



CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

City Council Chambers - 100 Civic Center Drive

Wednesday, October 9, 2019 - 6:30 PM

Harbor Commission Members:

Paul Blank, Chair
Scott Cunningham, Vice Chair
Ira Beer, Secretary
William Kenney, Jr., Commissioner
Marie Marston, Commissioner
Steve Scully, Commissioner
Don Yahn, Commissioner

Staff Members:

Carol Jacobs, Assistant City Manager
Kurt Borsting, 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 Carol Jacobs, Assistant City Manager, 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) 644-3001 or cjacobs@newportbeachca.gov.

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) **PRESENTATION**

1. Presentation of Proclamation to USCG Auxiliary - Flotilla 61

5) **PUBLIC COMMENTS**

Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Harbor Commission. 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 agenda or 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.

6) APPROVAL OF MINUTES**1. Draft Minutes of August 14, 2019, Harbor Commission Regular Meeting**

[August 14, 2019, Harbor Commission Regular Meeting Draft Minutes](#)

7) CURRENT BUSINESS**1. Council Policy H-1 - Harbor Commission Review and Recommendation**

At the June 25, 2019 meeting, the City Council revised Council Policy H-1 to clarify the Policy's intent and process in order to assist staff and the Harbor Commission when considering future applications. The City Council also directed the Harbor Commission to review the recent changes and to make recommendations to the City Council regarding any proposed revisions thereto. At the July meeting, the Harbor Commission directed the subcommittee to review the Policy and return to the Commission by October with recommended changes, if any. The Harbor Commission will review the proposed changes, and if approved, recommend they be forwarded to the City Council for consideration.

Recommendation:

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

2) Review and approve updates to the Council Policy H-1, and recommend that it be forwarded to the City Council for final approval.

[Staff Report](#)

[Attachment A - Council Policy H-1 \(redline, strikeout\)](#)

[Attachment B - Council Policy H-1 \(clean\)](#)

2. Review and Update Harbor Commission Objectives/Subcommittee Reports

The Harbor Commission has completed a number of Objectives since the last full update of the Objectives in 2018. It is recommended that the Harbor Commission create a subcommittee to review the current updated Objectives and return to the November meeting to add, delete or modify the Objectives for City Council consideration in January 2020. The subcommittees will report on their progress from the last month.

Recommendation:

1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

2) Subcommittee to report on August and September progress.

3) Appoint Subcommittee to review Objectives and return to the Harbor Commission in

November with recommendations to add, delete or modify the Harbor Commission's Objectives.

[Staff Report](#)

[Attachment A – Harbor Commission 2018 Objectives, Revised July 2019](#)

3. Harbormaster Update - August and September 2019

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 August and September 2019.

Recommendation:

1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

2) Receive and file.

[Staff Report](#)

[Attachment A - Harbor Department Statistics, Fiscal Year through September 2019](#)

[Additional Material Received Staff Memo 10-09-2019](#)

- 8) **COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)**
- 9) **QUESTIONS AND ANSWERS WITH STAFF ON HARBOR RELATED ISSUES**
- 10) **MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**
- 11) **DATE AND TIME FOR NEXT MEETING: Wednesday, November 13, 2019**
- 12) **ADJOURNMENT**

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
Council Chambers – 100 Civic Center Drive, Newport Beach CA
115 E. Lipoa Street, Ste. 107, Kihei, HI 96753 (teleconference)
Wednesday, August 14, 2019
6:30 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 6:31 p.m.

2) ROLL CALL

Commissioners: Paul Blank, Chair
Scott Cunningham, Vice Chair (absent)
Ira Beer, Commissioner (Teleconference)
William Kenney, Jr., Commissioner
Marie Marston, Commissioner
Steve Scully, Commissioner
Don Yahn, Commissioner

Staff Members: Carol Jacobs, Assistant City Manager
Kurt Borsting, Harbormaster
Jennifer Biddle, Administrative Support Specialist

3) PLEDGE OF ALLEGIANCE – Commissioner Scully

4) PUBLIC COMMENTS

Kathy McGraw requested Commissioners speak more loudly.

5) APPROVAL OF MINUTES

1. Minutes of July 10, 2019, Regular Meeting

Commissioner Kenney requested the final sentence of Public Works Administrative Manager Miller's comments on page 3 state "... to the subcommittee for harbor policies and request"

Chair Blank requested Jim Mosher's comments on page 3 reflect "... listed in the Harbor Commission minutes as findings."

Jim Mosher clarified his comments in the July 10 meeting as Harbor Policy H-1 could be added to Title 17 following the sentence that refers to Policy H-1.

Commissioner Kenney moved to approve the Minutes of the July 10, 2019 meeting as amended. Commissioner Marston seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Blank, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn

Nays: None

Abstaining: None

Absent: Vice Chair Cunningham

6)

PUBLIC HEARING

1. Residential Dock Reconfiguration at 1708-1710 South Bay Front

The applicants at 1708 & 1710 South Bay Front are proposing to reconfigure their shared residential dock in a similar U-shape configuration. The proposed float will extend the same 15 feet beyond the pierhead line as it does in the current configuration. Council Policy H-1 generally allows floats to extend to the pierhead line, but the policy also allows the Harbor Commission to grant exceptions as to how far a float may extend beyond the pierhead line if specific findings are made. The applicants therefore, request the Harbor Commission to approve the proposed dock configuration (Project).

Recommendation:

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 1708-1710 by making specific findings to allow the float to extend beyond the pierhead line by 15 feet pursuant to the provision within Council Policy H-1.

Commissioner Yahn recused himself from the item as he is acquainted with the applicants.

Public Works Administrative Manager Chris Miller reported the applicant proposes to rebuild the existing dock in a U-shaped configuration similar to the existing configuration. The Newport Beach Municipal Code states piers or floats may not extend beyond the pierhead line unless approved under Council Policy H-1. Staff can approve docks and projects that extend to the pierhead line. Staff will present projects that extend beyond the pierhead line to the Harbor Commission for consideration. Council Policy H-1 states the Harbor Commission shall consider projects for approval, conditional approval, or denial. The staff report lists the criteria or findings applicable to projects that extend beyond the pierhead line. The dock is shared between 1708 and 1710 South Bay Front and located adjacent to the Balboa Yacht Club mooring field. From the City's standpoint, a shared pier means the two permittees are equally responsible for paying the annual pier permit fee. Use and maintenance of a shared pier are matters for the permittees to determine. The distance between the bulkhead line and pierhead line is 96 feet. The distance between the pierhead line and the project line is 20 feet. The distance between the project line and the boundary for the Balboa Yacht Club mooring field is 62 feet. Both mooring lines appear to saddle the groin wall located at the end of Jade Avenue. Another obstacle at the street end is a storm drain. To the left of the property are two on-shore moorings located between the two houses. Plans for the existing float were approved in February 2000 and depict the floats extending 15 feet beyond the pierhead line. The Coastal Commission's 2000 approval states the floats will extend 15 feet beyond the pierhead line. The existing floats do extend 15 feet beyond the pierhead line. Requirements for pier permittees on Balboa Island do not allow permittees to increase the size of a dock in a reconfiguration project. In other words, the existing dock and a proposed dock must contain the same square footage. Pursuant to the Newport Beach Municipal Code, the revised structure will lie wholly within the original permitted area. In the plans, the existing extensions landward and westward have been removed to allow a wider U-shaped float. The square footage of the proposed dock is less than the existing dock and will be the benchmark for future applications. Specific to Balboa Island, vessels may extend beyond the float fingers no more than 15 feet or the vessel's beam width, whichever is less.

