2031	2034	\$196,813		\$196,813
62	Public Pier (Rhine Channel): Float only	Piers	EA	1	\$200,000	16	30	\$200,000	2034	2037	\$282,595		\$282,595
	Public Pier (Grand Canal, Balboa Ave): Pier Platform	Piers	EA	1	\$25,000	6	20	\$25,000	2037	2038	\$36,207		\$36,207
68	Public Pier (Rhine Channel): Gangway only	Piers	EA	1	\$70,000	**	40	\$70,000	2044	2047	\$126,611		\$126,611
	Marina Park Slips: Replace	Slips	EA	23	\$40,000	8	40	\$920,000	2052	2055	\$2,027,456		\$2,027,456
	Public Pier (Balboa Marina West): Float only	Piers	EA	1	\$200,000	2	40	\$200,000	2059	2062	\$523,915		\$523,915
73	Public Pier (Balboa Marina West): Gangway	Piers	EA	1	\$70,000	2	40	\$70,000	2059	2062	\$183,370		\$183,370
26	Public Pier (Central Ave): Gangway and Float	Piers	EA	1	\$250,000	6	40	\$250,000	2055	2057	\$578,831		\$578,831
	Ocean Pier: Newport	Piers	EA	1	\$20,000,000	83	85	\$20,000,000	2024	2027	\$22,076,258		\$22,076,258
23	Ocean Pier: Balboa	Piers	EA	1	\$15,000,000	83	85	\$15,000,000	2030	2033	\$19,201,268		\$19,201,268
	SUBTOTAL							\$45,290,000			\$54,315,169	\$0	\$54,315,169
DREDG													
2	Grand Canal Dredging and Beach Maintenance	Dredging	CY	1	\$1,500,000	**	20	\$1,500,000	2037	2039	\$2,226,758		\$2,226,758
9	Dredging: Lower Bay (Channels - Ongoing Maintenance)	Dredging	CY	1,200,000	\$19	**	30	\$22,800,000	2019	2023	\$23,370,000	\$10,000,000	\$13,370,000
25	Dredging: Newport Island Area (Channels) - TBD	Dredging	CY	20,000	\$150	**	50	\$3,000,000	2028	2030	\$3,566,057		\$3,566,057
43	Dredging (Balboa Yacht Basin):	Dredging	CY	25,600	\$70	38	40	\$1,792,000	2023	2025	\$1,882,720		\$1,882,720
48	Dredging: Upper Bay Catch Basins	Dredging	CY	500,000	\$30	14	21	\$15,000,000	2027	2030	\$17,830,286	\$17,830,286	\$0
49	Dredging: Upper Bay Channels	Dredging	CY	250,000	\$30	14	21	\$7,500,000	2027	2030	\$8,915,143	\$8,915,143	\$0
	SUBTOTAL							\$51,592,000			\$57,790,965	\$36,745,429	\$21,045,536

			Units		Today's Unit		Estimated	F	Y Design Star	t FY Const Start	FV Cost Est @2.5%	External	
Ref #	Project	Category	Measurement	Total Units	Cost	Current Age:	Useful Life	Project Estimate	Year	Year	Growth	Contributions	Net Proposed Cost
FERRY	& WHARF REPAIR / REPLACE												
35	Ferry Landing - Agate Avenue	Bulkhead	EA	1	\$0	93	60	\$0	2026	2028	\$0		\$0
36	Ferry Landing - Palm Street	Bulkhead	EA	1	\$0	93	60	\$0	2026	2028	\$0		\$0
	SUBTOTAL							\$0			\$0	\$0	\$0
	QUALITY												
20	Water Quality: TMDL Compliance:	Water Quality	LS	1	\$200,000	**	Ongoing	\$200,000	2024	2024	\$205,000		\$205,000
33	Vessel Sewage Pumpouts Replacements	Water Quality	EA	5	\$21,255	**	7	\$106,275	2027	2028	\$120,240	\$102,031	\$18,209
	SUBTOTAL							\$306,275			\$325,240	\$102,031	\$223,209
BEACH	NOURISHMENT - HARBOR & OCEAN												
22	Central Peninsula Sand Nourishment (Ocean Beach)	Sand	CY	1,000,000	\$15	**	20	\$15,000,000	2022	2024	\$15,375,000		\$15,375,000
44	Surfside/Sunset Beach Sand Nourishment Stage 14	Sand	LS	1	\$300,000	0	7	\$300,000	2028	2030	\$356,606		\$356,606
51	Public Bay Beaches: Sand Nourishment (25k yards)	Other	CY	25,000	\$50	7	25	\$1,250,000	2028	2031	\$1,523,004		\$1,523,004
	SUBTOTAL							\$16,550,000			\$17,254,609	\$0	\$17,254,609
	GRAND TOTAL							\$270,900,063			\$389,040,985	\$36,847,460	\$352,193,524
								1					
СОМРІ	ETED												
38	Seawall (Balboa Island N & S): Extend Cap	Bulkhead	LF	7,000	\$100	93	20	\$0	2014	2017	\$0		\$0
40	Seawall (Balboa Island, West End): Extend Cap	Bulkhead	LF	1,300	\$100	93	20	\$0	2014	2017	\$0		\$0
50	Bulkhead (Edge Water Ln) Extend Cap	Bulkhead	LF	145	\$303	6	20	\$0	2017	2017	\$0		\$0
63	Ferry Landings (Agate Ave & Palm St): Replace?	Other	EA	1	\$0	93	75	\$0	2020	2022	\$0		\$0
1	Arches Drain: Dry Weather Diversion	Drain	LS	1	\$860,000	6	80	\$0	2017	2019	\$0	\$820,000	\$0
3	Bilge Pumpout Dock/Oil Collection Center	Water Quality	LS	2	\$100,000	**	15	\$0	2018	2020	\$0		\$0
5	Public Swim Float (10th St)	Other	EA	1	\$30,000	**	20	\$0	2018	2020	\$0		\$0
6	Public Swim Float (Ruby Ave. N Bay Font)	Other	EA	1	\$30,000	**	20	\$0	2018	2020	\$0		\$0
7	Bilge Pumpout Dock/Oil Collection Center	Water Quality	EA	1	\$20,000	0	0	\$0	2018	2021	\$0		\$0
	TOTAL				\$1,040,503			\$0			\$0	\$0	\$0
DOTEN													
PUIEN	TIAL PROJECTS Onshore Mooring Enhancements	Moorings						\$0			\$0		\$0
	Multiple Vessel Mooring System (MVMS) - City Owned	Moorings	EA	6	\$45,000	**	20	\$270,000	2024	2024	\$270,000		\$270,000
	Mooring Field Realignment / Optimization	Moorings	EA	800	\$400	0	0	\$320,000	2024	2024	\$344,605		\$344,605
	Navigation Markers: Convert Federal Stationary Markers to Floats	Other	LS	1	\$60,000	**	0	\$60,000	2024	2020	\$71,321	\$74,932	(\$3,611
	Navigation Markets, convert reactar stationary Markets to Houts	other	25	-	\$00,000		U	\$00,000	2030	2030	<i>\$11,521</i>	<i>917,352</i>	(\$3,011
	Lower Castaways Public Park	Park											
	Restroom (Ferry Landing @ Agate Avenue)	Water Quality											
	Fire Boat	Safety											
	TOTAL				\$105,400			\$650,000			\$685,926	\$74,932	\$610,994

HARBOR & BEACHES MASTER PLAN SOURCES AND USES PROFORMA

	2023	2024	2025	2026	2027	2028
AFFORDABILITY ASSUMPTIONS						
Tidelands Capital Fund Revenues	3,945,664	4,004,849	4,064,922	4,125,896	4,187,784	4,250,601
Growth Assumption	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%
Debt Service as % of Revenues	31.68%	31.21%	30.75%	30.30%	29.85%	21.80%
Harbor Capital Balance as % of Debt Service	2422.01%	2037.78%	1433.70%	1545.67%	1762.33%	1117.66%
HARBOR CAPITAL SOURCES	BUDGETED					
Beginning Harbor Capital Balance	39,681,471	30,275,141	25,472,263	17,921,260	19,320,816	22,029,075
Sources						
Increment Revenue Projections	3,582,232	4,004,849	3,786,185	3,908,928	4,001,574	4,043,851
Interest Earnings	363,432	-	278,737	216,968	186,210	206,749
General Fund Contributions	4,600,000	4,715,000	4,832,875	4,953,697	5,077,539	5,204,478
Periodic GF or One-time Transfers						
Grants	-	1,000,000	5,500,000	3,500,000	-	10,203
Total Sources:	8,545,664	9,719,849	14,397,797	12,579,592	9,265,323	9,465,282
Uses						
Debt Service	(1,250,000)	(1,250,000)	(1,250,000)	(1,250,000)	(1,250,000)	(926,659)
Other Fiscal Charges	-	-	-	-	-	-
Project Uses	(16,701,994)	(13,272,726)	(20,698,800)	(9,930,036)	(5,307,065)	(20,210,767)
Transfers Out	-	-	-	-	-	-
Less: Cash Proj Funding						
Total Uses:	(17,951,994)	(14,522,726)	(21,948,800)	(11,180,036)	(6,557,065)	(21,137,426)
Projected Harbor Capital Balance	30,275,141	25,472,263	17,921,260	19,320,816	22,029,075	10,356,930



CITY OF INEWPORT BEACH Harbor Commission Staff Report

October 11, 2023 Agenda Item No. <u>7.2</u>

TITLE:	Discussion of History, Current Status and Opportunities for Lower Castaways
FROM:	Paul Blank, Harbormaster, (949) 270-8158 pblank@newportbeachca.gov
TO:	HARBOR COMMISSION

ABSTRACT:

As part of their current objectives, a subcommittee of the Harbor Commission is reviewing the history and current uses of the Lower Castaways facility. The subcommittee has conducted field studies observing current uses, met with various constituents as well as staff, and documented their findings and conclusions.

This report and presentation will update the Harbor Commission on the ad hoc committee's process, research and findings. The ad hoc committee seeks input from the full Commission and the public to further refine their recommendations related to improving the use of the facility. The subcommittee expects to present finalized recommendations for adoption by the full Commission at a meeting in the near future.

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;
- 2. Review the recent history of Lower Castaway uses and previously considered potential uses; and
- 3. Discuss additional opportunities for use of Lower Castaways and, If desired, formulate a recommendation to be forwarded to the City Council on a plan to develop possible uses and designs.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

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, 2023 Harbor Commission Objective 4.2 was established to Evaluate and make recommendations for Lower Castaways. The subcommittee responsible for 2023 Objective 4.2 will present a history of the Lower Castaways facility, recent efforts to improve and make better use of the facility, and potential opportunities for other uses, improvements, and revitalization in the future.

In addition to conducting field research and speaking with constituents, the subcommittee met on several occasions with staff to discuss the history of the facility and prior attempts to design and implement improvements. The subcommittee's process, findings, and preliminary recommendations will be presented. The public and full Commission will be asked for guidance in preparing further, detailed recommendations that may become a recommendation forwarded to the City Council for consideration.

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 – Lower Castaways Concept Presentation 2014

Agenda item No. SS2 May 27, 2014

Lower Castaways – Land Use Considerations



City Council Meeting, Study Session Lower Castaways Subcommittee May 27, 2014







- Recreational hub (bikers, hikers and human-powered water craft)
- Connected to Upper Castaways
- Historical element McFadden's Landing et al
- LC is in an MPA Water Element
- Overwhelming support for project since the process began

Historical Monument Sign on Dover Dr. (Southbound)

OLD LANDING

ON SEPTEMBER 10, 1870, CAPTAIN SAMUEL S. DUNNELLS AND WILLIAM A. ABBOTT OPENED NEWPORT BAY TO COM-MERCE WHEN THEY ENTERED IT FOR THE FIRST TIME ON THE STERNWHEEL STEAMER VAQUERO. THE LANDING WAS DESIGNATED "NEWPORT" A NEW PORT- BY JAMES IRVINE, BENJAMIN FLINT, JAMES MCFADDEN, AND ROBERT MCFADDEN. THE MCFADDENS OPERATED A REGULAR SHIPPING SER-VICE HERE DURING THE 1870s AND 1880s.

CALIFORNIA REGISTERED HISTORICAL LANDMARK NO. 198

ORIGINALLY REGISTERED JUNE 20, 1935, PLAQUE PLACED BY THE STATE DEPARTMENT OF PARKS AND RECREATION IN PERATION WITH THE NEWPORT BEACH HISTORI-CLETY AND CITY OF NEWPORT BEACH, APRIL 16, 1986

Outline – Lower Castaways



- Harbor Commission Objective
- Background (The Irvine Company Grant Deed)
- Historic Photos
- The Lower Castaways Parcel
 - Presented by City staff on 3/13/2013 at Harbor Commission Study Session (zoning, access, etc.)
 - MPA



- Anchor QEA study (bulkhead)
- Preliminary Renderings
- Timeline to date
- Challenges
- Next Steps
- Q&A

Harbor Commission Goals & Objectives

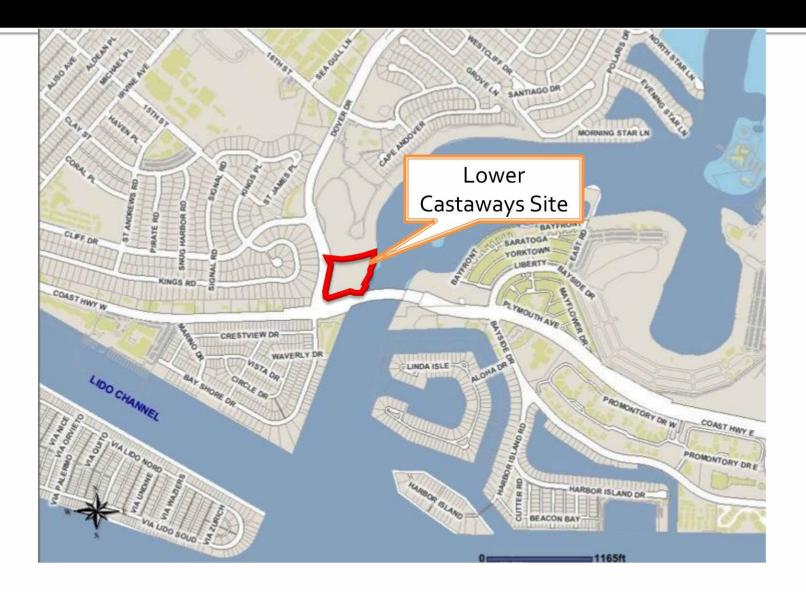


Harbor Commission Responsibility: Ensure the Long Term Welfare of Newport Harbor

Objective #2: Complete the development of recommendations for the best public use of Lower Castaways, the last remaining undeveloped city-owned waterfront property. Collaborate with the Parks, Beaches and Recreation Commission in developing specific recommendations for presentation to the City Council. [Girling, Avery, Rhyne]

