

CITY OF NEWPORT BEACH HARBOR COMMISSION STUDY SESSION 4:00 P.M. / REGULAR MEETING 5:00 P.M. AGENDA

Commission members will participate via Zoom. Please see Special Notice regarding COVID-19 for public participation information.

Wednesday, September 9, 2020 - 4:00 PM

Harbor Commission Members: 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 Jennifer Biddle, Administrative Support Specialist

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

The Citv Newport Beach's with the Americans with Disabilities (ADA) all of qoal is to comply Act in If. attendee will need respects. as an or participant at this meetina. vou special assistance bevond а provided, will in what is normally attempt accommodate everv reasonable manner. Please we to vou Jacobs, Assistant City least forty-eight (48) hours to contact Carol Manager. at prior the meetina to particular needs and determine if accommodation is feasible at (949) 644-3001 or inform us of vour to 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.

SPECIAL NOTICE REGARDING COVID-19

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which allows Harbor Commission Members to attend Harbor Commission meetings by electronic means. Please be advised that to minimize the spread of COVID-19, Harbor Commission Members may attend this meeting either electronically or telephonically.

Also, please be advised that on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allows for the public to participate in any meeting of the Harbor Commission telephonically or by other electronic means. Given the health risks associated with COVID-19, the City of Newport Beach will conduct this meeting via Zoom. As a member of the public, if you would like to participate in this meeting, you can participate via the following options:

can submit your questions and comments in writing for the Harbor Commission's consideration by 1. You sending them to Carol Jacobs, Assistant City Manager, at cjacobs@newportbeachca.gov. To give the Harbor Commission adequate time to review your questions and comments, please submit your written comments by Tuesday, September 8, 2020, at 5 p.m. All emails will be made part of the record.

2. You can connect with a computer by joining through Zoom. Use the link below to register for the meeting using a valid email address. You will receive a confirmation email allowing you to join the meeting: https://zoom.us/webinar/register/WN_m6wF5bHRQSCnEXN6rVTbbA.

3. Or you may connect by Phone/Audio Only by calling: 669-900-9128. The meeting ID is 972 4534 3537#

Please know that it is important for the City to allow public participation at this meeting. 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.

1) ROLL CALL (4 p.m. Study Session)

2) <u>CURRENT BUSINESS</u>

SS1. Review and Consideration of Harbor Commission Goals and Objectives for 2021

Harbor Commission Study Session - Objectives

Additional Materials Received Items SS1 10.1 11.1 11.2 Jim Mosher

3) PUBLIC COMMENTS ON NON-AGENDA ITEMS

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 extend to or speakers' time limit on non-agenda items. shorten the provided the time limit adjustment is applied equally to all speakers.

4) <u>RECESS</u>

5) RECONVENE AT 5 P.M. FOR REGULAR MEETING

- 6) CALL MEETING TO ORDER
- 7) <u>ROLL CALL</u>
- 8) PLEDGE OF ALLEGIANCE

9) PUBLIC COMMENTS

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

10) APPROVAL OF MINUTES

1. Minutes of August 12, 2020 Harbor Commission Regular Meeting

<u>08-12-2020 Harbor Commission Draft Minutes</u> Additional Materials Received Items SS1 10.1 11.1 11.2 Jim Mosher

11) CURRENT BUSINESS

1. Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential: Review and Approval

The Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential Facilities (Harbor Design Standards) have been updated after receiving industry input. Staff requests the Harbor Commission consider approving these standards, then forwarding to the City Council for review and approval.

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 reasonable

foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

2) Approve the Harbor Design Standards and recommend that staff forward to the City Council for consideration and approval.

<u>Staff Report</u> <u>Attachment A - Harbor Design Standards – Redline Pages only</u> <u>Attachment B - Harbor Design Standards – Clean Final (all pages)</u> <u>Additional Materials Received_Items SS1_10.1_11.1_11.2_Jim Mosher</u> <u>Additional Material Received_Item 11.1_Commissioner Marston</u>

2. Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 -Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 -Anchorage, Berthing and Mooring Regulations

During the past year the Harbor Commission has reviewed, solicited public input and recommended changes to Title 17 of the Newport Beach Municipal Code (the Harbor Code) to the City Council.

On January 28, 2020, the City Council adopted these proposed changes to Title 17 as recommended. As part of that action, City Council requested the Harbor Commission return to City Council with additional recommendations associated with requirements for live-aboard boaters with vessels in commercial marinas.