In response to Commissioner Marston's inquiries, Public Works Administrative Manager Miller advised that the Harbor design criteria do not address pierhead line encroachment but address the dock configuration in relation to property lines, float widths, deck heights, materials, and bulkheads. The float as proposed conforms with design criteria. In the aerial photograph, the vessel appears to encroach onto the City's property. However, aerial photographs are not as accurate as a dock or property survey. Staff has not received any complaints about the vessel encroaching onto adjoining property. No matter the size of the dock or the size of vessels, one must not encroach onto adjoining properties. City requirements state floats must be set back at least 5 feet from the property line.

In reply to Commissioner Kenney's query, Public Works Administrative Manager Miller believed the easterly faces of the existing and proposed floats will be in the same location.

In answer to Commissioner Beer's question, Public Works Administrative Manager Miller explained that the decision to position an onshore mooring between two houses was made 60-70 years ago. Staff sent letters regarding the application to property owners within a 300-foot radius of the subject property and to the four onshore mooring permittees. In 2000, the permittee for the onshore mooring adjacent to 1708 commented that he had no issues with the existing configuration. That permittee has not submitted comments on the current proposal. Based on aerial photographs taken over a number of years, a vessel has not utilized the onshore mooring adjacent to 1708 in many years. The Harbor Commission may address the conflict between onshore moorings and floats through conditions of approval.

Chair Blank opened the public hearing.

Pete Swift, applicant representative, indicated the vessel shown in the photograph will fit within the property line when the dock is reconfigured. The photograph also shows the left property line extending from the roof of the home, but the roof has to be set back from the property line. The proposed dock will extend 15 feet beyond the pierhead line as does the existing dock and many other docks in the area. The onshore mooring has existed for many years, and there have been no complaints about conflicts between it and the dock. In other locations, the onshore mooring permittee and the dock permittee have resolved any issues. Placing a restriction on the size of a vessel that can dock on the west side of the float is not needed. Mr. Swift did not believe there would be any negative impacts from reconfiguring the dock.

Public Works Administrative Manager Miller clarified that staff prepared the photograph depicting the proposed dock superimposed on the existing dock based on plans submitted for the proposed dock. The dock in reality may be slightly different by inches.

In reply to Commissioner Marston's queries, Mr. Swift advised that survey markers are located on the sidewalk; therefore, he will not have another survey prepared. Constructing the dock in the proper location is important for City and Army Corps of Engineers requirements. The float and vessels docked on it will fit within the property lines. Public Works Administrative Manager Miller added that the plans are subject to plan check by the Building Department. A building inspector will also inspect construction of the dock.

Jim Mosher remarked that the new Council Policy H-1 strongly discourages development beyond the pierhead line. The Harbor Commission may consider issuing permits through a resolution that lists findings and conditions of approval. If the Harbor Commission cannot make any one of the findings, it has to deny the permit.

Chair Blank closed the public hearing.

Commissioner Beer remarked that staff's recommended findings are reasonable based upon the presentation. His concerns regarding onshore moorings have been addressed.

Commissioner Marston supported staff's recommended findings. She questioned whether there should be a finding for the onshore moorings. Chair Blank did not believe a finding for the onshore moorings is necessary because the mooring permittees received notice of the project and the public hearing and have not appeared to comment.

Commissioner Kenney noted the applicant is not requesting a greater extension beyond the pierhead line. The existing pier contains approximately 979 square feet, and the proposed pier contains approximately 958 square feet. The applicant is not proposing to expand the size of the pier. The proposed reconfiguration conforms with the findings.

Commissioner Scully supported the project based on the applicant representative's statement that the permittee's vessel can be docked within the property line.

Chair Blank concurred with staff's recommended findings and supported the application. The intent of the current and immediate past versions of Policy H-1 is to simplify an application for a dock reconfiguration. The applicant has proposed a smaller dock.

In reply to questions from the Commission, Assistant City Attorney Yolanda Summerhill stated staff can prepare resolutions for projects in the future, if the Harbor Commission wishes. For the current project, staff can prepare a resolution and present it to the Harbor Commission for review as a consent item at a subsequent meeting.

Chair Blank preferred to proceed with a motion for the current project as the public hearing has been conducted thoroughly and fairly. Proceeding in this manner will prevent delays for the applicant and will fulfill the public's expectations of the process. The Harbor Commission may utilize a resolution for future projects.

Commissioner Scully moved to find the project exempt from CEQA based upon staff's recommendation and to approve the project at 1708-1710 South Bay Front as submitted and based upon staff's recommended findings. Commissioner Kenney seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Blank, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully

Nays: None

Recused: Commissioner Yahn

Absent: Vice Chair Cunningham

7) CURRENT BUSINESS

1. Proposed Changes to Title 17 – Harbor Code Sections 17.40 (Live-Aboards), 17.45 (Sanitation), 17.50 (Harbor Development Permits), 17.55 (Dredging Permits), 17.60 (Harbor Permits and Leases), 17.65 (Appeals), 17.70 (Enforcement).

The City Council requested that the Harbor Commission review Title 17 – Harbor Code, of the Newport Beach Municipal Code in February 2018. The Harbor Commission appointed an ad hoc committee comprising of Commissioners Blank, Kenney and Yahn. The proposed changes are recommended to the full Harbor Commission for 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 the proposed changes as identified on Attachment A and authorize staff to forward the changes to the City Council for consideration.