Vicinity Map

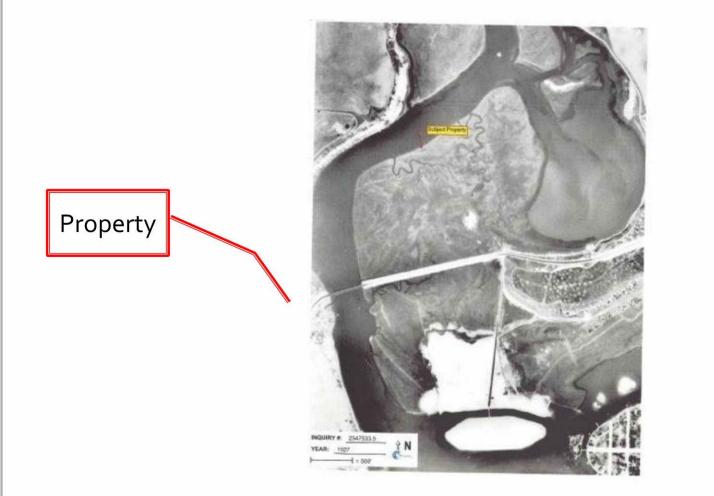




Background

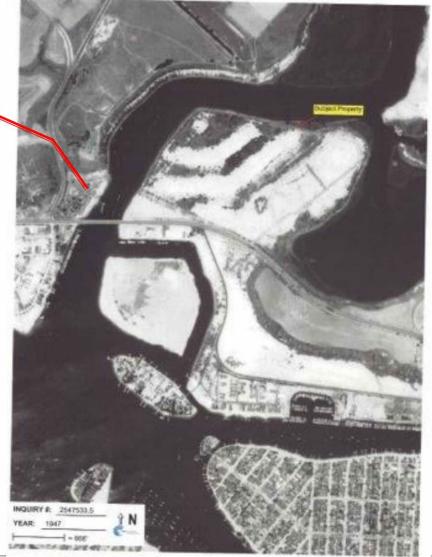


- In exchange for development rights in Newport Center, The Irvine Company (TIC) granted the property to the City
- Grant Deed recorded October 17, 2008
- Deed includes easements and restrictions on use
- Historical Photos

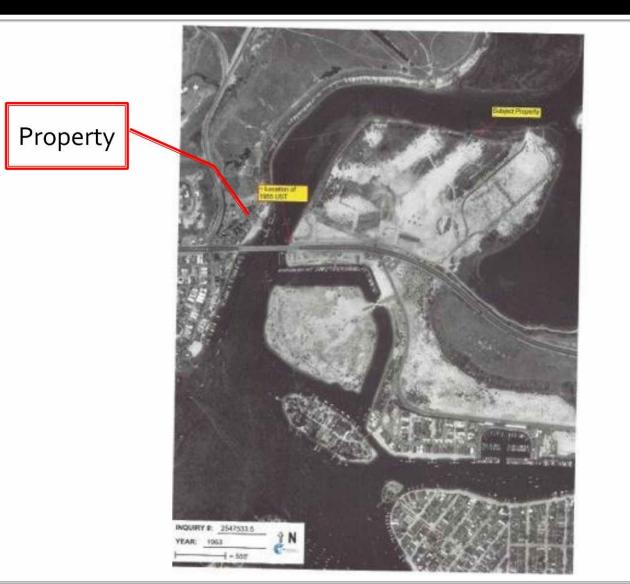






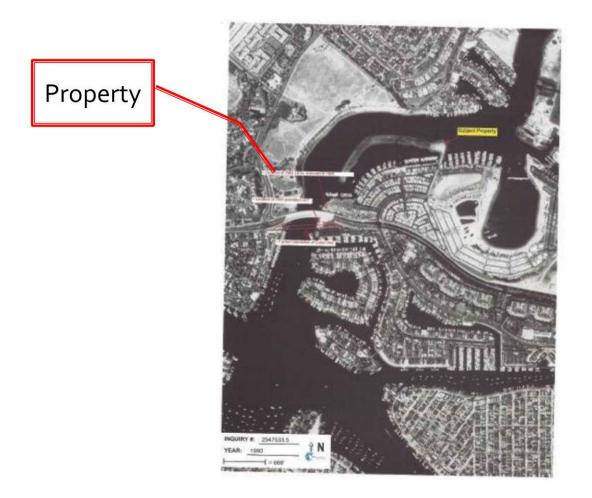


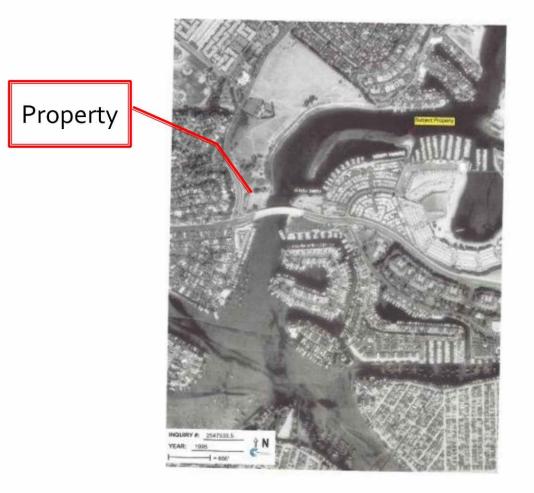
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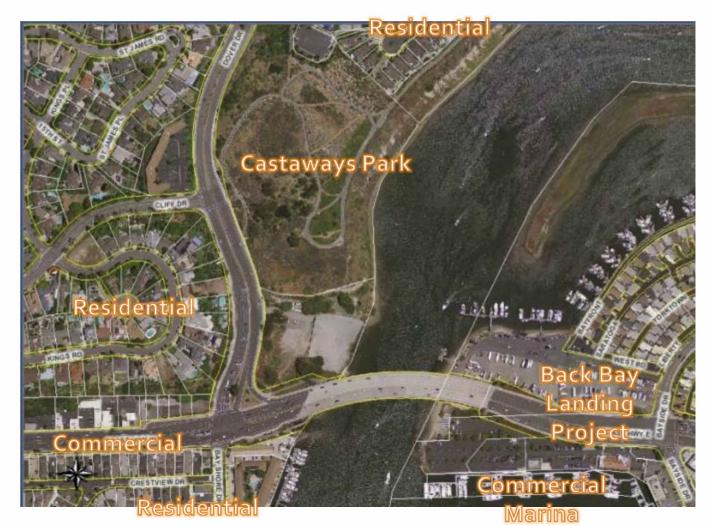






Surrounding Uses

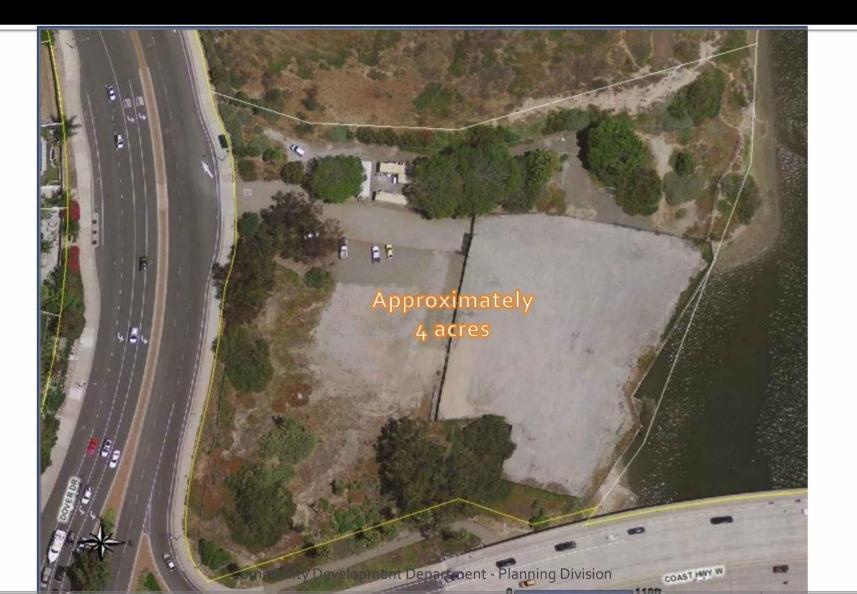




Community Development Department - Planning Division







Existing On-Site Uses



- Staging for dredging projects, Civic Center mockups, and other smaller area projects
- Off-site parking for construction related projects
 - Mariner's Pointe Lease Agreement expires July2014
 - Bayshores HOA Lease Agreement expires Nov 2014
- California Recreation (Cal Rec, TIC) Usage
 - Marina maintenance & operation activities
 - Easement expires upon 60 day written notice

Land Use Regulations



- General Plan
 - Recreational and Marine Commercial (CM)
- Coastal Land Use Plan
 - Recreational and Marine Commercial (CM-A)
- Deed Restrictions
 - Permits marine-related uses
 - Prohibits private commercial marina
- Zoning
 - Planned Community (inconsistent with deed)

General Plan: Recreational & Marine Commercial (CM)



- The CM designation is intended to provide for commercial development on or near the bay in a manner that will:
 - Encourage continued coastal-dependent and coastal-related uses
 - Maintain marine theme and character
 - Encourage mutually supportive businesses
 - Encourage visitor-serving and recreational uses
 - Encourage physical and visual access to the bay on waterfront commercial and industrial building sites on or near the bay
- 2,000 square-foot maximum development limit (Anomaly No. 54)
 - Increased development GP Amendment required
 - Charter Section 423 considerations

Coastal Land Use Plan: CM-A



- Same purpose as General Plan
- CM-A allows o.o to o.3 Floor Area Ratio
 - Equates to 52,717 SF maximum, but still limited by 2,000 SF General Plan development limit
- CLUP includes several policies that govern the use of the property, public access and recreation, and coastal resource protection.
- Future plan would need to be consistent with these policies
- Shoreline Height Limitation Zone= 35 feet max

Deed Restrictions: Covenants

1) Use of Property

- Municipal or municipally-sponsored use
- CM uses per General Plan
- Includes park, marine educational or research facility
- In Furtherance of Tideland Trust:
 - Marine/harbor dependent uses, fishing, water-oriented recreation, public access, conservation, etc.
- Prohibits transfer, sale, exchange to private, for-profit entity for operation of commercial marina



- 2) Review of Improvement Plans
 - Provides Grantor opportunity to review and comment on proposed improvements

3) Maintenance and Repairs

Maintain in safe and attractive condition

4) No Transfer of Property

 Exceptions such as utilities, other gov't entities, operation of permitted uses

Zoning: Planned Community



 Currently zoned Planned Community District No. 37 (Castaways Marina)

- Adopted in 1992 to allow the development of a commercial marina use
- One allowed use commercial marina
- Inconsistent with Deed Restriction (unless public)

Zoning Compliance Options:

- Amend PC Development Plan to allow proposed use
- Rezone to Commercial Recreation & Marine
- City Council may exempt City facilities from zoning

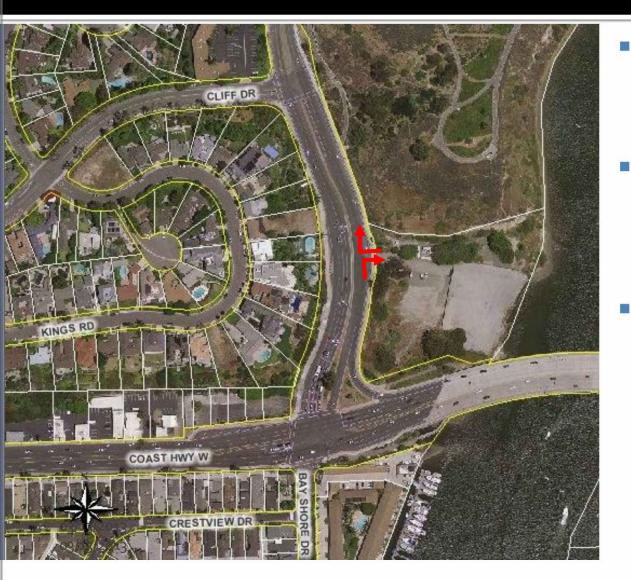
CEQA Considerations



- California Environmental Quality Act
- Exemptions, Mitigated Negative Declaration, or Environmental Impact Report
- Analyze and disclose potential impacts
 - Aesthetics, Bio, Air, Water, Land Use, Traffic, Utilities, Noise, Cultural, Public Services, Recreation, Housing
 - Avoid or mitigate impacts where feasible

Access Considerations





Existing Driveway

- Right turn in
- Right turn out

Future Driveway Location

 Current location or shift north

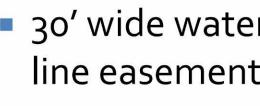
Considerations

- U-turn at Cliff Drive to access Coast Highway
- No U-turn permitted at SB Dover at Coast Hwy.
- Merge lane on Dover Dr. occurs in front of driveway

Easements

30' wide water line easement

Primary water line across bay







Marine Protected Area "MPA"

- Lower Castaways is in a Marine Protected Area ("MPA") called the Upper Newport Bay State Marine Conservation Area
- In applying for permit w/ the Coastal Commission, DFW would provide comment that LC development is in conflict w/ current law and CC would not approve

Marine Protected Area "MPA" (cont'd)

- Revolves around definition of "take" which is defined as damage to habitat or organisms killed.
- Take is allowed for existing facilities. DFW is working on a new policy/approach to include new structures / facilities (dock or pier).