Unrelated to the live-aboard related recommendations, staff is also requesting the Harbor Commission consider a recommended set of clarifications to Title 17, associated with use of the in-harbor public anchorage.

Recommendation:

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

2) Approve the recommended changes to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations and forward to City Council for their consideration.

Staff Report

<u>Attachment A – Redline recommended changes</u> <u>Attachment B – Correspondence</u> <u>Additional Materials Received Items SS1 10.1_11.1_11.2_Jim Mosher</u> Additional Material Received Item 11.2_Jim Parker

3. Day-Use Mooring Sub-Permit Trial

The Harbor Department is responsible for managing the City's on- and off-shore mooring

fields. Identifying opportunities to increase the utility of these fields, in order to better serve the needs of the local boating community, is a central goal of the department.

Some local boaters have expressed interest in the short-term day-use of vacant off-moorings, allowing them to enjoy secure and stationary/non-operational leisure time aboard their vessels while in the Harbor. To accommodate such requests and to better

evaluate merits of such an offering, the Harbormaster is proposing to implement a six-month trial program, allowing for short-term day-use rental of off-shore moorings, for up to six hours.

Recommendation:

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

2) Approve staff recommendation to implement a day-use mooring program, on a trial basis, through February 28, 2021, as well as requesting staff to report back to the Harbor Commission on the results of this trial program, determining whether or not such a program should considered as a standing harbor-related offering, beyond the six month trial period.

Staff Report

4. Harbor Commission 2020 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2020 Objectives, will provide a progress update.

Recommendation:

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

2) Receive and file.

Staff Report

<u>Attachment A – Harbor Commission 2020 Objectives</u> <u>Attachment B – Harbor Commission 2020 Objectives Tracking Sheet</u>

5. Harbormaster Report - August 2020

The Harbormaster is responsible for on-water management of the City's moorings, the Marina Park Marina and code enforcement on the water. This report will update the Commission on the Harbor Department's activities for August 2020.

Recommendation:

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

2) Receive and file.

Staff Report

<u>Attachment A – Harbor Department Statistics, Fiscal Year through August 2020</u>

12) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

13) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR RELATED ISSUES

- 14) <u>MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE</u> <u>AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)</u>
- 15) DATE AND TIME FOR NEXT MEETING: Wednesday, October 14, 2020 at 5 p.m.
- 16) ADJOURNMENT

Harbor Commission Study Session

GOALS AND OBJECTIVES 2021 SEPTEMBER 9, 2020

Agenda

- Review current Harbor Commission Goals and Objectives
- Provide input to modify and or revise current objectives
- Provide input into new objectives
- Harbor Commission to consider in October
- Send to City Council for final approval

Functional Area 1 – Harbor Operations – Matters Pertaining to the Management Policies, Codes, Regulations and Enforcement (Kenney)

- 1.1 Complete current version of Title 17 while maintaining suggestions for future revisions (Yahn)
- 1.2 Study and make recommendations for changes to Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permits (Williams, Yahn)
- 1.3 Help identify derelict vessels in the harbor including recommendations for limiting the inflow of derelict vessels into the harbor (Beer)
- 1.4 Study and provide recommendations for shore moorings, including transfer permit policy (Beer, Cunningham)

Functional Area 2 – Harbor Viability – Matters pertaining to Assets, Amenities and Access (Beer)

- 2.1 Evaluate potential enhancements to City amenities and provided to mooring permittees, residents and visitors (Scully)
- 2.2 Support staff with permanent anchorage at the west end of Lido Island (Williams)
- 2.3 Evaluate options to consolidate and reduce the footprint of the mooring fields (Yahn)

Functional Area 2 – Harbor Viability – Matters pertaining to Assets, Amenities and Access (Beer)

- 2.4 Continue pursuit of a second public launch ramp (Kenney)
- 2.5 Complete evaluation for establishing day moorings off Big Corona beach (Williams)

Functional Area 3 – Harbor Infrastructure – Matters Pertaining to Sea Walls, Sea Level Rise, Dredging, Docks and Beaches (Cunningham)

- 3.1 Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process
- 3.2 Establish a sustainable program that consistently re-nourishes our harbor and beaches (Marston)
- 3.3 Support staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth
- 3.4 Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea level rise and coastal erosion (Marston)