Assistant City Manager Carol Jacobs reported the Code update resulted from formation of the new Harbor Department and increased service levels. The subcommittee has met 24 times and held two public meetings on April 8 and June 24. After each meeting, the subcommittee reconvened to determine which of the public comments they might want to include in Title 17. Some of the language needs refining. She recommended slowing the update process so that the revisions are correct and the community can provide additional input. After additional revisions, staff will bring the subcommittee's recommendations to the Harbor Commission for consideration and forwarding to the City Council. The subcommittee recommends a limit of 7 percent of the total number of slips in a commercial marina on the number of live-aboards. The subcommittee has clarified language regarding commercial pump-outs. The subcommittee also recommends dye tablet testing at any time for permittees. Revisions attempt to strengthen the discharge violations. This issue may need additional review. The subcommittee is working on streamlining and clarifying the process for obtaining Harbor Development Permits. The parties responsible for decisions need clarifying. The provisions for dredging permits have been revised to include a right to appeal or call for review. The Harbor Commission approved number 5 under the mooring extension process at a prior meeting. The roles and responsibilities of staff have been defined for the appeals process. Within the enforcement provisions, revisions clarify the revocation process. Staff requests the Harbor Commission receive community input, provide input to the subcommittee, and refer the document to the subcommittee for further review and clarification. Staff proposes presenting the entirety of Title 17 excluding the provisions

for Marine Activities Permits (MAP) to the Harbor Commission at its October meeting, to the City Council in a study session on October 22. The first reading of an ordinance to implement the revisions could be held in November with a second reading in December. If approved, an ordinance would become effective in January 2020.

Commissioner Kenney advised that on July 16, 2019, the subcommittee met and felt Sections 17.40-17.70 of Title 17 were ready for Harbor Commission review. Subsequent to July 16, legal staff made significant modifications, and the subcommittee learned of the modifications through the agenda and staff report for this item. He did not agree with some of the modifications. Sections 17.40.070(A) and 17.45.030(A) allow the Harbormaster to inspect marine sanitation devices and place a dye tablet to determine whether there is any discharge. The legal department proposed restricting the Harbormaster's use of dye tablets to those instances where there is "reasonable suspicion." In Commissioner Kenney's opinion, a wise boater, when the Harbormaster requests permission to place a dye tablet, will inquire as to why the Harbormaster thinks there is reasonable suspicion. This creates a situation exactly like the *Wild Wave* situation. The subcommittee has discussed the matter with the Legal Department, and he understood "reasonable suspicion" would be removed from the proposed revisions. If a vessel owner obtains a boating license, the owner agrees to chemical testing if a police officer requests to do so or to relinquish his license for a year. The subcommittee proposes a similar scenario. If the Harbormaster requests permission to board a vessel and perform a dye tablet test, the vessel owner can agree or leave the Harbor. In the document distributed to the public, Section 17.45.030(C)(1) would require every pleasure boat in Newport Harbor with a freshwater sink, shower, or any other appurtenance that utilizes water or anything else, which today is discharged overboard, to install a graywater holding tank. The provision was intended to pertain solely to the charter fleet and not to pleasure boats. When the updates return to the Harbor Commission, those provisions will be deleted from Section 17.45 and will be contained in Section 17.10, which deals with MAPs, and/or handled in the MAP itself. Section 17.50.010(A) requires a dock owner to obtain a maintenance permit to do anything to his dock.

Assistant City Attorney Yolanda Summerhill understood the City does not have a maintenance permit. Another attorney with the City provided options for the Harbor Code. The options included some of the provisions Commissioner Kenney mentioned and a provision related to maintenance and repair permits. She has deleted the portions regarding maintenance and repair permits, which were Sections 17.50.110, etc. At the beginning of the Code, an errant provision specifies that maintenance and repair permits are required, and that provision will be struck.

Commissioner Kenney explained that if a property owner has a pier, a gangway, and a cap rail painted white, he would have to obtain a maintenance permit to repaint the cap rail. He recommended reconstruction and replacement be deleted from Section 17.50.040(B)(4) because Harbor Policy H-1 allows a property owner to replace a dock like for like. Mooring permittees requested Section 17.60.040(N), mooring extensions. Commissioner Beer crafted the new provision to allow extensions and to protect the mooring fields and the permittees' abilities to navigate around and through the fields. Section 17.70.020(C) references a Hearing Officer, which should be deleted.

Assistant City Attorney Summerhill related that the provisions of Section 17.70 referring to a Hearing Officer were struck. She would review the provisions specifically for references to a Hearing Officer.

Commissioner Kenney clarified that the subcommittee's intent is for decisions by the Community Development Director, Public Works Director, or Harbormaster to be appealed to the Harbor Commission only. A Harbor Commission decision would be appealed to the City Council only. The applicant or appellant's only remedy to override the City Council's decision would be the courts.

Commissioner Beer requested Section 17.60.040(B)(1) include language that the yacht clubs will ensure placement of the single-point moorings will not result in any moored vessel swinging outside the mooring area boundaries established by the City or obstruct, impede, or restrict access to the adjacent channels and fairways surrounding the mooring fields at any time. In a previous meeting, the Harbor Commission discussed a uniform definition of length overall (LOA) and Adjusted LOA. That definition should be consistent throughout the document and specifically Section 17.60.040(N)(2). Section 17.60.040(N)(5)(a), may need to include language of "at the time or any time prior to 12 months from the date the application

was filed." When the Harbor Commission adopted language for Section 17.60.040(N)(5)(b), it requested an Item vi stating "the vessel length shall not exceed the maximum length for a specific row as set forth by Harbor policy."

Commissioner Kenney was not aware of a Harbor policy dealing with mooring extensions. Assistant City Manager Jacobs clarified that the Harbor Commission adopted the language for mooring extensions, a Harbor policy, and associated maps.

In response to Commissioner Scully's questions, Commissioner Kenney indicated live-aboard permittees will be required to use a pump-out service. Chair Blank explained that the penultimate sentence in 17.40.100 allows a permittee to apply to the Harbormaster for an exception to the requirement for pump-outs at a minimum of twice a month. The Harbormaster can grant exceptions to the policy based on the specific conditions presented by the permittee. The exception is associated with keeping the log and should remain in Section 17.40.100.

In answer to Commissioner Marston's queries, Harbormaster Kurt Borsting advised that the live-aboard community is required to maintain self-reporting logs. The subcommittee is interested in enforcing environmental standards. The new requirement for a commercial pump-out service imposes a new cost on live-aboards. The value to the Harbor was considered to outweigh the self-reporting approach. Public comment has noted unique circumstances in which a once-a-month standard may be reasonable and comply with the spirit of the subcommittee's interest. Chair Blank related that live-aboard and houseboat are defined in the definition section of Title 17.