Anchor QEA Report August 12, 2013

- Wall length: 300' w/ 6' wide concrete panels
- Wall is reaching or has reached the end of it usable service life
- No immediate danger of failure or collapse, but appears unstable and may be further weakened in an earthquake (some cracking), but structure is not reliable for site use & development
- City should monitor on an annual basis
- General order of magnitude cost for a simple sheet pile wall installed would range from \$500,000 to \$1,000,000

Ideas from Study Session et al

- "By water By land By bike"
- Restaurant on site (e.g., Castaways, Wil Wright's, etc.)
- Connecting Upper and Lower Castaways
- Commercial use boat launch given shortage in City (could be limited to smaller craft such as kayaks & canoes). Staging area for renovation/rebuilding boats
- Rental facility for boats, bikes & SUP
- Public dock or pier
- Education and restoration center could include growing & planting kelp & eel grass
- "Clean water camp" staging area for volunteers to bring trash from bay
- Marine recycling center / marine waste disposal facility (County might participate)
- Commercial crane w/ boat storage facility

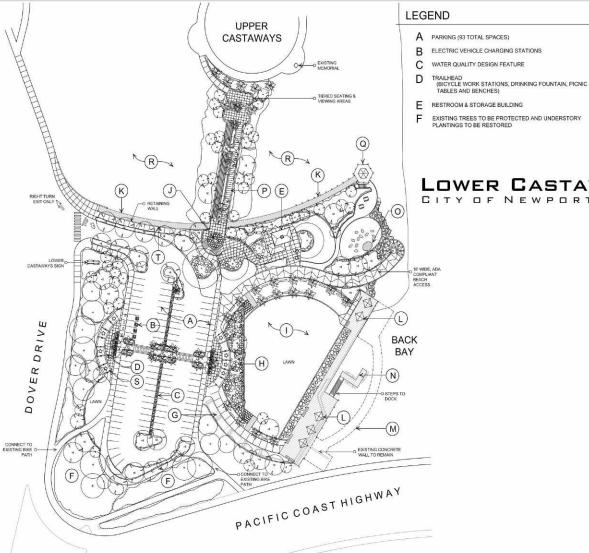
Ideas from Study Session et al (cont'd)

- Base for a water taxi operation
- Area for unloading lobster pots
- Community garden
- Regular parking, overflow parking or parking for special events in the City
- Multi-use site incorporating many of above-listed ideas
- Public restrooms
- Work with Bike Master Plan Committee
- Concessions (food trucks)

Preliminary Plan

- Currently zoned as commercial marina needs to be rezoned. City attorney confirmed that they believe the intent of the Grant Deed is to permit the City to provide municipal services and activities but to preclude the City from contracting with a commercial operator and operate a boat marina.
- Multi-use, recreational hub incorporating biking, hiking and boating activities along with 85-90 parking spaces, public restrooms and a stairway connecting to the Upper Castaways
- Built in phases (overall approval applied for at outset)
- Minimalist approach

Preliminary Renderings



G FLEXIBLE SPACE TO ACCOMMODATE COMMUNITY EVENTS (I.E. FARMERS MARKET, FOOD TRUCKS)

- н LARGE LANDSCAPE BOULDERS
 - CONTOURED OPEN LAWN
- "TIDAL TOWER" FEATURE
- BOARDWALK K
- L CANTILEVERED DECK w/ UMBRELLA & CAFE TABLES
- M POSSIBLE FUTURE "OVERWATER" PIER

LOWER CASTAWAYS PARK CITY OF NEWPORT BEACH

- LOW FREEBOARD DOCK N
- 0 OUTDOOR STAGE WITH GRASS & INFORMAL SEATING
- P GRAND STAIRCASE & FITNESS STEPS
- 0 VIEW DECK AND GAZEBO
- R HILLSIDE RESTORATION
- S CAFE TABLE & SHADE CANOPY
- McFADDEN LANDING HISTORY WALL

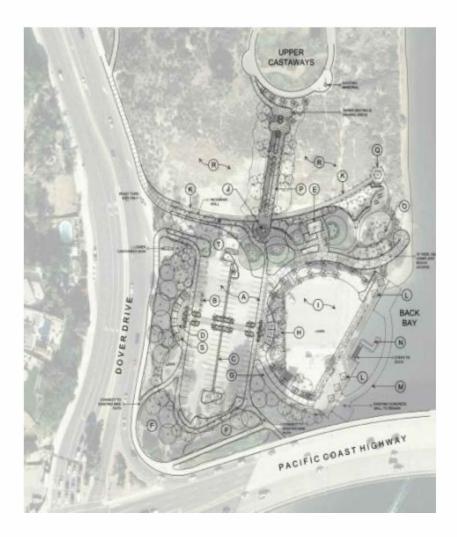
CONCEPT



Preliminary Renderings



Preliminary Renderings



Preliminary Renderings – L-Shaped Dock



Preliminary Renderings - Launch



CITY OF NEWPORT BEACH













Timeline



- 10/5/2012 First meeting (Karen Rhyne, Brad Avery)
- 2/14/2013 Contacted PBR Commission
 - 3/5/2013 Spoke at PBR Commission meeting
 - 3/13/2013 Harbor Commission Study Session, City presented
 - 6/28/2013 Met with City Manager & PBR commissioners
 - 8/6/2013 PB&R Commissioners appointed
- 9/6/2013 First meeting w/ PBR as official members
- 11/5/2013 Committee meeting received renderings
- 3/3/2014 Committee meeting received revised renderings
- 3/12/2014 Harbor Commission
- 4/1/2014 PB&R Commission
- 4/16/2014 Department of Fish & Wildlife
- 4/23/2014 Tidelands Management Committee
- 5/7/2014 Committee meeting
- 5/14/2014 Harbor Commission

Harbor Commission / Community Feedback March 12 & May 14, 2014

- Consider property as a revenue-producing asset.
- Consider property for commercial marine uses. Has this been fully vetted?
- TIC influence on final plan?
- MPA concerns with DFW. Ventura meeting on April 16.
- Ready to present to City Council for direction.

PB&R Commission / Community Feedback April 1, 2014

- The right mix of parking based on planned use is important to refine
- Adequate parking for bikes
- Move historical monument to park from across the street
- Low level light to avoid spillover to Kings Road homes
- Small craft access is desirable

PB&R Commission / Community Feedback April 1, 2014 (cont'd)

- Programmable waterfront flat lawn
- Metered parking
- Remove the grand stair case since there is a pre-existing connection along Dover
- Fire rings

TMC / Community Feedback April 23, 2014

- Public comments
- Water Currents
- Access (in & out)

DFW Commission Feedback / Direction April 16, 2014

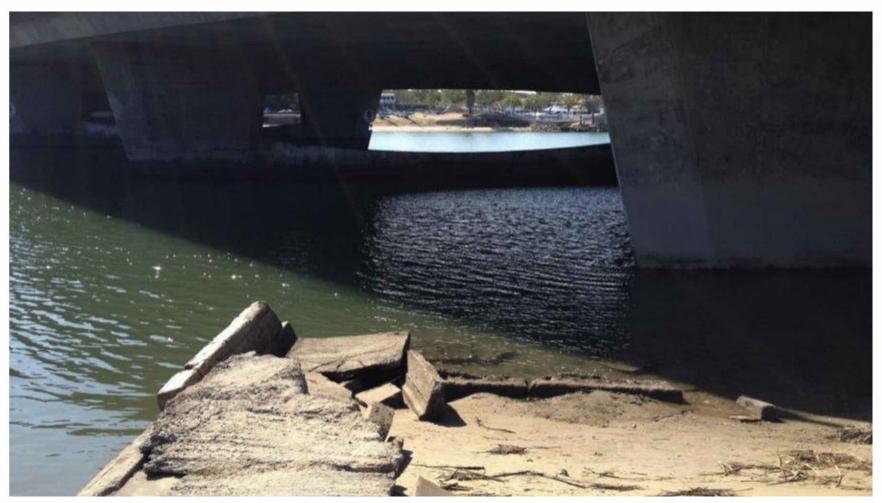
- DFW Commission meeting 4/16/2014 in Ventura w/ Dave Girling and Chris Miller
 - Met the members of the DFW Commission, supporting staff and presented (2) 3-minute public comments
- Commissioner Rogers grew up in Newport and spearheaded the development of the MPA boundaries.
- Laid the groundwork for follow-up discussions.

LC Subcommittee Meeting May 7, 2014

- Parking seems too prevalent look at options to have less parking
- Metered vs. free parking
- Moving seawall inland as workaround to MPA boundary

DFW Commission Follow-up May 19, 2014

- Call with Steve Wertz & Becky Ota of DFW
- Existing vs. new structures
- Explored options: Exception to current Policy for MPA restrictions, alternative location under bridge (see photo)
- Need to justify reason for exception to DFW
 Commission may be better than alternative use.
- Eelgrass may be an issue









Challenges



- DFW / MPA boundaries
- Coastal Commission
- Bulkhead / Seawall
- Water currents
- Traffic patterns / limitations
- Utilities
- Bayside Village Marina monitor
- Cost

Next Steps

- Direction from City Council
- Continued dialogue w/ DFW re: dock
- Formal Budget: Development and operational costs
- Studies: Currents, traffic patterns/access, parking, bulkhead, dock under bridge
- Funding



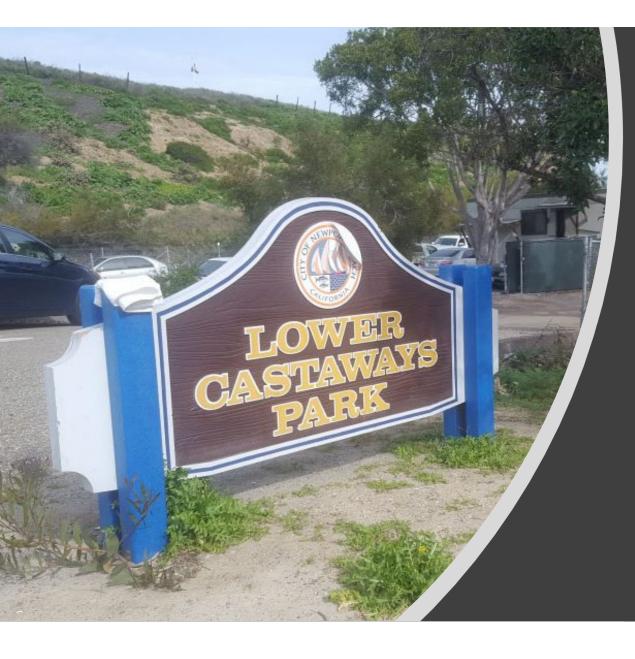
Questions and Answers



For more information contact:

Chris Miller 949-644-3043 <u>cmiller@newportbeachca.gov</u> www.newportbeachca.gov

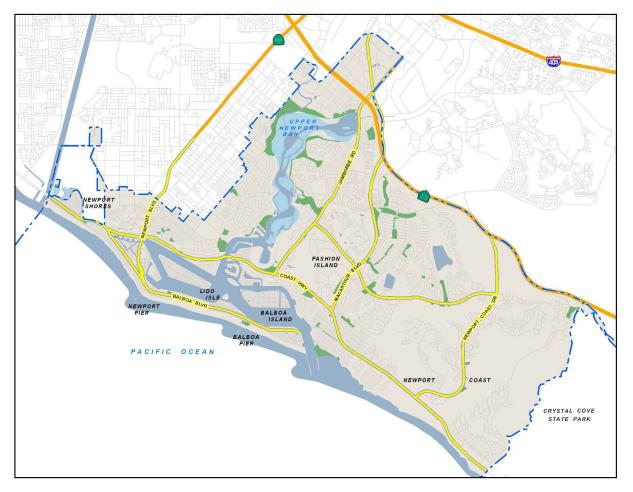
Additional Material Received Item No. 7.2 Lower Castaways Commissioner Presentation October 11, 2023 Harbor Commission Meeting



Lower Castaways Summary 2023

Newport Beach Harbor Commission

Location



Location



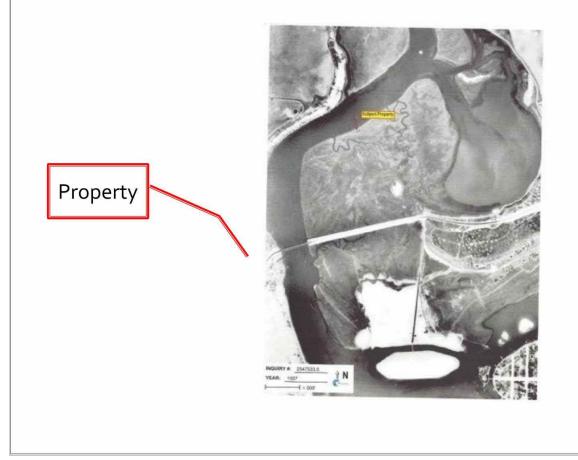
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Aerial View