Functional Area 4 – Harbor Stakeholders -Matters Pertaining to Residential, Recreational and Commercial Users(Scully)

- 4.1 Develop a plan to communicate and assist Stakeholder required to complete and meet the newly defined Marine Activities Permit (Marston)
- 4.2 Assist Staff in developing a communication outreach to Stakeholders similar to the program in place with the Mooring Association (Marston)

Functional Area 4 – Harbor Stakeholders -Matters Pertaining to Residential, Recreational and Commercial Users(Scully)

- 4.3 –Continue a dialog with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices
- 4.4 Support Staff in the Harbor Attendance Study(Yahn)

Functional Area 5 – Harbor Vision - Matters Pertaining to Community Outreach and the General Plan Update

- 5.1 –Draft a harbor Plan that can be used independently or in conjunction with an update to the General Plan. Special attention should be made to preservation of marine related activities in Newport Harbor
- 5.2 Evaluate and make recommendations for Lower Castaways

Commissioner Discussion

September 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission <u>agenda</u> are submitted by: Jim Mosher (<u>jimmosher@yahoo.com</u>), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item SS1. Review and Consideration of Harbor Commission Goals and Objectives for 2021

Execution of the Harbor Commission's goals and objectives appears predicated on the existence of a number of formally-appointed committees that will, as they have in past years, meet privately to formulate recommendations. While this is allowed by California's open meetings law applicable to local agencies (the <u>Brown Act</u>), it is important to ensure not only that each committee consist of less than a majority of the Commission, but that (1) their activity is limited to formulating a recommendation to the full Commission (as opposed to privately guiding staff) and (2) that their assigned activity is clearly enough defined to make it obvious when their job is done and they cease to exist (as opposed to functioning as a "standing" committee formulating recommendations pertinent to a particular subject matter on an ongoing basis). If not, their meetings need to be noticed and open to the public.

In the slides posted in advance of the meeting, possible problems exist with 2.2, 3.1, 3.3, 4.3, and possibly 4.4, which, as presented, appear to exist to interact with staff or outside agencies/stakeholders rather than to themselves make a recommendation to the Commission.

Item 10.1. Minutes of August 12, 2020 Harbor Commission Regular Meeting

I have not had time to read all of these, but on page 2 (page 17 of the agenda packet), in the first paragraph of narrative, the first refence to "*Standard Drawing No.* **616** for the West Newport area" was probably intended to read "*Standard Drawing No.* **606**" (see page 35 of the present agenda packet). Drawing No. 616, as the next sentence indicates, is "Datums."

Item 11.1. Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential: Review and Approval

As the draft minutes indicate, at the August 12 meeting I commented on the revised Standard Drawing No. 616 (on pages 42 and 116 of the current agenda packet), which I apparently mistakenly referred to as representing a "tide gauge" (of perhaps more accurately "tide staff").

What I believe it does try to represent is empirical water levels compared to the geometrically fixed system of heights called NAVD88 against which such things as sea level rise are measured.

As such, as I tried to point out, I believe it creates an impression of unwarranted precision. Not only because the averages change with time due to sea level rise, but because the tide gauge in Newport Harbor reported to NOAA only from <u>1955 to 1993</u>, which means it was operational for less than the full 18.3 year tidal "epoch," 1983-2001, over which the empirical measurements

are currently averaged. I believe that to compute the "<u>datums</u>" shown in Drawing No. 616, NOAA has assumed the same offsets from the heights observed by the more carefully and continuously maintained <u>Station 9410660</u> in LA Harbor.

In addition, Drawing No. 616 contains at least one typo: the highest tide observed during the operation of the historic Newport Harbor tide gauge (7.67' MLLW) was observed on 1/28/1983, not 1/28/1993 as indicated on the drawing.

But it should be understood the indicated high and low water levels are only those actually observed during the operation of the gauge. The LA Harbor station <u>reported</u> a slightly higher tide on 01/10/2005 and a substantially lower one than that reported for Newport on 12/17/1933. Even though Newport Harbor had no tide gauge reporting on those dates, it would seem safe to assume the waters here showed similar extremes (for comparison, see also the datums for the similarly long-operating <u>Station 9410170</u> in San Diego Bay, which experienced its highest tide on 11/25/2015 and lowest on 12/17/1937 – both dates for which NOAA has no data from Newport).