Commissioner Marston noted Title 17 refers to the Community Development Director, the Community Development Department, the Public Works Director, the Public Works Department, the Harbormaster, and the City Attorney. There needs to be some kind of instruction that says certain things need approval by certain departments. Title 17 could refer to the department rather than the director. Section 17.40.020(C) should state "residentially zoned." Section 17.40.030 needs clarification as to how the eight-month period is counted. She questioned whether grease, oils, and food waste needs to be mentioned in Title 17. In Section 17.45.030(H), Newport Bay should be changed to Newport Harbor. In Section 17.50.030(B)(4), approval in concept or conceptual approval needs clarification. "Other agencies" and "subject to engineering approval" in Section 17.55.010(A) should be more specific. In Sections 17.55.030(B) and (D)(1), Commissioner Marston questioned how a "less environmentally damaging alternative" and "impair the long-term stability" would be evaluated. In Section 17.60.040(B)(2)(f), she assumed the agreement to defend and indemnify the City references insurance and questioned whether this is insurance on the vessel or on the mooring permit. In Subsection e, "temporarily" and "unoccupied" should be associated with lengths of time. Commissioner Marston asked if Section 17.60.040(H)(2) refers to separate insurance from the permittee.

Commissioner Kenney requested Commissioner Marston provide her comments in writing for incorporation into the next iteration.

In reply to Commissioner Yahn's inquiries, Commissioner Kenney reported he has discussed his concerns with the Legal Department, and all have agreed on changes. The subcommittee will review proposed revisions before presenting its recommendations to the Harbor Commission for final review. The subcommittee has modified the appeal provisions to remove the Hearing Officer. An appeal of the Harbor Commission's decision will be heard by the City Council. Subsequent appeals will revert to the courts. Assistant City Attorney Summerhill added that enforcing violations as they occur is critical.

In answer to Commissioner Beer's question, Chair Blank reiterated that the Harbormaster can approve exceptions to the pump-out requirement based on specific circumstances for a permittee.

Herman Cummins hoped the pump-out requirement could be revised to allow live-aboards to report their use of pump-out stations. He was not aware of any permitted live-aboards discharging waste into Newport Harbor.

Eric Langenbach inquired about the process to apply for an exception to the pump-out requirement. Chair Blank suggested Mr. Langenbach submit a written request for an exception and state the circumstances for his request when he renews his permit. In reply to Commissioner Kenney's inquiry, Mr. Langenbach reported he uses a commercial pump-out service about once a month.

Jerry McGraw did not believe a commercial pump-out service is necessary. Staff has never reviewed his pump-out logs.

Jim Mosher noted Table 17-1 has been inserted and seems to be a component of the policy and language the Harbor Commission approved in June. Submitting comments is pointless when one does not know whether the online document is the most current draft. He requested the iteration of Title 17 revisions submitted to the Harbor Commission for review be posted early so that the public has sufficient time to review it. He inquired about revisions to MAP provisions.

Chair Blank advised that additional public outreach meetings will be scheduled for revisions to the MAP. Commissioner Kenney added that revisions will not be ready for submission to the Harbor Commission in October.

The Harbor Commission reached consensus to refer Title 17 revisions to the subcommittee for further review and revision.

Commissioner Yahn reported Harbormaster Borsting is revising the pump-out requirement.

2. Harbor Commission 2018 Objectives (Revised July 2019): Ad Hoc Committee Updates

Each ad hoc committee studying their respective Functional Area within the Commission's 2018 Objectives, revised July 2019, will provide a progress update.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
- 2) Add Commissioner Ira Beer to Objective 4.1 and remove Commissioner Don Yahn from Objective 4.1 to more equally assign subcommittee responsibilities; and
- 3) Receive and file.

Chair Blank proposed replacing Commissioner Yahn with Commissioner Scully on the subcommittee for Functional Area 4.

In response to Commissioner Kenney's inquiry, Chair Blank clarified that Functional Area 4 is now responsible for commercial, recreational, and educational activities. The subcommittee is composed of Commissioners Yahn, Kenney, and Marston.

Commissioner Scully moved to remove Commissioner Scully from and add Commissioner Yahn to the subcommittee for Functional Area 4 with Commissioner Scully as chair of the subcommittee. Commissioner Kenney seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Blank, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn

Nays: None

Abstaining: None

Absent: Vice Chair Cunningham

Functional Area 1: No activity

Functional Area 2: Commissioner Beer advised that the subcommittee will discuss an evaluation of enforcement of applicable City Codes throughout the Harbor. Because Functional Areas 2 and 3 have been combined, the subcommittee will plan its priorities and a chronology. Derelict vessels will likely be a priority.

Functional Area 3: Chair Blank indicated the subcommittee has prepared minor recommendations for the current version of Council Policy H-1 and will present to the Harbor Commission in the next couple of months.

Functional Area 4: Commissioner Yahn reported he has met with Electra Charters, and charter operators look forward to dialogs with the subcommittee continuing.

Functional Area 5: Chair Blank indicated the subcommittee has discussed and planned reasonable accomplishments on a quarter-by-quarter basis.

3. Harbormaster Report – July 2019

The Harbormaster is responsible for on-water management of the City's moorings, 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 July 2019.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
- 2) Receive and file.

Harbormaster Borsting reported a large number of boaters were in the Harbor on Independence Day. A count of vessels in the anchorage totaled 27 and probably increased during the evening hours. Staff patrolled the Harbor until 9:30 p.m. on July 4. Negative activities in the Harbor were minimal. Harbor Department and Lifeguard staff participated in two staff trainings entitled Harbor Awareness and Lifesaving Techniques (HALT). The training provided practical lifesaving techniques. The City's Information Technology (IT) team has been developing an online reservation system for the guest marina at Marina Park and short-term mooring rentals. The system should be live in the next few days or by the end of August at the latest. The system will be embedded in the Harbor Department's website and the My Newport Beach mobile app. Staff participated in community meetings with the Newport Harbor Exchange Club and the Little Balboa Island Property Owners Association. He was interviewed for "On the Village Green with Nancy Gardner," and the segment aired during July. Spectrum 1 News taped a "Day in the Life of the Newport Beach Harbor Department" segment. The purchase of two patrol vessels has been approved, and a supplier will provide two Maritime Patriot 210 patrol boats in 20-22 weeks. Two rented catamarans will be retired once the patrol vessels are received. During July, guests submitted 20 customer satisfaction surveys. Responses continue to be positive for satisfaction, perception of quality, condition of slips, satisfaction with staff, and guests returning or recommending the facilities. He wanted to extend the survey to short-term users of mooring balls. Guests can now provide written comments on surveys. Guests left multiple positive comments regarding Ryan Sanford. Guests commented negatively regarding showers, restrooms, and price adjustments. Guest showers and bathrooms are receiving additional service in response to comments. Future Harbor Department statistics will include enforcement activity in greater detail.

In response to Commissioner Beer's inquiry, Harbormaster Borsting advised that the new patrol vessels will have larger engines, dive door features, and high-capacity raw water pumps to deter sea lions.