Surrounding Uses

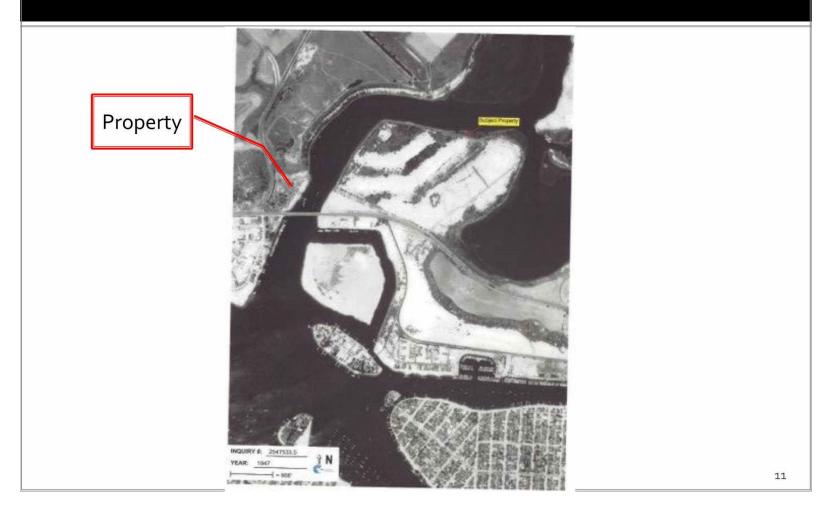


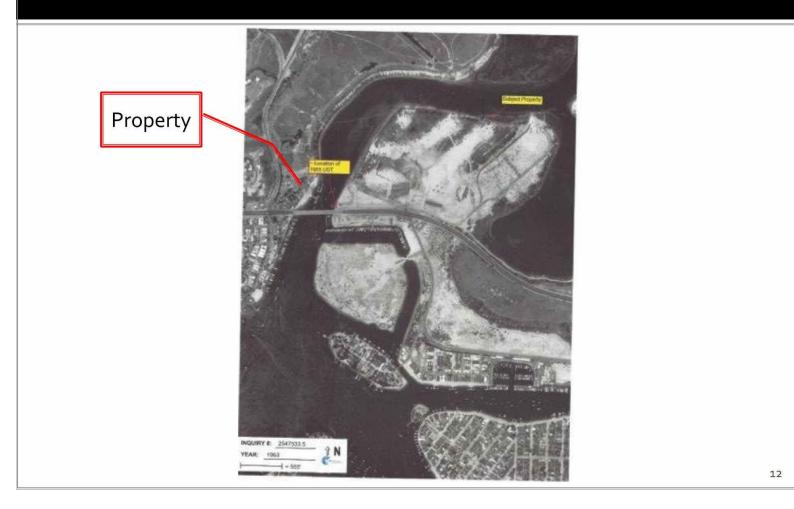


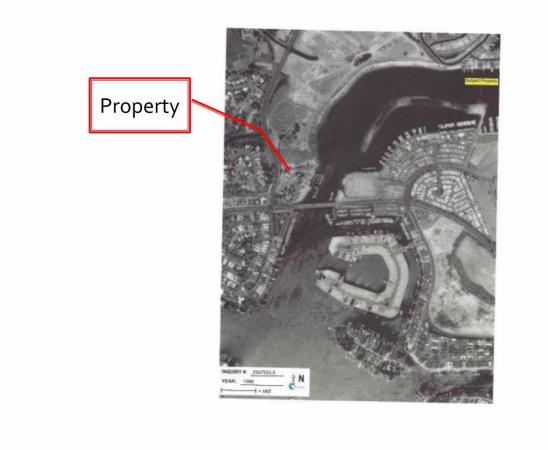


Newport Beach

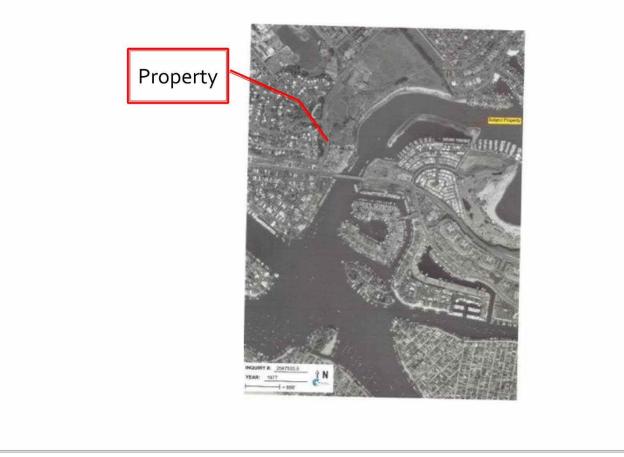


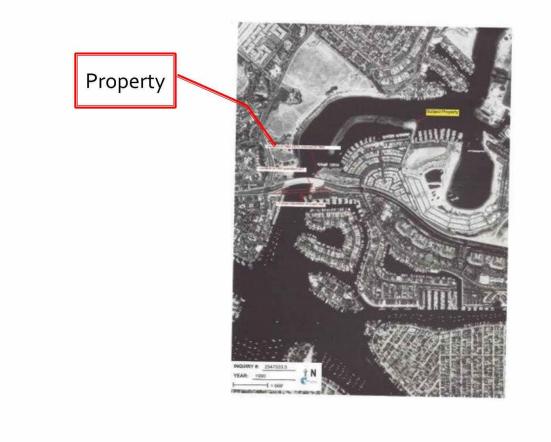




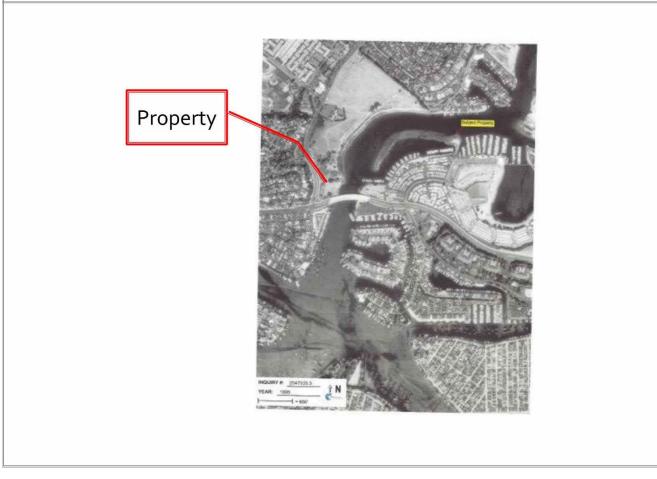




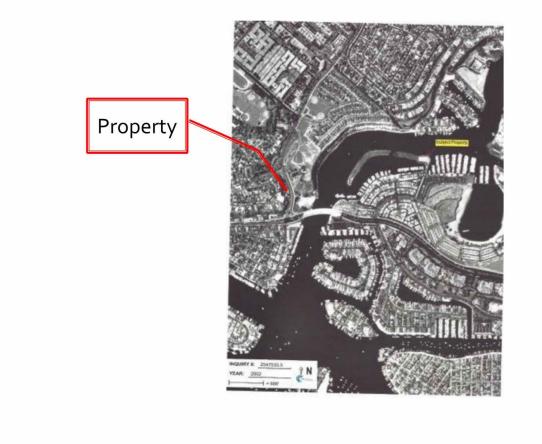




Historical Photos - 1995



Historical Photos - 2002



Water Side Views



Background

- Approximately 4-acre site
- Historical Site plaque on Dover Drive "The Old Landing"
 - Memorializes when the harbor opened in 1870
- Dedicated to City by Irvine Company in October 2008 in exchange for development rights (no transfer allowed except to utilities and other govt entities in operation of permitted uses)
 - 2000 SF maximum development (greater would require GP Amendment)
- Current Uses
 - Outrigger Club storage and launching
 - California Recreation Company (division of TIC) marina maintenance & operation activities (expires upon 60-day notice)
 - Personal Human-Powered vessel launch site
 - Previous parking for construction and Bayshores HOA lease (expired)

Historical Monument Sign



Background (cont.)

- Current Zoning is Recreational and Marine Commercial (CM)
 - Encourage continued coastal-dependent use
 - Marine theme and character
 - Mutually supportive business
 - Visitor-serving
 - Recreational uses
 - Physical and visual access to bay
- Coastal Land Use Plan (CLUP) Recreational and Marine Commercial (CM-A)
 - Shoreline height limitation (35')
 - 52,717 sf maximum (0.0 to 0.3 FAR) but limited to 2,000 sf GP
 - Policies governing use of property, public access and recreation, and coastal resource protection future use must be consistent with policies

Background (cont.)

Deed Restrictions

- Commercial marina prohibited
 - Prohibits transfer, sale, exchange to private, for-profit entity for operation of commercial marina
- Marine-related uses allowed (fishing, water-oriented recreation, public access, conservation, etc.)

 In furtherance of Tideland Trust
- Municipal or municipal sponsored use per GP is park, marine educational or research facility
- Maintain in safe and attractive condition
- Grantor has opportunity to review and comment on proposed improvements
- Marine Protected Area "MPA" Upper Newport Bay State Marine Conservation Area
 - F&W would comment development to be in conflict with current law
 - CCC would not approve water component development along bulkhead



Background (cont.) – Marine Protected Area

Background (cont.) – Marine Protected Area

Permitted/Prohibited Uses:

- It is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for recreational and/or commercial purposes, with the following specified exceptions:
 - Recreational finfish take by hook-and-line from shore only
 - Take pursuant to maintenance dredging, habitat restoration, research and education programs, maintenance of artificial structures, and operation and maintenance of existing facilities inside the conservation area is allowed pursuant to any required federal, state and local permits, or activities pursuant to Section 630, or as otherwise authorized by the Department.
 - Note "Take" definition involves damage to habitat or organisms killed
- In waters below the mean high tide line inside the Upper Newport Bay Ecological Reserve, northeastward of a line connecting Shellmaker Island (33° 37.200' N. lat. 117° 53.510' W. long.) and North Star Beach (33° 37.380' N. lat. 117° 53.600' W. long.) the following restrictions apply:
 - Swimming only between North Star Beach and mid-channel
 - Boat speeds less than 5 mph
 - Shoreline access limited to established trails, paths, or other designated areas

Background (cont.)

- Currently Zoned Planned Community District No. 37 (Castaways Marina)
 - Adopted 1992 to allow the development of a commercial marina
 - One allowed use commercial marina
 - Inconsistent with Deed Restriction
- Zoning Compliance Options
 - Amend Planned Community Dev Plan to allow proposed use
 - Rezone to Commercial Recreation and Marine
 - City Council may exempt City facilities from zoning
- Other
 - Right-in, Right-out access
 - 30' wide water line easement (primary water line across the bay)

Easements



- 30' wide water line easement
- Primary water line across bay

Access Considerations



Existing Driveway

- Right turn in
- Right turn out

<u>Future Driveway</u> <u>Location</u>

 Current location or shift north

Considerations

- U-turn at Cliff Drive to access Coast Highway
- No U-turn permitted at SB Dover at Coast Hwy.
- Merge lane on Dover Dr. occurs in front of driveway

CEQA Considerations

- Development will result in need for environmental clearance
 - Categorical exemption
 - Mitigated negative declaration, or
 - Environmental impact report
- Potential impacts to study
 - Air, Noise, Aesthetics, Biology, Land Use, Traffic, Utilities, Cultural, GHG, Public Services, Recreation, Housing, etc.

Previous Study

- Harbor Commission Objective in 2012 Complete the Development of Recommendations for the Best Public Use of Lower Castaways
 - Collaborate with PB&R
 - 3 Harbor Commissioners, 2 PB&R Commissioners
- Bulkhead Anchor QEA Report
 - Wall length is 300' long w/ 6' wide concrete panels
 - Wall is reaching end of usable service life
 - Structure is not reliable for site use and development

Bulkhead Photos





Bulkhead Photos



Previous Study (cont.)

Ideas from 3/13/2013 Study Session et al

- "By water, by land, by bike"
- Restaurant on site (e.g., Castaways, Wil Wright's, etc.)
- Connecting Upper and Lower Castaways
- Commercial use boat launch given shortage in City (could be limited to smaller craft such as kayaks & canoes)Staging area for renovation/rebuilding boats
- Rental facility for boats, bikes & SUP
- Public dock or pier
- Education and restoration center could include growing & planting kelp & eel grass
- "Clean water camp" staging area for volunteers to bring trash from bay
- Marine recycling center / marine waste disposal facility (County might participate)
- Commercial crane w/ boat storage facility
- Base for a water taxi operation
- Area for unloading lobster pots
- Community garden
- Regular parking, overflow parking or parking for special events in the City
- Multi-use site incorporating many of above-listed ideas
- Public restrooms
- Work with Bike Master Plan Committee
- Concessions (food trucks)

Previous Study



STREET EDGE & PARKING

- A PARKING (93 TOTAL SPACES)
- B ELECTRIC VEHICLE CHARGING STATIONS
- C WATER QUALITY DESIGN FEATURE
- D BICYCLE WORK STATIONS, DRINKING FOUNTAIN, PICNIC
- TABLES AND BENCHES E McFADDEN LANDING HISTORY WALL
- F PARK ENTRY SIGN
- G EXISTING TREES TO BE PROTECTED AND UNDERSTORY PLANTINGS TO BE RESTORED

BIKE PATH CONNECTION TO EXISTING TRAIL



WATERFRONT & EVENT LAWN

- H RESTROOM & STORAGE BUILDING
- SHORELINE ACCESS WALKWAY ADA COMPLIANT
- J WATERFRONT LAWN
- K CANTILEVERED DECK WITH UMBRELLAS, TABLES & SEATING
- L GANGWAY TO LAUNCHING DOCK (LOW FREEBOARD LAUNCH)
- M SAND KAYAK LAUNCHING & RETRIEVING AREA
- N OUTDOOR STAGE WITH INFORMAL SEATING
- O POSSIBLE FUTURE "OVERWATER" PIER
- P FLEXIBLE SPACE TO ACCOMMODATE COMMUNITY EVENTS (I.E. FARMERS MARKET, FOOD TRUCKS)
- Q LARGE LANDSCAPE BOULDERS



GRAND STAIRCASE & HILLSIDE

- R ELEVATED BOARDWALK & RETAINING WALL
- S BACK BAY TOWER FEATURE
- T GRAND STAIRCASE
- U WORKOUT STEPS
- V TERRACE
- W RESTORE VEGETATION ON HILLSIDE
- X VIEW DECK & GAZEBO











A B C D	PARKING (K0 TO 90 SPACES) ELECTRIC VEHICLE CHARGING STATIONS WATER QUALITY DESIGN FEATURE TRAULIEAD FOR BICYCLISTS (INCLUCE BICYCLISTS)	G H J	PLEXIBLE SPACE TO ACCOMMODATE COMMUNITY EVENTS (I.E. FARMERIS MRAVET, FOOD TRUCKS) "THE JETTY' LANDSCAPE FEATURE COENTLE'SLOPING OPEN LAWN "TDAL, TOWER FEATURE	NOPQ	BOAT DOCK TO ACCOMMODATE SMALL BOATS OUTDOOR AMPHITHEATER (IXO SEATS) GRAND STARWAY & FITNESS STEPS VIEWING DECK HILLIDER - RESTORE VEGETATION
E F	PICNIC TABLES AND BENCHES) RESTROOM & STORAGE BUILDING PROTECT EXISTING TREES AND RESTORE UNDERSTORY LANDSCHFE	K L M	BOARDWALK CANTILEVERED DECK W UMBRELLA & CAFE TABLES LOWER CASTAWAYS PIER	S	HILLSIDE - HESTORE VEGETATION SHADE CANOPY



Summary of Previous HC/PB&R Work

- Multi-use recreational biking, hiking, and boating activities with 85-90 parking spaces, public restrooms, stairway connecting to Upper Castaways
- Build in Phases
- Minimalist Approach
- Challenges CCC, MPA, bulkhead, water currents, traffic patterns/limitations, utilities (OCSD sewer and City water), storm drain, sensitive habitat, site access, monitor Bayside Village Marina, cost
- Hope for F&W to revisit the MPA designation and adjust boundary for Upper Bay MPA (process was underway?)

Community Feedback (3/14, 4/14 & 5/14)

- Consider property as revenue- producing asset
- Consider property for commercial marine uses. Has this been fully vetted?
- TIC influence on final plan?
- MPA concerns with F&W
- Right mix of parking based on planned use is important to refine
- Adequate parking for bikes
- Move historical monument to park from across the street
- Low level light to avoid spillover to Kings Road Homes
- Small craft access is desirable
- Programmable waterfront flat lawn
- Metered parking
- Remove grand staircase since there is connection along Dover
- Fire rings

Subsequent Ideas

- Evelyn Hart Swimming Pool 2020
 - 3 Harbor Commissioners, 3 Parks Beaches & Recreation Commissioners
 - Include review of pool at LC and other potential locations
 - Napkin sketch only
 - Size TBD included office and restroom structure
- Commissioner Svercek

Previous Work

- Coordination with Outrigger club
 - Cleanup of rocks
 - Import of sand
 - Trimming of trees, bushes
 - Improving human powered craft launch area

City Council Request

Engage and Obtain multiple City Council Members to support an effort by the Harbor Commission to prioritize a long-term plan to develop Lower Castaways. 2

Support a request from the Harbor Commission to allocate funds for an outside consultant to create plans, drawings and the path for a suitable use for Lower Castaways. 3

Collaborate with other City Council members to support funding and directing staff to implement an approved plan.