In reply to Commissioner Yahn's queries, Harbormaster Borsting stated the total cost for each vessel is approximately \$60,000. The vessels will have 115 horsepower Yamaha engines. Commissioner Yahn requested a column for prior year statistics in the report.

In answer to Commissioner Kenney's questions, Harbormaster Borsting indicated a larger, wraparound rub rail was removed from the specifications because the cost was \$10,000 per vessel. A Boston whaler could have fulfilled the specifications but at a higher cost.

Commissioner Scully suggested staff consider technology for individuals and service providers to report pump-outs.

Harbormaster Borsting explained that guests can provide their documentation via the new reservation system, and the documentation will be retained for guests' future reservations.

Chair Blank suggested placing automated electrical defibrillators (AED) on the new patrol vessels. In response to Chair Blank's question, Harbormaster Borsting did not have an update regarding the West Anchorage. The Coast Guard suggested the City reduce the size of the anchorage, and staff submitted a revised proposal to the Coast Guard in February 2019. He and a district-level representative have traded phone messages in July and August.

Commissioner Kenney expressed concern about reducing the size of the anchorage. The proposed anchorage had two components, one for average-size vessels and the other for vessels of 100 feet and more. The West Anchorage as originally proposed could accommodate two large vessels; whereas, one large vessel would fill the entire East Anchorage.

8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

None

9) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR-RELATED ISSUES

In reply to Commissioner Kenney's inquiry, Assistant City Manager Jacobs advised that a court proceeding is scheduled for August 15 regarding the *Wild Wave* case. The City is attempting to prevent the owner from accessing the boat. Commissioner Kenney remarked that the owner's ability to circumvent the law for such a long period is a travesty.

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

Commissioner Kenney requested an ongoing non-discussion item regarding the *Wild Wave*.

11) DATE AND TIME FOR NEXT MEETING: Wednesday, September 11, 2019 (Meeting will be held at Marina Park)

12) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 9:00 p.m.



CITY OF NEWPORT BEACH

Harbor Commission Staff Report

October 9, 2019
Agenda Item No. 7.1

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster – 949-270-8158,
kborsting@newportbeachca.gov

PREPARED BY: Chris Miller, Public Works Manager – 949-644-3043,
cmiller@newportbeachca.gov

TITLE: Council Policy H-1 – Harbor Commission Review and Recommendation

ABSTRACT:

At the June 25, 2019 meeting, the City Council revised Council Policy H-1 to clarify the Policy's intent and process in order to assist staff and the Harbor Commission when considering future applications. The City Council also directed the Harbor Commission to review the recent changes and to make recommendations to the City Council regarding any proposed revisions thereto. At the July meeting, the Harbor Commission directed the subcommittee to review the Policy and return to the Commission by October with recommended changes, if any. The Harbor Commission will review the proposed changes, and if approved, recommend they be forwarded to the City Council for consideration.

RECOMMENDATION:

- 1) Determine that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly.
- 2) Review and approve updates to the Council Policy H-1, and recommend that it be forwarded to the City Council for final approval.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Council Policy H-1 provides criteria for staff and the Harbor Commission when making decisions regarding piers and floats within Newport Harbor; specifically, the distance the piers and floats extend bayward beyond the pierhead line. In June 2019, the City Council updated Council Policy H-1, and at the same meeting, directed the Harbor Commission to review the Policy and return with recommended changes, if any.

The Harbor Commission subcommittee reviewed the current Council Policy H-1 and they have recommended changes as seen on Attachment A. The proposed revisions do not alter the

original intent of the Policy. Rather, they provide clarity for both staff and the Commission as they consider future projects.

The subcommittee is recommending the Harbor Commission approve the proposed changes and also recommend staff forward the Policy 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, 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 - Council Policy H-1 (redline, strikeout)
- Attachment B - Council Policy H-1 (clean)

HARBOR PERMIT POLICY

Background

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council policy.

Policy

Consistent with Title 17's purposes described in Newport Beach Municipal Code Section 17.05.020, the City Council's general policy is not to approve piers and floats beyond the pierhead line. Limited exceptions exist as described in this Policy, but the Harbor Commission is directed to use this general policy and the underlying purposes of Title 17 as a default rule that can only be excepted by making specific findings concerning such exceptions.

The proper procedure for determining whether such exceptions exist is to hold a public hearing in front of the Harbor Commission with a staff report that includes a staff recommendation and accompanying materials that shall include, but are not limited to, the application and materials supporting the staff recommendation. The Harbor Commission shall consider the City's general policy as articulated herein and shall make specific factual findings as to each of the categories of exceptions.

The applicant, or any interested person, shall have the right to appeal the Harbor Commission's decision to the City Council in accordance with Chapter 17.65 of the Municipal Code. Any individual City Council Member shall also have the right to call for review the Harbor Commission's decision to the City Council in accordance with Chapter 17.65.

The Harbor Commission, or the City Council considering an appeal or call for review, may approve or conditionally approve a permit for a pier or float to extend bayward beyond the pierhead line if it is determined that all of the following conditions are met:

1. ~~(1) The existing pier or float is already physically currently~~ encroaching bayward beyond the pierhead line; and
2. ~~(2) The existing pier or float was legally previously~~ permitted to encroach bayward beyond the pierhead line; and
3. ~~(3) The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment beyond the pierhead line~~ result in an increase in the

~~physical encroachment beyond the pierhead line that is greater than the existing encroachment and;~~

~~3.~~

~~4. (4) a~~Any ~~vessel~~boat utilizing the pier or float will not extend bayward beyond the project line or line at which ~~it~~the vessel would currently be allowed, whichever is greater; and

~~5. (5) t~~The pier or float will:

~~a. (i) p~~Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport ~~Bay~~Harbor, ~~and~~

~~b. (ii) m~~Maintain or enhance public access to the harbor waterways and waterfront areas, ~~and~~

~~c. (iii) p~~Preserve or enhance the visual character of the harbor;~~r~~ and

~~a.d. (iv) n~~Not negatively impact adjacent property owners, navigation and future harbor dredging; ~~of the harbor.~~

Any permit issued by the City of Newport Beach before June 26, 2019, which allows an existing pier or float to extend bayward beyond the pierhead line, is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

For those piers and floats in areas where pierhead lines do not exist or in areas not otherwise clearly defined by the criteria within this Policy, staff may consider approving those pier and float projects if the reconstruction is like-for-like including any upgrades required to meet current code and building standards, and if the existing pier or float configuration was previously permitted.

History

Adopted H-1 – 6-1-1964

Amended H-1 – 10-19-1964

Amended H-1 – 10-26-1964

Amended H-1 – 4-27-65

Reaffirmed H-1 – 8-30-1966

Amended H-1 – 1-9-1967

Amended H-1 – 7-24-1967

Amended H-1 – 6-24-1968

Amended H-1 – 8-19-1968
Amended H-1 – 12-23-1968
Amended H-1 – 1-26-1970
Reaffirmed H-1 – 3-9-1970
Reaffirmed H-1 – 2-14-1972
Amended H-1 – 8-14-1972
Amended H-1 – 6-25-1973
Reaffirmed H-1 – 12-10-1973
Amended H-1 – 12-17-1973
Amended H-1 – 6-10-1974
Reaffirmed H-1 – 11-11-1974
Amended H-1 – 3-10-1975
Amended H-1 – 4-28-1975
Amended H-1 – 5-27-1975
Amended H-1 – 10-28-1975
Amended H-1 – 12-8-1975
Amended H-1 – 5-10-1976
Amended H-1 – 10-26-1976
Amended H-1 – 11-22-1976
Reaffirmed H-1 – 1-24-1977
Amended H-1 – 5-23-1977
Amended H-1 – 5-22-1978
Amended H-1 – 12-11-1978
Amended H-1 – 3-12-1979
Amended H-1 – 6-25-1979
Amended H-1 – 6-9-1980
Amended H-1 – 6-23-1980
Amended H-1 – 11-23-1981
Amended H-1 – 6-28-1982
Amended H-1 – 10-12-1982
Amended H-1 – 10-25-1982
Amended H-1 – 6-27-1983
Amended H-1 – 1-14-1985
Amended H-1 – 3-25-1985
Amended H-1 – 6-24-1985
Amended H-1 – 6-22-1987
Amended H-1 – 6-13-1988
Amended H-1 – 11-28-1988
Amended H-1 – 6-26-1989
Amended H-1 – 9-25-1989

Amended H-1 – 11-27-1989
Amended H-1 – 5-14-1990
Amended H-1 – 6-25-1990
Amended H-1 – 4-8-1991
Amended H-1 – 6-24-1991
Amended H-1 – 10-28-1991
Reaffirmed H-1 – 1-24-1994
Amended H-1 – 6-27-1994
Amended H-1 – 6-26-1995
Amended H-1 – 3-25-1996
Amended H-1 – ~~June06~~–8, 1998
Amended H-1 – 12-14-1998
Amended H-1 – 5-8-2001
Amended H-1 – 9-10-2002
Amended H-1 – 10-28-2003
Amended H-1 – 4-13-2004
Amended H-1 – 1-8-2008
Amended H-1 – 5-22-2018
Amended H-1 – 6-25-2019

HARBOR PERMIT POLICY

Background

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council policy.

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The proper procedure for determining whether such exceptions exist is to hold a public hearing in front of the Harbor Commission with a staff report that includes a staff recommendation and accompanying materials that shall include, but are not limited to, the application and materials supporting the staff recommendation. The Harbor Commission shall consider the City's general policy as articulated herein and shall make specific factual findings as to each of the categories of exceptions.

The applicant, or any interested person, shall have the right to appeal the Harbor Commission's decision to the City Council in accordance with Chapter 17.65 of the Municipal Code. Any individual City Council Member shall also have the right to call for review the Harbor Commission's decision to the City Council in accordance with Chapter 17.65.

The Harbor Commission, or the City Council considering an appeal or call for review, may approve or conditionally approve a permit for a pier or float to extend bayward beyond the pierhead line if it is determined that all of the following conditions are met:

1. The existing pier or float is currently encroaching bayward beyond the pierhead line; and
2. The existing pier or float was previously permitted to encroach bayward beyond the pierhead line; and
3. The pier or float will not encroach any further bayward beyond the pierhead line than

the existing encroachment beyond the pierhead line and;

4. Any vessel utilizing the pier or float will not extend bayward beyond the project line or line at which the vessel would currently be allowed, whichever is greater; and
5. The pier or float will:
 - a. Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Harbor, and
 - b. Maintain or enhance public access to the harbor waterways and waterfront areas, and
 - c. Preserve or enhance the visual character of the harbor; and
 - d. Not negatively impact adjacent property owners, navigation and future harbor dredging.

Any permit issued by the City of Newport Beach before June 26, 2019, which allows an existing pier or float to extend bayward beyond the pierhead line, is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

For those piers and floats in areas where pierhead lines do not exist or in areas not otherwise clearly defined by the criteria within this Policy, staff may consider approving those pier and float projects if the reconstruction is like-for-like including any upgrades required to meet current code and building standards, and if the existing pier or float configuration was previously permitted.

History

Adopted H-1 – 6-1-1964
 Amended H-1 – 10-19-1964
 Amended H-1 – 10-26-1964
 Amended H-1 – 4-27-65
 Reaffirmed H-1 – 8-30-1966
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 Amended H-1 – 7-24-1967
 Amended H-1 – 6-24-1968
 Amended H-1 – 8-19-1968
 Amended H-1 – 12-23-1968

Amended H-1 – 1-26-1970
Reaffirmed H-1 – 3-9-1970
Reaffirmed H-1 – 2-14-1972
Amended H-1 – 8-14-1972
Amended H-1 – 6-25-1973
Reaffirmed H-1 – 12-10-1973
Amended H-1 – 12-17-1973
Amended H-1 – 6-10-1974
Reaffirmed H-1 – 11-11-1974
Amended H-1 – 3-10-1975
Amended H-1 – 4-28-1975
Amended H-1 – 5-27-1975
Amended H-1 – 10-28-1975
Amended H-1 – 12-8-1975
Amended H-1 – 5-10-1976
Amended H-1 – 10-26-1976
Amended H-1 – 11-22-1976
Reaffirmed H-1 – 1-24-1977
Amended H-1 – 5-23-1977
Amended H-1 – 5-22-1978
Amended H-1 – 12-11-1978
Amended H-1 – 3-12-1979
Amended H-1 – 6-25-1979
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Amended H-1 – 6-27-1994
Amended H-1 – 6-26-1995
Amended H-1 – 3-25-1996
Amended H-1 – 06-8, 1998
Amended H-1 – 12-14-1998
Amended H-1 – 5-8-2001
Amended H-1 – 9-10-2002
Amended H-1 – 10-28-2003
Amended H-1 – 4-13-2004
Amended H-1 – 1-8-2008
Amended H-1 – 5-22-2018
Amended H-1 – 6-25-2019



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

October 9, 2019
Agenda Item No. 7.2

TO: HARBOR COMMISSION

FROM: Carol Jacobs, Assistant City Manager, 949-644-3313
cjacobs@newportbeachca.gov

TITLE: Review and Update Harbor Commission Objectives/Subcommittee Reports

ABSTRACT:

The Harbor Commission has completed a number of Objectives since the last full update of the Objectives in 2018. It is recommended that the Harbor Commission create a subcommittee to review the current updated Objectives and return to the November meeting to add, delete or modify the Objectives for City Council consideration in January 2020. The subcommittees will report on their progress from the last month.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
- 2) Subcommittees to report on August and September progress.
- 3) Appoint Subcommittee to review Objectives and return to the Harbor Commission in November with recommendations to add, delete or modify the Harbor Commission's Objectives.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION

The Harbor Commission has established objectives, which have been presented to the City Council on an annual basis for a number of years. The purpose of these Objectives is to systematically review the operations of the harbor and work to improve the harbor for all stakeholders. The last full update of the Objectives was completed in February of 2018 and the Harbor Commission recently revised and updated the objectives in July of 2019.