NEWPORT BEACH Harbor Commission Staff Report

October 11, 2023 Agenda Item No. <u>7.3</u>

TO:	HARBOR COMMISSION
FROM:	Paul Blank, Harbormaster, (949) 270-8158 pblank@newportbeachca.gov
TITLE:	Review and Approve Recommended Harbor Commission Objectives for 2024

ABSTRACT:

The Harbor Commission periodically conducts a review and updates its Objectives. This year they decided to continue working on the 2022 Objectives instead of creating new ones for 2023, as there was still much work to be done and it would allow the new City Council Members to settle in and learn about the Harbor Commission. At a previous Harbor Commission meeting, the Commission formed an ad hoc subcommittee to recommend 2024 Objectives. That subcommittee sought guidance and feedback from the Commission at the September 2023 meeting. The subcommittee has prepared a list of proposed Objectives for 2024 and seeks the full Commission's approval of their recommendations. If approved, the recommended 2024 Objectives will be forwarded to the City Council for review and consideration.

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) Approve recommended 2024 Harbor Commission Objectives and forward them to the City Council for review.

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. The Harbor Commission previously discussed its plan to develop 2024 Objectives for each functional area. At a Harbor Commission meeting earlier this year, the Commissioners formed an ad hoc subcommittee to finalize a list of recommended objectives for 2024. The subcommittee now

seeks review and approval of those recommended objectives. The Commission will also direct staff to forward the proposed, agreed-upon Objectives to the City Council for review and adoption.

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 – Proposed Commission 2024 Goals and Assignments

Newport 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 harborrelated 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.

2024 Newport Beach Harbor Commission Goals and Assignments

- 1. Conduct annual review of Title 17 and recommend updates to City Council where necessary (Commissioner Yahn).
- Collaborate with the Water Quality/Coastal Tidelands Committee to partner on areas within the Harbor that both Commission/Committees intersect (Commissioners: Svrcek, Scully)
- 3. Successful implementation of the mooring reconfiguration initiative, including design, testing, permitting, execution, and monitoring (Commissioner: Beer).
- 4. Collaborate with Parks, Beaches, and Recreation Commission and Staff to evaluate the best use for Lower Castaway and make a recommendation to City Council (Commissioners: Marston, Svrcek).
- 5. Work with staff to identify opportunities to add additional Harbor Services (Restrooms, additional pump out stations, dock space, Shore Boat Service, Boat Launch Ramp, and development of the mobile app) (Commissioners: Marston, Yahn)
- 6. Continue with the participation of businesses, nonprofits, and the Harbor Department with a Newport Harbor Safety Committee to promote best practices and address safety issues on the water (Commissioner: Scully).
- 7. Review Harbor Department responsibilities, evaluate the Department's readiness and effectiveness to deliver Harbor services as necessary for normal operations and during emergencies and make recommendations as determined necessary (Commissioner: Scully, Williams).
- 8. Work with City Staff on an update of the market Rent to be charged for onshore and offshore moorings (Commissioner: Cunningham, Beer).
- 9. Evaluate establishing day moorings off Big Corona Beach (Commissioner: Williams).
- 10. Support staff in all efforts related to the dredge completion of the Federal Navigation channels in addition to the upcoming agency renewals of Regional General Permit (RGP54) shallow water dredging permit. (Commissioners: Cunningham, Svrcek)



CITY OF INEWPORT BEACH Harbor Commission Staff Report

October 11, 2023 Agenda Item No. <u>7.4</u>

то:	HARBOR COMMISSION
FROM:	Paul Blank, Harbormaster, (949) 270-8158 pblank@newportbeachca.gov
TITLE:	Report on Progress of Converting Mooring Permits to New City Form and Action on Those Still Outstanding

ABSTRACT:

The City took over management of nearly 1,200 moorings in Newport Harbor on July 1, 2017. Records associated with the mooring permits were transferred from the Orange County Sheriff's Department Harbor Patrol to the City at that time. Subsequently, the mooring permit form was updated and all permittees were asked to sign the new City issued form. There are 991 individual mooring permits not held by the Balboa Yacht Club, Lido Isle Community Association or the Newport Harbor Yacht Club. The process of converting those 991 individual permits to the new City form has been slower than anticipated.

This report will update the Harbor Commission on the process and progress for converting the 9 permits that remain unexecuted on the new City permit form. The Commission is asked to affirmatively recommend that staff proceed with revocations of those that remain outstanding or recommend other appropriate action.

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) Direct staff to proceed with Notice of Violations and revocations of the mooring permits that have not yet been executed on the new City permit form.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

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. Approximately 800 of those are offshore moorings in ten mooring fields. The other approximately 400 moorings are

onshore moorings attached to upland structures on the Balboa Peninsula, around Balboa Island, around Lido Isle or in the Balboa Coves section of Newport Harbor.

It 2019 it was felt a new City mooring permit should be developed and rolled out to all permittees. The new City permit form would bring consistency and clarity about the rules and regulations associated with the use of moorings in Newport Harbor. The new City permit format was developed over the course of more than a year with significant input from the City Attorney and leadership of the Newport Mooring Association (NMA).

Numerous attempts using a variety of methods for contact were made requesting all permittees update and execute their permits on the new City form beginning in January of 2021.

In February 2023, all permittees that had not yet executed the new City mooring permit form received a Notice of Violation (NOV). There was a significant positive response to that level of notification as evidenced by the spike in executions processed in February and March.

At the August 2023 Harbor Commission meeting, staff reported on the efforts to contact and convert the nine mooring permits that had not yet been executed on the new City permit form. The Commission directed staff to expend further effort and devise other methods for contacting those permittees. Staff searched for new contact information for the permittees including a review of mooring service records, vessel registration, and vessel insurance records where available. The results were minimally successful.

Here is the updated status of the nine outstanding permits reported in August:

- A-143 New City permit executed on September 7, 2023
- BYC-142 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- H-089 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- J-093 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- J-101 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- N-28 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- N-37 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit

- N-50 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit
- S-155 Letter sent September 5 indicating NOV will be issued shortly after October 1, 2023 followed by the initiation of the revocation process in the absence of an executed new City permit

With an affirmative recommendation from the Harbor Commission to do so, staff will proceed with issuing additional NOVs and initiating the revocations of the eight moorings with no executed new City permit. The Harbor Commission may wish to consider other actions or direction to staff.

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 – J-101 Notice of Outstanding Permit Requirement_Redacted



CITY OF NEWPORT BEACH Harbor Department 1600 W. Balboa Blvd. Newport Beach, California 92663 949-270-8159 Newportharbor.org

September 5, 2023

Mooring J-101

As I'm sure you are aware, the City, in 2017, established the Harbor Department to assist Newport Harbor's community of boaters. Managing the City's on-shore and off-shore mooring permits is one of the Department's core responsibilities.

We have made several attempts to contact you regarding the status of your mooring permit. The Newport Beach City Council approved revisions to Title 17 ("the Harbor Code") and other municipal code sections that are relevant to harbor use, and all permitees are required to review and sign an updated mooring permit, which reflects the recent changes to the Harbor Code.

Unfortunately, we have not received your signed new mooring permit. Attached you will find a mooring permit that needs to be completely fill out, signed on the last page and returned to the Harbor Department. Your signature indicates that you have read, understand and agree to the terms and conditions of your mooring permit which includes a list of specific rules and expectations associated with the mooring's use.

We respectfully ask that you sign and return the enclosed mooring permit no later than October 1, 2023. A formal Notice of Violation will be issued shortly thereafter followed by the initiation of the mooring permit revocation process if you do not return the permit.

Thank you for your understanding. Please reach out to me with any questions or concerns.

Sincerely,

Madison Vitarelli

Madison Vitarelli Permit Technician City of Newport Beach Harbor Department 949.718.3429 <u>mvitarelli@newportbeachca.gov</u>

Additional Material Received Item No. 7.4 Conversion to New Mooring Permits_Staff Presentation October 11, 2023 Harbor Commission Meeting

CONVERSION OF MOORING PERMITS TO NEW CITY FORMAT

Presentation to Harbor Commission October 11, 2023 Paul Blank Harbormaster



PERMIT FORMATS INHERITED IN 2017

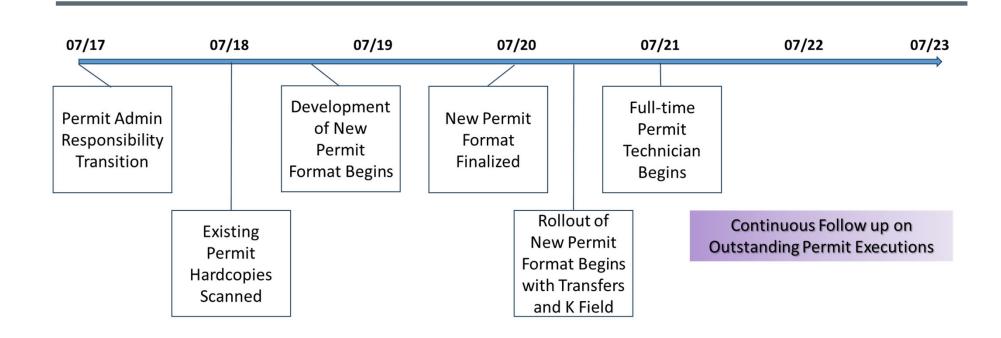
ermit for mooring S-005 written on May 4, 1987, from the Or	ange County Harbor District P	Permit for mooring N-028 written on September 2, 1999 from the Orange County Harbor Patrol
MOORING NO. 5-5	PERMIT Nº 3234	MOORING NO. N - 28 PERMIT TO INSTALL MOORINGS ORANGE COUNTY HARBOR PATROL, NEWPORT BEACH, CALIFORNIA T September 2 199
	rmit for mooring S-141 written on August 1, 1951, from the Newport Harbor MOOBING NO. 13555-1411, PERMIT Nº PERMIT TO INSTALL MOORINGS NEWPORT HARBOR, CALIFORNIA Temporary permission (revocable on five, days' notice) is hereby granted the undersigned, to moorings for boat No. 135, Name approval of the Harbor Master and complying with all the regulations se No. 543 and amendments thereto. It is agreed that the City of Newport Beach shall not be held responsil way for damage incurred by boats through failure of moorings to hold, or Permit Fee RECIEIVED CALLE MOODINGS MILEST DE INFORMET DV HADDOD DEDT DEFORD	Mooring Permit is hereby granted to L 197. Name 197. Noorings installed 197. Noorings installed 197. Norings
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CURRENT CITY PERMIT FORMAT

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USCG docur	Tesshall provide and maintaina suzment for the term of the Mooring Permit, evidence of valid DMV registration, tates shall provide and maintaina suzment for the term of the Mooring Permit, evidence of valid DMV registration, tation, or other provide and of controlling possessory right in the assigned vessel, all to the satisfaction of the NBMC Section 17.60.040(B)(2)(g) Page 2 of 4	OFF-SHORE	Page 4 of 4

NEWPORT BEACH

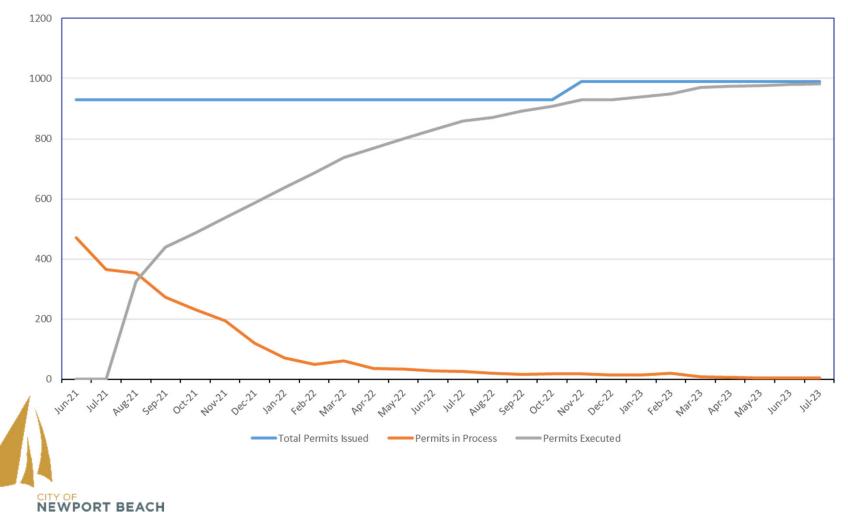
TIMELINE FOR NEW PERMIT ROLLOUT





PROGRESS ON NEW PERMIT ROLLOUT

Permit Conversion Over Time



PERMITS STILL OUTSTANDING

	Original	
Mooring	Issue Date	Length
BYC-142	Unknown	40
H-089	10/03/2013	40
J-093	09/15/2017	50
J-101	10/14/2011	50
N-028	09/02/1999	18
N-037	03/07/1972	18
N-050	07/29/2000	18
S-155	11/28/1989	18



AUTHORITY TO REQUIRE NEW PERMIT

17.60.040 (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 a license for the temporary use of a specific location within Newport Harbor.



AUTHORITY TO REVOKE

17.70.020 (A)(1) - General Grounds for Revocation. Except as provided in subsections (A)(2) through (4) of this section, in addition to any specific grounds for revocation of a permit provided for herein, any permit heretofore or hereafter granted for any structure, work, use or activity under and pursuant to this title may be revoked upon any of the following grounds:

j. **There has been a violation of any provision of this title**, State or Federal law.



RECOMMENDED ACTION

Direct staff to proceed with Notices of Violation immediately and revocations within the next 30 days

OR

Direct staff to take other action as deemed appropriate



Discussion

Presentation to Harbor Commission







October 11, 2023 Agenda Item No. 7.5

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:

- 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 three 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:

- Balboa Ferry Ad Hoc Commissioners Scully, Svrcek and Yahn (05-10-2023)
- 2024 Objectives Ad Hoc Commissioners Scully, Svrcek and Marston (07-12-2023)
- General Plan Vision Statement Ad Hoc Commissioners Scully and Marston (08-09-2023)

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).



October 11, 2023 Agenda Item No. <u>7.6</u>

то:	HARBOR COMMISSION
FROM:	Paul Blank, Harbormaster, 949-270-8158 pblank@newportbeachca.gov
TITLE:	Harbor Commission Current Objectives Update

ABSTRACT:

At the February 8, 2023, Harbor Commission meeting the decision was made by the Commission to continue the 2022 Objectives instead of creating new ones for 2023. The Commission felt there was still much work to be done on the current Objectives and it would allow the new City Council Members to get settled and learn about the Harbor Commission. Each ad hoc committee studying their respective Functional Area within the Commission's current Objectives, will provide a progress update.