The process to update the Objectives has historically been to create a subcommittee to develop the objectives and then bring those objectives forward to the full Harbor Commission for consideration. Should the Harbor Commission wish to update the Objectives, it is recommended the Harbor Commission appoint a subcommittee to review and return to the next Harbor Commission meeting for consideration. The approved objectives would then be presented to the City Council as soon as practical.

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, 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 2018 Objectives, Revised July 2019



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 purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

1. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within Newport Harbor.
2. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
3. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
4. Advise the City Council on proposed harbor-related improvements.
5. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
6. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
7. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
 - Dredging priorities
 - In-bay beach sand replenishment priorities
 - Harbor amenities such as mooring support service areas and public docks

Harbor Commission - 2019 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 calendar year 2019 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
2018 Objectives
Updated July 10, 2019

2019 Objectives	Functional Area
<p>1.1 Identify sustainable low-cost solutions to dredge the deep-water channels throughout the harbor.</p> <p>1.2 Identify opportunities to streamline the RGP54 permit process.</p> <p>1.3 Evaluate options for near shore dredging. Establish a sustainable program that consistently nourishes harbor beaches on a yearly basis.</p>	<p>1.0 Harbor Dredging (<i>Cunningham</i>, Marston)</p> <p><i>Advise the City Council on:</i></p> <ul style="list-style-type: none"> ○ <i>Dredging methodologies</i> ○ <i>Dredging priorities</i> ○ <i>Eelgrass protection</i> ○ <i>Beach re-nourishment</i>
<p>*Functional Areas 2 and 3 (combined 7/10/19)</p> <p>2.1 Evaluate current enforcement of applicable City codes throughout the harbor. Report back to Commission by July.</p> <p>2.2 Evaluate potential enhancements to city amenities provided to mooring permittees, residents and visitors.</p> <p>2.3 Establish policies for modifications to mooring size.</p> <p><u>Future Priorities</u></p> <ul style="list-style-type: none"> A. Work with Harbormaster's office to evaluate mooring management and oversight. B. Identify and address derelict vessels in the harbor. C. Complete evaluation for establishing day moorings off Big Corona beach. D. Evaluate options to consolidate and reduce the footprint of current mooring fields. 	<p>2.0 Harbor Operations, Management, Amenities, and Capital Improvements (<i>Beer</i>, Yahn, Scully)</p> <ul style="list-style-type: none"> ○ <i>Matters pertaining to use, control, operation, promotion, regulation of all vessels and watercraft.</i> ○ <i>Advise the City Council on proposed harbor-related improvements.</i> ○ <i>Advise the City Council on harbor amenities such as mooring support service areas and public docks.</i>
<p>3.1 Review and update City Municipal Codes, Title 17, Harbor Policies 1-5 and Marine Activities Permits.</p>	<p>3.0 Harbor Policies, Codes, Regulations (<i>Kenney</i>, Blank, Yahn)</p> <ul style="list-style-type: none"> ○ <i>Approve, conditionally approve, or disapprove applications on all harbor permits.</i> ○ <i>Serve as an appellate and reviewing body for decisions on harbor permits, leases, and other harbor-related administrative matters.</i>

City of Newport Beach - Harbor Commission
2019 Objectives
Updated July 11, 2019

2019 Objectives	Functional Area
<p>4.1 Establish a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for charter and commercial boat operations in Newport Harbor with particular attention to vessel specifications, noise and pollution control/compliance and long-range plans for berthing.</p>	<p>4.0 Commercial, Recreational and Educational Activities (Yahn, Kenney, Marston)</p> <ul style="list-style-type: none"> ○ <i>Matters pertaining to use, control, operation, promotion, regulation of all vessels and watercraft.</i> ○ <i>Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters.</i>
<p>5.1 Draft a Harbor Plan that can be used independently or in conjunction with an update to the General Plan and/or Harbor Area Management Plan (HAMP). Specific attention should be paid to state requirements including conservation for harbors, MLPA/MPAs and fisheries and work previously done by the Harbor Commission related to preservation of marine related activities and businesses in Newport Harbor and the Harbor Financial Master Plan.</p> <p><u>Future Priorities</u></p> <p>A. Create a Vision Statement for the Harbor describing the purposes, uses and characteristics in the year 2050. Reference how that Vision aligns with the current 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.</p>	<p>5.0 Long Term Vision for Harbor (Harbor Strategic Planning) (Blank, Cunningham, Scully)</p> <ul style="list-style-type: none"> ○ <i>Advise the City Council on the City General Plan.</i>

*Numbering of Objectives was changed to reflect the combining of Objectives 2 and 3 at the Harbor Commission Meeting of July 10, 2019.



CITY OF NEWPORT BEACH

Harbor Commission Staff Report

October 9, 2019
Agenda Item No. 7.3

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster, (949) 270-8158
kborsting@newportbeachca.gov

TITLE: Harbormaster Update – August and September 2019

ABSTRACT:

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 August and September, 2019.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
- 2) Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Abandoned Vessel Auction – August 15

On Thursday, August 15, an abandoned boat auction was held at the City's Marina Park guest slip facility. The public sale featured nine (9) previously impounded and abandoned vessels. Eight of the vessels were small kayaks and pedal boats, along with one 34' Ericson sailboat. The program was well attended, competitive bidding took place and all vessels were sold. All boats purchased at the event have since been released to their new owners. The program resulted in \$1,850 in sales revenue to the department.

The auction program was organized to take place concurrent with the OC Sheriff's Boat Auction, allowing both agencies to share resources and benefit from a larger pool of bidders vs. hosting individual events at different times.

California Association of Harbor Masters and Port Captains – Annual Conference

Kurt Borsting attended the California Association of Harbor Masters and Port Captains annual conference event, held in Sacramento, CA from September 4 through 6. The association's membership includes management and staff from various municipalities, counties and special districts which operate marinas, small-craft ports and harbors. Keynote presentations and educational session topics covered an array of issues, including: Port dredging outlook for the Federal fiscal year; projections and response strategies associated with expected sea level rise; programs and grant opportunities available through the CA Division of Boating and Waterways; and other topics of interest. A trade show was also held as part of the program, featuring retailers and service providers catering to marina and harbor operators.

Early Planning for Harbor Department's Role in the 2019 Christmas Boat Parade

A planning meeting was held on Wednesday, September 11, 2019 with Harbor Department staff and organizers of the annual Newport Beach Christmas Boat Parade to discuss the Department's role in supporting the upcoming multi-night program. As with prior years, the Harbor Department's primary responsibility will be supporting the Marina Park complex (managing access to the guest slips and long dock, assisting with the Grand Marshal vessel's dock space, land-side assistance to guests at the park, etc.). In addition, this year one Harbor Department vessel will serve as a parade marshal boat. Staff will be attending marshal training sessions in the weeks ahead.

Public Information and Departmental Outreach Efforts

Outreach to community stakeholder groups continued during August and September 2019. Taking advantage of these 'get the word out' opportunities has assisted the department in informing the general public about the Harbor Department and its mission.

In late August, a previously filmed "Day in the Life of the Newport Beach Harbor Department" television segment aired locally on Spectrum News One. The feature focused on two of the Harbor Department leads, one performing typical patrol duties out in the bay, and the other assisting visitors in the Marina Park guest slips.

The Harbor Department developed a quarter page display advertisement to promote short term rentals of Marina Park slips, available moorings, as well as the no-charge public anchorage area. The ad ran as part of the September 20 edition of The Log (a bi-weekly newspaper which focuses on Southern California boating and fishing topics). Nine additional ad buys have been made for this same publication, running now through late April 2020.

On Thursday, September 26 the Harbormaster was extended a speaking opportunity at the Newport Beach and Company Board of Directors meeting. The presentation focused on providing overview information about the Harbor Department, as well as fielding questions from board members. The meeting was well attended and the presentation was well received.

Department Patrol Vessel Procurement

Two 21-foot patrol vessels (make/model - Maritime Patriot 210) recently purchased by the Harbor Department are currently being fabricated by the manufacturer. Regular progress reports are being communicated to the City about the status of the build outs. The vessels are expected to be completed and delivered by mid- to late- November 2019.

Code Enforcement Activity

During August 2019, Code Enforcement staff opened 130 new cases and successfully resolved/closed 165 existing files. In September 2019, staff opened 150 new cases, resolving/closing an additional 152 existing files.

Follow up efforts with mooring permittees whose vessel registration or proof of insurance was not current represented the largest sub-category of code enforcement activities during these two months (55 cases opened in August, and 82 cases opened in September). A growing number of cases associated with permittees needing to establish or improve sea-lion deterrents on their vessels also took place during this period (11 cases opened in August, and 27 cases opened in September).

Outreach to Liquid Waste Haulers – Marine Activities Permits (MAP)

As the Harbor Department continues to roll out the Marine Activities Permit (MAP) process with commercial operators in the harbor, Code Enforcement staff have begun outreach to commercial liquid waste haulers (mobile pump-out services). There are two firms that currently operate in Newport Harbor.

The first of these two operators has submitted their MAP application for review. As part of establishing this new permit, an inspection of their mobile pump out equipment was called for. City Code Enforcement staff partnered with Orange County Environmental Health Division, as they already have an inspection and permitting process in place for these business types.

On September 9th, working with OC Environmental Health Division staff, an inspection of the mobile service provider's barge and equipment was conducted. Elements of the inspection included: dye tab test to ensure no leaks from the holding tanks; visual inspection of hoses and connections for condition and leaks; confirming operator had a proper spill kit on board; and review of best management practices when using City pump out stations to discharge collected materials.

Orange County Environmental Health Division conducts their inspections of liquid waste haulers annually in January. Moving forward City Code Enforcement staff plan to coordinate with the County so the commercial operators do not have to schedule duplicative inspections.

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 - Harbor Department Statistics, Fiscal Year through September 2019

Harbor Department Statistics Fiscal Year 2019-20

	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	YTD
Anchorage	45	26	7										78
Assisting Vessels Over 20'	4	5	4										13
Assisting Vessels under 20'	24	19	5										48
Bridge Jumpers	6	68	6										80
Daily Anchorage Check	141	257	140										538
Discharge/Pollution	3	9	6										18
Dock/Pier/Bridge Issue	14	16	12										42
Emergency	-	1											1
General Assist	35	41	15										91
Hazards/Debris	22	58	8										88
Impound	15	16	4										35
Incident	10	4	13										27
Mooring Assist	30	13	10										53
Mooring Check	229	581	220										1,030
Noise	3	-	6										9
Paddleboard/Kayak	247	179	8										434
Public Contact	147	156	89										392
Public Dock Enforcement	345	371	294										1,010
Pump Out	13	21	11										45
Registration & Insurance		242	199										
Sea Lions	36	88	122										246
Speeding	87	58	41										186
Swim Line	1	3	4										8
Trash	247	283	278										808
Rentals - Marina Park Slips	157	147	105										409
# of nights	397	399	282										1,078
Rentals - MP Sand Lines	11	9	8										28
# of nights	49	32	29										110
Mooring Sub-permittee	60	54	45										159
# of nights	377	392	321										1,090
Code Enforcement													
New Cases	116	130	150										396
Closed Cases	117	165	152										434
Verbal Warning	14	37	59										110
Warning Notices	122	118	163										403
Admin Cites	5	6	4										15



CITY OF NEWPORT BEACH

HARBORMASTER

1600 W. Balboa Blvd.
Newport Beach, California 92663
949-270-8159
newportharbor.org

Date: October 9, 2019

To: Harbor Commission

From: Kurt Borsting, City Harbormaster

Subject: Updated Harbor Department Statistics, Fiscal Year through September 2019

Attached you will find an updated version of the monthly Harbor Department Statistics document, provided as a supporting document to the Harbormaster's Update, which is on tonight's Harbor Commission agenda.

It was discovered yesterday that the previously sent version of this document contained an error associated with guest slip and short term mooring counts. This error has been corrected in this updated version.

Harbor Department Statistics Fiscal Year 2019-20

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Sea Lions	36	88	122										246
Speeding	87	58	41										186
Swim Line	1	3	4										8
Trash	247	283	278										808
Rentals - Marina Park Slips	143	147	107										397
# of nights	370	399	295										1,064
Rentals - MP Sand Lines	9	9	7										25
# of nights	43	32	28										103
Mooring Sub-permitee	61	54	48										163
# of nights	404	392	350										1,146
Code Enforcement													
New Cases	116	130	150										396
Closed Cases	117	165	152										434
Verbal Warning	14	37	59										110
Warning Notices	122	118	163										403
Admin Cites	5	6	4										15