RECOMMENDATION:

- 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 Current Objectives

Attachment B – Harbor Commission Current 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 longterm 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 Current Objectives

Current Objectives	Functional Area
1. Conduct an annual review of Title 17 and recommend updates to the City Council where necessary. (Yahn)	1. Harbor Operations (Yahn)
2. Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	Matters pertaining to the Management, Policies, Codes, Regulations, and
3. Work with City Staff to bring all onshore and offshore Mooring Permittees permit forms current and properly on file. (Beer, Cunningham)	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.	
1. 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)	<i>Matters pertaining to Assets, Amenities, and Access.</i>
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)	

Current Objectives	Functional Area
 Support staff on the rehabilitation of the current public floats and gangways including areas of the harbor that could benefit with additional public access. 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. 	3. Harbor Infrastructure (Cunningham) <i>Matters pertaining to Sea Walls, Sea</i> <i>Level Rise, Dredging, Docks, and</i> <i>Beaches.</i>
 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) 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

				1.4 Evaluate current Harbor Department	
	updates to the City Council where necessary. (Yahn)	and recommend updates thereto as necessary.	Permitees permit forms current and properly on file. (Beer, Cunningham)	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.	
		This item will be revisted later in the year.	Staff has collected issues with respect to the Mooring Permit forms and	This Objective will be incorporated into Objective	
February 9, 2022	at tonight's meeting and received approval to move them forward for Council approval.		those will be reviewed.	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.	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.	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	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to report.	
December 14, 2022		Meeting Can	celed		
January 11, 2023		Nothing to re	eport.		
February 8, 2023	The Ad Hoc has received a list of potential updates for review.	Nothing to report.	Great progress has been made and this objective is near completion.	Nothing to report.	
March 8, 2023	Work in this area was submitted to Vice Chair Beer related to Title 17 in regard to the moorings.	Nothing to report.	Nothing to report.	Nothing to report.	
April 12, 2023		Nothing to re	eport.		
May 10, 2023		Nothing to re	eport.		
June 14, 2023	Secretary Yahn noted that there are no recommended updates to Title 17 at this time. Harbormaster Blank noted that a handful of revisions had been sent.	Nothing to report.	To-do list for permits is almost complete; Commissioner Cunningham inquired about the process for updating permits. A request to for a staff presentation outlining all that has been done to update the permits was made.	Nothing to report.	
July 12, 2023	Received input regarding updates; will proceed further with Harbormaster regarding updates to Title 17 and then potentially having an ad hoc committee or the Harbor Commission review them.	Discussion on potential updates for MAPs and possible creation of ad hoc committee to assist with updates.	Nothing to report.	Nothing to report.	
August 9, 2023	The ad hoc has met with the Deputy Harbormaster and is working on finalizing items to present to the full commission at an upcoming meeting.	Nothing to report.	Nothing to report.	Nothing to report.	
September 13, 2023		Nothing to re	eport.		
September 13, 2023		Nothing to re	eport.		

2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	permit policy for onshore and offshore moorings. (Beer, Cunningham)	charged for onshore and offshore moorings. (Beer, Cunningham)	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)	specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Cunningham, Scully)	n Moorings ar n (MVMS) for . or long-term
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.	Nothing to report.	The ad hoc will explore areas around the Harbor with the new beam specification and length.	The ad hoc s for MVMS fo as well as qua
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 rep
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.	5	Nothing to report.	Nothing to rep
April 13, 2022	Chair Kenney appointed Commissioner Williams to assist with this objective.	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.	Nothing to report.	Nothing to rep
May 11, 2022	The Ad Hoc will be meeting soon to discuss next steps.	The Ad Hoc is discussing timing and the need for additonal meetings.	The third audit has been received. Further feedback will be requested of the Commission at next month's meeting.	Nothing to report.	Nothing to rep
June 8, 2022	The Ad Hoc is in the early stages of evaluating the mooring transfer policy.	Nothing to report.	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 rep
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 rep
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 rep
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 re
October 12, 2022	Nothing to report.	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 rep
November 9, 2022	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to report.	Nothing to re
December 14, 2022			Meeting Canceled		
January 11, 2023	Nothing to report.	Nothing to report.	Stakeholder meetings have taken place with various groups and constructive feedback has been received. The ad hoc is currently discussing the objective and will return to the Commission with recommendations.	Nothing to report.	Nothing to rep
February 8, 2023	Nothing to report.	Nothing to report.	The Ad Hoc members attended the NMA sponsored stakeholder meeting and are almost done reviewing suggestions with the city attorney's office. The Ad Hoc intends to present this item at the March Harbor Commission meeting.	Nothing to report.	Nothing to rep
March 8, 2023	Nothing to report.	Nothing to report.	The recommendation for this Objective was presented at tonight's meeting. The Harbor Commission voted to move the recommendations to City Council for consideration.	Nothing to report.	Nothing to rep
April 12, 2023	Nothing to report.	The appaisal for offshore moorings should be coming back in a few months.	This item has been forwarded to City Council for review and consideration.	Nothing to report.	Nothing to rep
May 10, 2023	Nothing to report.	Commissioner Cunningham reported they would like to see the market rent study completed by the summer and hopefully bring to the Commission thereafter.	Nothing to report.	Nothing to report.	Nothing to rep
June 14, 2023	Nothing to report.	Nothing to report.	This item was reviewed and approved by the City Council and is moving forward.	Nothing to report.	Nothing to rep
July 12, 2023	Nothing to report.	Appraisals are in process; expect back in 60 to 90 days.	This item was reviewed by the City Council and is complete.	Nothing to report.	Nothing to rep
August 9, 2023	Nothing to report.	Appraisals are in process; will be brought forward at a future meeting.	This item was reviewed by the City Council and is complete.	BIIA came to a previous meeting and were supportive; will address smaller subset such as Ruby Beach.	Will be addres rolls out (in ha
September 13, 2023			Nothing to report.		-

ate options for additional City	2.6 Complete evaluation for establishing
	day moorings off Big Corona beach and
r temporary use by visiting mariners n mooring permittees. (Williams)	narbor moorings. (Williams)
suggested a better defined description	Nothing to report.
or the Harbor and Beaches Master Plan,	
antities and potential cost.	
eport.	Nothing to report.
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essed after the mooring reconfiguration	
nands of Coastal Commission).	

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 current public	c 3.2 Evaluate and identify the responsibilities and obligations of t the city for additional safety vessels/equipment that may be added to the 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	Nothing to Report	Nothing to Report		
November 9, 2022	Nothing to Report	Nothing to Report		
December 14, 2022	Mee	ting Canceled		
January 11, 2023	Noth	ning to Report		
February 8, 2023	The Ad Hoc reported that all perminting is complete for deep- water dredging. The MOA that was previously approved has been revised and is under review.	Nothing to Report		
March 8, 2023	Noth	ning to Report		
April 12, 2023	Noth	ning to Report		
May 10, 2023	Noth	ning to Report		
June 14, 2023	Dredging is being delayed and reported on the Coast Keepers lawsuit; is optimistic that the issues can be resolved.	Nothing to Report		
July 12, 2023	Dock plan in progress with Public Works. This objective is considered complete.	Commissioners questioned the need for this to continue to be an objective? Consideration for the 2024 Objectives.		
August 9, 2023	Noth	ing to Report.		
September 13, 2023	Noth	ing to Report.		
	1			

4. Harbor Stakeholders (Scully) - Matters pertaining to Residential, Recreational, and Commercial Users.

amenities which will improve the operatio enjoyment of the Harbor. Additionally, identii revenue generating offerings that would be admir through the Harbor Department. (Scully) Nothing to report.	ify new (Marston) inistered	 r 4.3 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) r The ad hoc has discussed ideas for promoting best practices and addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a Newport Harbor Safety Committee that will hold a bi-monthly meeting 		
enjoyment of the Harbor. Additionally, identii revenue generating offerings that would be admir through the Harbor Department. (Scully) Nothing to report. January 12, 2022 Nothing to report.	inistered (Marston) inistered The ad hoc with engage Council for interest in improvements for Lower Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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)		
revenue generating offerings that would be admir through the Harbor Department. (Scully) Nothing to report. January 12, 2022 Nothing to report.	Inistered The ad hoc with engage Council for interest in improvements for Lower Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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)		
through the Harbor Department. (Scully) Nothing to report. January 12, 2022 Nothing to report.	The ad hoc with engage Council for interest in improvements for Lower Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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)		
January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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)		
January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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)		
January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	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) r The ad hoc has discussed ideas for promoting best practices and addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
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January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	Harbor. (Williams) r The ad hoc has discussed ideas for promoting best practices and addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
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January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	r The ad hoc has discussed ideas for promoting best practices and addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
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January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
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January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
January 12, 2022 Nothing to report.	Castaways. Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	addressing safety in the Harbor. The ad hoc has also discussed establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
Nothing to report.	Council has noted that Lower Castaways should not become a landfill and warrants further improvements. The ad hoc will speak to Council	establishing a document that lists all the vessels that operate within the Harbor. The ad hoc has drafted a work plan and the next step was to create a		
Nothing to report.	and warrants further improvements. The ad hoc will speak to Council	Harbor. The ad hoc has drafted a work plan and the next step was to create a		
	and warrants further improvements. The ad hoc will speak to Council	The ad hoc has drafted a work plan and the next step was to create a		
	and warrants further improvements. The ad hoc will speak to Council			
	and warrants further improvements. The ad hoc will speak to Council			
	and warrants further improvements. The ad hoc will speak to Council			
5. June 0, 2022	wernoers.			
5-h0 2020		Intemport nation parety committee tildt will note a printing meeting		
5-huuru 0, 2022				(
Estimate 0.2022		with the boating and business community. The committee will discuss		(
		best practices within the Harbor, an emergency response plan, pollution		1
February 9, 2022		identification and other Harbor-related items.	 	
Nothing to report.	The ad hoc has reached out to some of the Council and they are	The ad hoc is in the process of creating the Newport Harbor Safety		
	supportive of exploring improvements at Lower Castaways. The next	Committee.		1
March 0, 2022	step is to begin discussions with the Community Development			1
March 9, 2022	Department and Public Works Department.			1
Nothing to report.	Engagement with Council regarding Lower Castaways continues and	The ad hoc has identified the framework for the Safety Committee and is		
	next steps will be determined.	in the process of identifying key members. The ad hoc anticipates the first		1
April 13, 2022	next steps will be determined.	meeting will be held in the third quarter of 2022.		1
		meeting win be neid in the third quarter of 2022.		1
	idelands The Ad Hoc is discussing further ideas for Lower Castaways and trying			1
May 11, 2022 Committee to install floating restrooms on opposite side	es of the to determine next steps.	human-powered craft is near completion.		1
Harbor.				
This Ad Hoc is continuing to discuss installation of	f floating The Ad Hoc continues to discuss further ideas for Lower Castaways and	The Ad Hoc is starting to identify stakeholders to take part in the Safety		
June 8, 2022 restrooms for the Harbor.	is working to determine next steps.	Committee.		1
This Ad Hes will continue to discuss installation of	f floating The Ad Hoc has reached out to the PB&R Committee to confirm	The goal of this Ad Hos is to hold the first meeting of the Safaty		
				1
restrooms for the Harbor.		Committee in the 3rd Quarter of this year. Chair Scully also noted that he		1
July 13, 2022		t has updated his census information that was presented a the June		
5417 15, LOLL	effort on this topic between both Commissions.	meeting and the information will be posted to the Harbor website.		1
				(
Nothing to report.	This Objective is being placed on hold for now.	25 candidates have been identified to participate in the Newport Harbor		
August 10, 2022		Safety Committee. The first meeting is scheduled for October 18, at 5:30		
		p.m.		(
The WOLT Committee was discussioned with the destat	ion of the	The ad hoc is looking forward to the first Harbor Safety Committee		
The WQCT Committee was disappointed with the decision				1
Harbor Commission to approach the floating restroom to September 14, 2022 education first. Perhaps there can be a review of this iter		meeting on October 18 and anticipates a good turn out.		1
September 14, 2022 education first. Perhaps there can be a review of this iter	200.			
The Trash Wheel has obtained the necessary permit	tting and	The ad hoc is looking forward to the first Harbor Safety Committee		
staff is now working on some grant funding for this proje	-	meeting on October 18 and will report additional details at the November		
October 12, 2022		meeting.		
·				
Nothing to report.	An update was given that there is nothing that would prevent the ad	The ad hoc reported their first safety meeitng took place and it was a		
November 9, 2022	hoc from revisting possible recommendations for Lower Casteways.	success.		
	Meeting Canceled	·		
December 14, 2022				
Nothing to report.	The ad hoc will meet to discuss next steps and provide an update at a	The ad hoc will calendar the next meeting of the Safety Committee		
January 11, 2023	future meeting.	The during win calendar the next meeting of the safety committee.		
Nothing to report		4.3.1 - The Ad Hoc is working on getting the next Safetly Committee		
February 8, 2023 Nothing to report.	Nothing to report.	4.3.1 - The Ad Hoc is working on getting the next safetly committee meeting scheduled. 4.3.2 - The objective has been completed.		1
		meeting scheduled. 4.3.2 - the objective has been completed.		,

March 8, 2023	Nothing to report.	Nothing to report.	4.3.1 - The Ad Hoc has tenitively set the next Safety Committee meeting for March 28, 2023.		
April 12, 2023	The ad hoc reported on a conference call that was held to discuss the potential for additional public restrooms adjacent to the new public dock. The call was positive, but the restroom to the development will be built on the other side of the PCH Bridge.	Nothing to report.	4.3.1 - The Ad Hoc has tenitively set the next Safety Committee meeting for March 25, 2023and will begin reaching out to notify attendees. 4.3.2 This objective is completed.		
May 10, 2023	Nothing to report.	Nothing to report.	4.3.1 The Safety Committee will meet on May 30, 2023, 5 p.m. in the community room and attendance is anticipated to be good. They are trying to promote the meeting as much as possible, and Orange County Sheriff's and code enforcement personnel are scheduled to attend. 4.3.2 This Objective has been completed.		
June 14, 2023	Irvine Co. has started work on the Balboa Marina public dock and surrounding area.	Nothing to report.	4.3.1 Safety Committee meeting had great participation, including OC Sheriffs and Matt Cosylion; 4.3.2 is complete.		
July 12, 2023	Nothing to report.	Nothing to report.	4.3.1 Potential to develop a smaller subcommittee and development of objectives. 4.3.2 This Objective is complete.		
August 9, 2023	of a new public dock at the Balboa Marina.	The ad hoc has reached out to initiate discussions with the Parks, Beaches and Recreation Commission to understand their interest in the site.	4.3.1 Discussion continues on developing a smaller subcommittee for safety in the Harbor. 4.3.2 Objective is complet.		
September 13, 2023	Nothing to report.	The ad hoc will develop recommendations and prepare a plan for Harbor Commission consideration to forward to City Council.	4.3.1 Safety "Sub" Committee meeting was held; Billy Whitford (NAC) chaired this meeting involving all members of the educational rowing community to understand scheduling of all related water activities, timing, and safety impacts; the group suggested meeting with sailing schools and yacht clubs, as well; Chair Scully will coordinate a larger meeting with all groups; will schedule one more safety subcommittee meeting before end of year. 4.3.2 This Objective is complete.		



CITY OF INEWPORT BEACH Harbor Commission Staff Report

October 11, 2023 Agenda Item No. <u>7.7</u>

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster pblank@newportbeachca.gov (949) 270-8158

TITLE: Harbormaster Update – September 2023 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:

September was another very busy month for the Harbor Department both on and off the water. During a scheduled "all hands" Harbor Department meeting a surprise spill response drill was conducted. Team members immediately went into action. Key elements of the response included the identification of an Incident Commander and the deployment of response resources, how best to get the response equipment to the spill site, identification and staunching of the spill source, and traffic control around the spill as the containment efforts were conducted.

Protecting water quality in the harbor is a core part of the Harbor Department's, "clean, safe, and well-enjoyed" mission. This proactive initiative aimed to test the Department's preparedness in effectively mitigating and responding to potential marine spills. Popcorn was used to simulate how a contaminant on the water's surface might travel with the prevailing wind and currents. The mock scenario created an environment that closely resembled a real-life emergency, helping the Harbor Department gauge the efficiency and coordination of its emergency response procedures.

Other efforts in direct support of the Department's mission are listed below.

Clean

Significant efforts were expended in September to maintain and improve the cleanliness of the harbor. Highlights included:

- All three patrol boats were deep cleaned in advance of the Labor Day weekend
- We also changed oil/fuel filters on all three patrol boats and checked for leaks. Less experienced Harbor Service Workers (HSW) were trained in these processes. We disposed of old oil and filters at the Balboa Yacht Basin disposal and recycling site
- Sealion enforcement on docks and boats was a heavy focus of efforts in September. Multiple NOVs were issued and some deterrent materials were deployed
- Bird infestations on various vessels were also addressed
- Surprise spill response drill a great success and garnered some publicity and contribution/replenishment of materials from the Office of Spill Response at CA DFW
- Current SAVE grant wrapped up with the last \$5K remaining used in the final week to remove three vessels. More than 30 vessels were removed and destroyed on the grant just expired. The grant was renewed for another \$175K
- A private electric vessel losing balloons throughout the harbor was contacted and they subsequently corrected the situation
- The new fishing line recycling containers were being misused with deposits of trash. New lids for the fishing line containers were crafted and deployed. The process to improve the recycling of fishing line continues

Safe

Significant efforts were expended in September to maintain and improve the safety of the harbor. Highlights included:

- Three youngsters on SUPS were escorted across the harbor entrance main channel through heavy traffic. They were very appreciative
- The deterioration of a sea wall at a property on Channel Place was addressed
- We noticed the raft up "Floatchella" was out of the anchorage over Labor Day weekend. When politely asked to reposition within the boundaries of the anchorage they responded not-so-politely in the negative. Several hours later

when the raft-up had expanded to 25 vessels, we asked again and they moved a couple of the rafted boats

- An organizer of the "Floatchella" event left his boat anchored overnight with inexperienced mariners aboard. The vessel broke free of its anchor overnight. The owner called the OCSD who attempted to reset the anchor but could not. OCSD then brought the vessel to the Marina Park Long Dock for the night. The vessel left the Long Dock around 1030 the next morning
- Assisted/towed a broken private electric vessel to their dock on Balboa Island
- Paddleboarders in distress were assisted by a patrol vessel
- Bridge jumpers were documented at Lido. We educated the jumpers about how dangerous engines can be and urged them not to jump. Their actions continued and we stayed in the area for a little while in case of an emergency
- We assisted a live-aboard permittee as she swapped her disabled vessel for a new one. That included moving the disabled vessel to the anchorage while it awaited destruction. Several complaints of loud domestic disputes are associated with the vessel and permittee. Code enforcement, permit compliance and law enforcement have all been involved. Significant resources were applied to this one permittee which now appears to be back in compliance
- Patrol vessels assisted with the finish line escort of the Ben Did Go 8.0 event in support of the Ben Carlson Foundation
- Swim lines and swim buoys that were damaged around the bay were addressed
- New life ring cabinets were installed on the Marina Parks docks
- Mooring assist training/drills were conducted over three days with a volunteer 44' sailboat. Skills for all who participated were sharpened
- We issued a "Stop Work" order for a vessel that was being destroyed without adequate debris containment measures
- A number of the 5 MPH/No Wake buoys were re-deployed and remarked around the harbor
- A berthing issue in which a vessel extended too far beyond the end of the dock was addressed
- Applied first aid to a mooring permittee who apparently hit his head
- We conducted a harbor survey and joint training on emergency response with an engine company from Fire Station 2. All agreed it was a good experience

Well-enjoyed

Significant efforts were expended in September to maintain and improve the enjoyment of the harbor. Highlights included:

- A vessel that had been banned from using the anchorages or sub-permitting a mooring was found on a mooring and subsequently impounded. We are working with the mooring permittee and the daughter of the vessel owner on a resolution
- HSWs completed multiple public contacts while performing Public Dock Enforcement duties. Some of those contacts were educational. All were positive and friendly
- A bystander reported a large bird caught up in fishing line was stuck on a mooring spreader line HSWs with the assistance of a passing diver utilized

scissors to free the bird from the mooring. The bird was transported to Marina Park on a patrol boat where we rendezvoused with Animal Control who took custody of the bird and indicated a full recovery was likely

- The cleats on the public docks were painted with identifying information improving the documentation related to Public Dock Enforcement
- An unidentified dingy was found on a private dock by the homeowner. We obtained a Private Party Impound release form and impounded the dingy. This was our first instance of a Private Party Impound with a new form developed collaboratively with the City Attorney's Office
- A rental electric vessel ran over the swim line in front of Pirate's Cove and got stuck. HSWs made contact with the rental company and waited on the scene until their support vessel arrived and took over
- Repeated sea lion intrusions onto the same vessel led to the threatened revocation of a mooring permit in the A field. The vessel has been moved to an MP mooring while it looks for more suitable accommodation. This represents another example of collaborative compliance. The nearby residents are very grateful and have offered praise for our efforts
- We enjoyed having "Stella Maris" with us again in the Large Vessel Anchorage. The stay involved a mooring assist and a couple of escorts. Total stay for 11 nights was more than \$5K. The vessel owner (via the yacht managers) indicated it was another great stay and he enjoys having the vessel in Newport
- A disabled private electric vessel in distress was towed from under the Lido Bridge to the resident's dock in the Balboa Coves saving their pleasant afternoon on the harbor
- HSWs were waved over by some anglers who indicated there was a bright yellow "No Fishing: sign (not a City sign) on the land side of the Emerald Public Dock. The sign was removed

Odds and Ends

Significant efforts were expended in September to address harbor-related matters other than cleanliness, safety, and enjoyment. Highlights included:

- HSWs met with members of the Recreation Sailing Program at the Dunes to test out a Rec inflatable on the new boat trailer. It was a perfect fit. We're pleased to share our new trailer with our colleagues in the Sailing Program
- All three of the patrol boats are now outfitted with radar
- "Harbor Department Vessels Only" markings were applied to an area of the Marina Park docks
- We provided a tour of the east anchorage and Lido Isle Reach for Public Works and the Army Corp of Engineers Colonel
- Five MAPs were renewed and one new MAP was issued for an organization that has been operating on the harbor without a MAP for 30 years

Concern was expressed over an online ad offering a mooring in the D Field "For Lease or Rent". The advertiser did go so far as to indicate partial ownership of the vessel would be required. We contacted the advertiser, much as we do when we encounter ads for unpermitted charters. We indicated rental of a permitted mooring is a violation of the conditions of the permit and the NBMC. The advertiser removed the ad the day after we contacted him.

In addition to the activities listed above, the most amusing call or e-mail of the month came in the form of a phone call from a tenant in a commercial marina. The caller requested support fighting his slip landlord and what he perceives as an usurious rate increase. Unfortunately for the slip tenant, unlike apartment rents which are regulated by the state, there are no regulations over what a marina owner can charge marina tenants.

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).

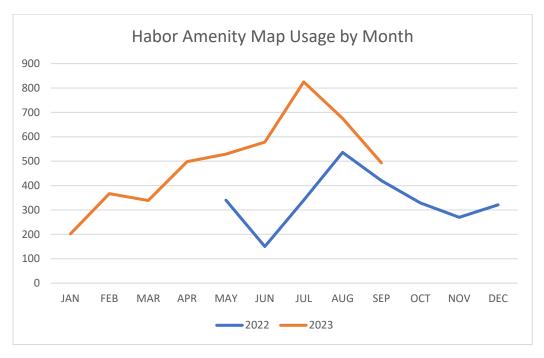
ATTACHMENTS:

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

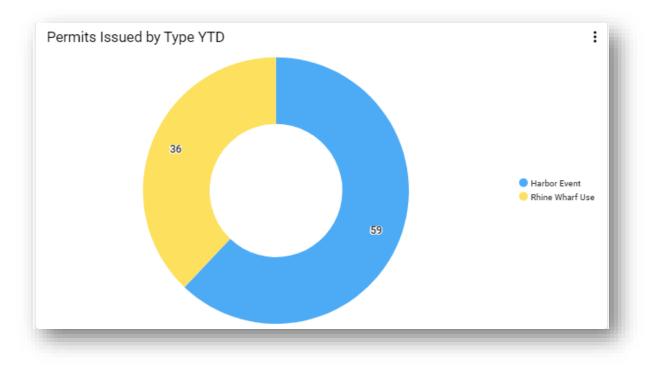
HARBOR DEPARTMENT STATISTICS INFOGRAPHIC

For the complete monthly data set, please refer to Attachments B and C on the Harbormaster Update staff report.

Harbor Adjacent Public Amenity Map Usage



Permits Processed this Calendar Year



Harbor Department Statistics Fiscal Year 2023-2024										
riscal tear	2023	-2024								
	July	August	Sept.	YTD						
Anchorage-Daytime Raft-up, No										
Permit Required	0	0								
Anchorage -3 Day Limit Violation	1	0	6							
Anchorage -Improper Anchoring	22	10	19	Ę						
Anchorage-Raft-up permit Required										
	0	0	0							
Anchorage Dye Tab	36	27	25	8						
Assisting Vessels Over 20'	19	9	18	2						
Assisting Vessels under 20'	10	18	14	2						
Boat Maintenance	4	13	21	3						
Bridge Jumpers	42	80	43	16						
Code Enforcement	134	62	65	26						
Daily Anchorage Check	53	40	68	16						
Discharge/Pollution	4	5	6							
Dock/Pier/Bridge Issue	42	18	9	6						
Emergency	2	2	-							
General Assist	47	125	71	24						
Hazards/Debris	11	20	14							
Human Lift Use Request	0	0	2							
	9	15	10							
Impound Incident	32	25	27	8						
Marina Park Dock Maintenance	32 12									
		27	9							
Mooring Assist	22	14	20	5						
Mooring Check	158	117	97	37						
Noise	1	0	1							
Paddleboard/Kayak	8	18	4							
Public Contact	143	104	76	32						
Public Dock Enforcement	669	706	804	217						
Pump Out	19	15	14	4						
Registration & Insurance	16	34	21							
Sea Lions	15	58	106	17						
Speeding	37	23	23	8						
Spreader Line	2	6	6	-						
Sub Permit Dye Tab	0	7	3	-						
Swim Line	5	4	2							
Trash	7	85	62	15						
Vacancy Check	31	28	19							
Pontolo Marino Dark Slina	170	170	170	E.						
Rentals - Marina Park Slips	170	173	170	5						
# of nights	510	495	441	144						
Rentals - MP Sand Lines	24	18	19	6						
# of nights	82	99	76	25						
Offshore Mooring Sub-permittee	116	92	121	32						
# of nights	696	876	971	254						
Onshore Mooring Sub-permittee	61	52	48	16						
# of nights	744	755	912	242						
Code Enforcement										
New Cases	102	98	97	29						
Closed Cases	64	98	63	22						
Verbal Warning	13	12	8	(
Warning Notices	76	83	83	24						
Admin Cites	18	19	16							
MAPS Issued	0	0	3							

Harbor Department Statistics Comparison Year over Year										
	Jul-22			Aug-23		Sep-23	YTD 22-23	YTD 23-24		
Anchorage-Daytime Raft-up, No										
Permit Required	1	0	28	0	1	-	30	-		
Anchorage -3 Day Limit Violation	7	1	0	0	2	6	16			
Anchorage -Improper Anchoring	7	22	2	10	13	19	38	5		
Anchorage-Raft-up permit	,			10	10	10	00	0		
Required	0	0	2	0	0	-	2	-		
Anchorage Dye Tab	0	36	0	27	0	25	40	8		
Assisting Vessels Over 20'	6	19	7	9	6	18	100	4		
Assisting Vessels under 20'	9	10	8	18	4	14	170	4		
Boat Maintenance	7	4	19	13	17	21	153	3		
Bridge Jumpers	36	42	164	80	56	43	265	16		
Code Enforcement	93	134	90	62	88	65	840	26		
Daily Anchorage Check	55	53	48	40	66	68	424	16		
Discharge/Pollution	4	4	5	5	7	6	59	1		
Dock/Pier/Bridge Issue	0	42	36	18	10	9	186	6		
Emergency	1	2	1	2	-	-	5			
General Assist	48	47	46	125	24	71	583	24		
Hazards/Debris	7	11	9	20	14	14	143	4		
Human Lift Use Request	0	0	0	0		2	8	•		
Impound	9	9	17	15	17	10	170	3		
Incident	16	32	20	25	11	27	147	8		
Marina Park Dock Maintenance	24	12	60	27	11	9	974	4		
Mooring Assist	9	22	14	14	10	20	104	5		
Mooring Check	94	158	82	117	118	97	943	37		
Noise		100	02	0	1	1	13			
Paddleboard/Kayak	3	8	11	18	3	4	38	3		
Public Contact	203	143	207		81	76	1,398			
Public Dock Enforcement	820	669	991	706	619	804	7,214	2,17		
Pump Out	12	19	16		9	14	120	4		
Registration & Insurance	690	16	78	34	19	21	1,193	7		
Sea Lions	24	15	52	58	74	106	341	17		
Speeding	12	37	8	23	13	23	98			
Spreader Line	12	2	7	6	6	6	46	1		
Sub Permit Dye Tab	12	0	1	7	Ŭ	3	9	1		
Swim Line	1	5	2	4	4	2	23			
Trash	33	7	129		55	62	783	15		
Vacancy Check	5	31	2	28	0	19	230			
				20	- v	10	200			
Rentals - Marina Park Slips	164	170	160	173	167	170	1,192	51		
# of nights	543	510	663		518	441	5,084	1,44		
Rentals - MP Sand Lines	19	24	18	493	20	19	152	1,44		
# of nights	35	82	53		56	76	647	25		
Offshore Mooring Sub-permit	130	116	100	93	87	121	1,004	32		
	691	696			538	971	5,733	2,54		
# of nights		61	558	52			487	<u> </u>		
Onshore Mooring Sub-permit	64 841	744	53 736		57 706	48 912	6,372	2,41		
# of nights Code Enforcement	041	/ 44	130	700	700	912	0,372	۲,4		
	70	100	100	00	100	97	1,079	0		
New Cases	76	102	103		128	63	204	2		
Closed Cases	34	64	51	98	118			2		
Verbal Warning	15	13	10	12	22	8	978			
Warning Notices	28	76	80		92	83	178	2		
Admin Cites	12 0	18 0	11	19 0	24	16 3	51 0			

	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

Additional Material Presented at Meeting Item No. 7.7 Harbormaster Report October 11, 2023 Harbor Commission Meeting

HARBORMASTER REPORT

Presentation to Harbor Commission October 11, 2023 Paul Blank Harbormaster



CLEAN

- Surprise Spill Response Drill
- Patrol boat cleaning and maintenance
- Sealions and birds
- SAVE Grant wrap-up
- Fishing line recycling receptacle improvements







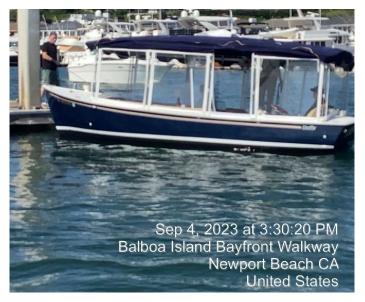
SAFE

- SUPers assisted
- Disabled vessel rescues
- Bridge jumping
- Live-aboard assisted with vessel upgrade/swap
- New life-ring cabinets at Marina Park
- Mooring assist training
- Applied first-aid to a permittee









WELL-ENJOYED

- Public contact and service as "ambassadors" of the harbor
- Rescue of a stranded bird
- Serialized cleats on public docks for easier enforcement
- Large vessel visit successful
- Unpermitted signage at a public dock





9/8/23, 10:29 AM +33.6079,-117.9221 Newport Bay Connector Newport Beach CA 92663 Speed:0.1mph

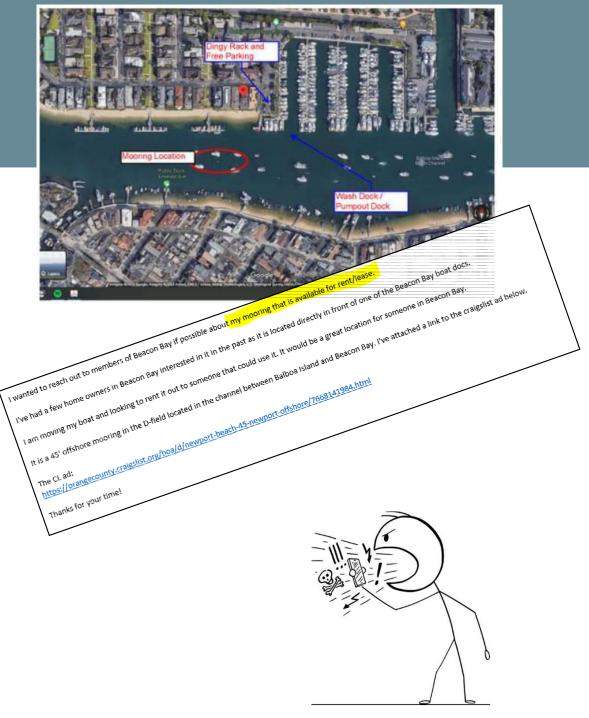
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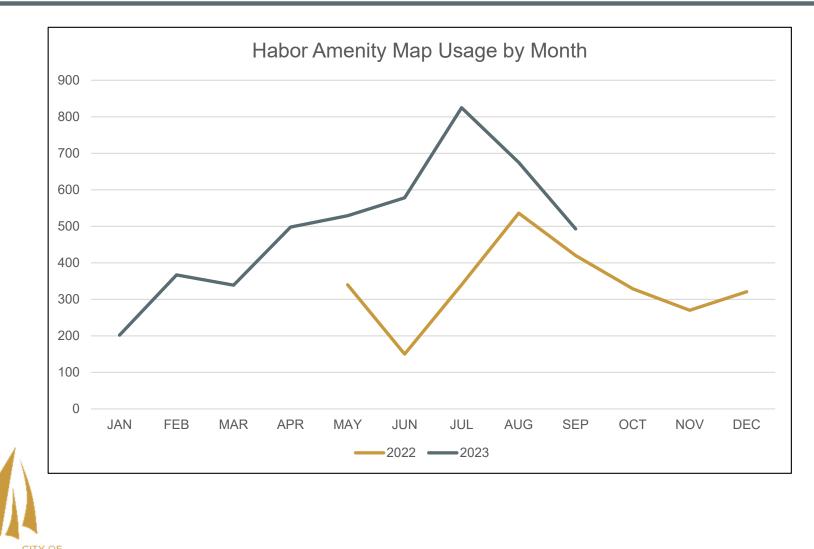
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ODDS & ENDS

- We can and will share our new vessel trailer with our RSS colleagues
- Tour of east anchorage for ACE Colonel
- 5 MAPs renewed, 1 new issued
- Mooring "For Rent/Lease" ad addressed
- Amusing call of the month A request for rent control in commercial marinas

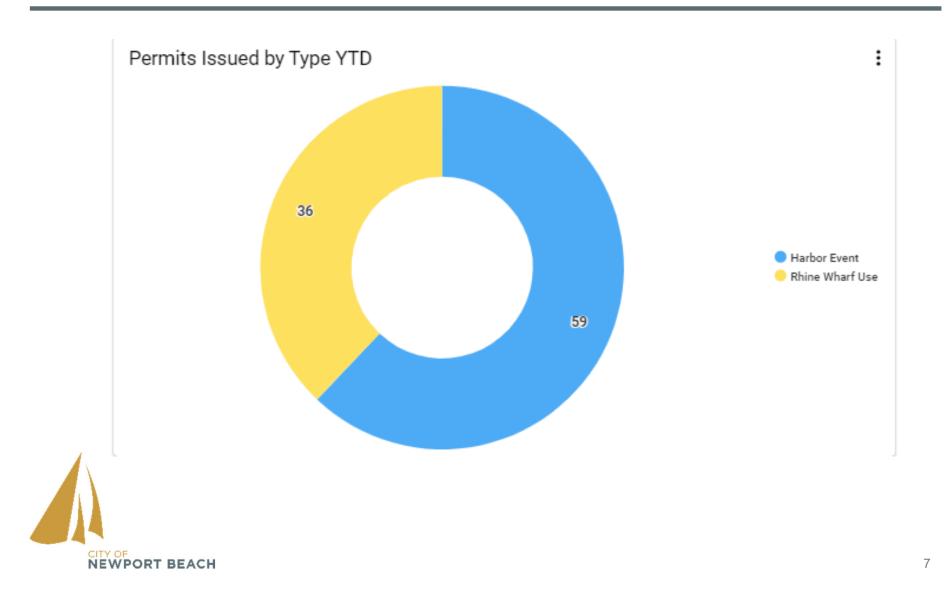


IMPROVED STATISTICS REPORTING



NEWPORT BEACH

IMPROVED STATISTICS REPORTING



TRADITIONAL STATISTICS REPORTING

Harbor Department Statistics Comparison Year over Year									
Anchorage-Daytime Raft-up, No									
Permit Required	1	0	28	0	1	-	30	-	
Anchorage -3 Day Limit Violation	7	1	0	0	2	6	16		
Anchorage -Improper Anchoring	7	22	2	10	13	19	38	5	
Anchorage-Raft-up permit									
Required	0	0	2	0	0	-	2	-	
Anchorage Dye Tab	0	36	0	27	0	25	40		
Assisting Vessels Over 20'	6	19	7	9	6	18	100		
Assisting Vessels under 20'	9	10	8	18	4	14	170		
Boat Maintenance	7	4	19	13	17	21	153		
Bridge Jumpers	36	42	164	80	56	43	265	1	
Code Enforcement	93	134	90	62	88	65	840	2	
Daily Anchorage Check	55	53	48	40	66	68	424	1	
Discharge/Pollution	4	4	5	5	7	6	59		
Dock/Pier/Bridge Issue	0	42	36	18	10	9	186		
Emergency	1		1		-	-			
General Assist	48	47	46	125	24	71	583	2	
Hazards/Debris	/	11	9	20	14	14	143		
Human Lift Use Request	0	0	0	0	-	2	8		
Impound	9	9	17	15 25	17	10	170		
ncident	16	32	20		11	27	147		
Marina Park Dock Maintenance	24	12 22	60	27	11	9 20	974 104		
Mooring Assist	•					20			
Mooring Check	94	158	82	117	118	97	943	3	
Noise	4	1	0	0 18	1	1	13 38		
Paddleboard/Kayak		143		18	_	76		3	
Public Contact	203 820	669	207	706	81 619	804	1,398	2.1	
Public Dock Enforcement Pump Out	820	19	991	15	619	14	120	2,1	
Registration & Insurance	690	19	78	34	19	21	1.193		
Sea Lions	24	15	52	58	74	106	341	1	
Speeding	24 12	37	8	23	13	23	98		
Spreader Line	12	2	7	23	6	6	90 46		
Sub Permit Dye Tab	12	0		7	0	3	40		
Sub Permit Dye Tab	1	5	2	4	4	2	23		
Trash	33	7	129	85	55	62	783	1	
Vacancy Check	5	31	29	28		19	230		
vacancy check	3	51	- 2	20		13	230		
Rentals - Marina Park Slips	164	170	160	173	167	170	1,192	5	
# of nights	543	510	663	495	518	441	5.084	1.4	
Rentals - MP Sand Lines	19	24	18	18	20	19	152		
# of nights	35	82	53	99	56	76	647	2	
Offshore Mooring Sub-permit	130	116	100	92	87	121	1.004	3	
# of nights	691	696	558	876	538	971	5,733	2,5	
Onshore Mooring Sub-permit	64	61	53	52	57	48	487	1	
# of nights	841	744	736	755	706	912	6,372	2,4	
Code Enforcement	- / 1								
New Cases	76	102	103	98	128	97	1,079		
Closed Cases	34	64	51	98	118	63	204		
Verbal Warning	15	13	10	12	22	8	978		
Warning Notices	28	76	80	83	92	83	178	2	
Admin Cites	12	18	11	19	24	16	51		
MAPS Issued	0	0	2	0	2	3	0		



TRADITIONAL STATISTICS REPORTING - CORRECTED

Harbor Department Statistics Comparison Year over Year									
Anchorage-Daytime Raft-up, No									
Permit Required	1	0	28	0	1	-	30	-	
Anchorage -3 Day Limit Violation	7	1	0	0	2	6	9	7	
Anchorage -Improper Anchoring	7	22	2	10	13	19	22	51	
Anchorage-Raft-up permit									
Required	0	0	2	0	0	-	2	-	
Anchorage Dye Tab	0	36	0	27	0	25	0	88	
Assisting Vessels Over 20'	6	19	7	9	6	18	19	46	
Assisting Vessels under 20'	9	10	8	18	4	14	21	42	
Boat Maintenance	7	4	19	13	17	21	43	38	
Bridge Jumpers	36	42	164	80	56	43	256	165	
Code Enforcement	93	134	90	62	88	65	271	261	
Daily Anchorage Check	55	53	48	40	66	68	169	161	
Discharge/Pollution	4	4	5	5	7	6	16	15	
Dock/Pier/Bridge Issue	0	42	36	18	10	9	46	69	
Emergency	1	2	1	2	-	-	2	4	
General Assist	48	47	46	125	24	71	118	243	
Hazards/Debris	7	11	9	20	14	14	30	45	
Human Lift Use Request	0	0	0	0	-	2	0	2	
Impound	9	9	17	15	17	10	43	34	
Incident	16	32	20	25 27	11	27	47	84 48	
Marina Park Dock Maintenance	24 9	12 22	60	14	11	20	33	48	
Mooring Assist	94	158	14	14	10	20	294	372	
Mooring Check				117					
Noise	4	1	0	_	1	1	5	2	
Paddleboard/Kayak Public Contact	203	143	207	18 104	81	4 76	491	30 323	
Public Contact Public Dock Enforcement	820	669	991	706	619	804	2.430	2,179	
Public Dock Emorcement	12	19	16	15	9	14	2,430	2,179	
Registration & Insurance	690	16	78	34	19	21	787	71	
Sea Lions	24	15	52	58	74	106	150	179	
Speeding	12	37	8	23	13	23	33	83	
Spreader Line	12	2	7	6	6	6	25	14	
Sub Permit Dve Tab	12	Ó		7	0	3	0	10	
Swim Line	1	5	2	4	4	2	7	11	
Trash	33	7	129	85	55	62	217	154	
Vacancy Check	5	31	2	28	0	19	7	78	
Vulcancy chock			-	20	- v		0		
Rentals - Marina Park Slips	164	170	160	173	167	170	491	513	
# of nights	543	510	663	495	518	441	1.724	1,446	
Rentals - MP Sand Lines	19	24	18	18	20	19	57	61	
# of nights	35	82	53	99	56	76	144	257	
Offshore Mooring Sub-permit	130	116	100	92	87	121	317	329	
# of nights	691	696	558	876	538	971	1,787	2.543	
Onshore Mooring Sub-permit	64	61	53	52	57	48	174	161	
# of nights	841	744	736	755	706	912	2,283	2,411	
Code Enforcement									
New Cases	76	102	103	98	128	97	307	297	
Closed Cases	34	64	51	98	118	63	203	225	
Verbal Warning	15	13	10	12	22	8	47	33	
Warning Notices	28	76	80	83	92	83	200	242	
Admin Cites	12	18	11	19	24	16	47	53	
MAPS Issued	0	0	2	0	24	3	4/	5 00	



Discussion

Presentation to Harbor Commission