On this subject of extreme high and low water (which I believe purposely does not include the peaks produced by short-period wave action), I might also note I am not sure I understand the intended significance of the proposed revisions to Standard Drawing No. 609 (on page 38). This drawing of a residential pier platform shows lines on the right representing Highest and Lowest observed tides. Formerly they said "NTS" (I believe for "Not to Scale"). Now they will say "HOT" (Highest Observed Tide") and "LOT" (Lowest Observed Tide"). But the drawing does not explain how they affect the design. Must the bottom (or top?) of the platform be at least some distance above the HOT? If so, how far? And how does the position of the LOT affect the design, if at all?

Item 11.2. Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

As the two members of the ad hoc committee know, I submitted some suggested alternative modifications to the code, too late to make the agenda packet.

While I am generally supportive of the committee's recommendations, I have continuing trouble with the proposed definition of "Live-Aboard" (agenda packet page 120), which I think conflates regulation with definition. I think the definition should concentrate on articulating what the code means by "living aboard" and the limits on how long one can live aboard in various situations should be left to the regulations.

I could be wrong, but I have the impression that the concept of "living aboard" has primarily to do with "overnighting" on a vessel. The proposed definition makes no reference to that, and instead cites using "*a vessel as a domicile for human habitation*" – words that make little sense to me, especially since a "domicile" is generally understood to mean one's permanent home, and it's hard to see how staying on a vessel for 72 hours or even eight months, and even if one spends nights on it, makes it one's domicile if one feels the true and permanent home they will

eventually return to is elsewhere. The Commission should also know that a mooring is a kind of "berth" according to the definitions in Title 17.

I also think the whole Harbor Commission seeing only snippets of code and not the whole chapter as proposed is a bit dangerous.

For example, it may not be obvious if a live-aboard permit goes with a person or a vessel and if the former, if each person needs a separate permit (the third sentence of the proposed Section 17.40.030 was probably intended to read "*No permit shall be issued to any live-aboard* <u>for a</u> <u>vessel</u> which is not intended to serve as the principal residence of the live-aboard").

Also, as I have repeatedly tried to point out, the existing <u>Section 17.40.020</u>, as revised this year, makes reference to non-existent provisions about short-term and "long-term mooring subpermits as noted in Section 17.60.040(G)." Such permits no longer exist, so the meaning of the terms is undefined. And I remain unclear on the Harbormaster's authority to allow live-aboard activity for more than 72 hours on guest moorings.

Finally, although not mentioned in the staff report, one of the committee's recommendations seems to be to place no limit on the allowed number of live-aboards in commercial marinas.

As to the new regulations on the anchorages in the harbor proposed for Chapters 17.20 and 17.25 (pages 122 and 123), the Commission may wish to know these are being copied from restrictions the Council adopted in 2009 to address a problem with people anchoring vessels *in the open ocean* off Big Corona State Beach (see <u>Item 4</u> from the Council's January 13, 2009, meeting, which details the problems being addressed with open ocean anchoring).

There was evidently no intention at that time to apply those rules to the very different conditions at anchorages *within the harbor*. So the Commission may wish to exercise some caution in applying exactly the same rules there.

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES Zoom Virtual Meeting, Newport Beach, CA Wednesday, August 12, 2020 5 PM

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 Administrative Manager Jennifer Biddle, Administrative Support Specialist		

3) <u>PLEDGE OF ALLEGIANCE</u> – Chair Kenney

4) <u>PUBLIC COMMENTS</u>

Jim Mosher advised that Title 11 of the Municipal Code designates ten swimming areas in the City, several of which are located in the Harbor. However, none are shown on Harbor maps.

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

1. Minutes of July 8, 2020, Regular Meeting

Commissioner Marston corrected "Coast Commission" in the fifth paragraph on page 9 to "Coastal Commission."

Chair Kenney requested the incorporation of Mr. Mosher's proposed revisions into the minutes. Mr. Bose's comments on page 8 should refer to "pedal" boats. The first sentence on page 9 should read "Chair Kenney clarified that the Harbor Commission's discussion could lead to the creation of guidelines."

Commissioner Beer moved to approve the draft Minutes of the July 8, 2020 meeting as amended. Commissioner Williams seconded the motion. The motion carried by the following roll call vote: **Ayes:** Chair Kenney, Vice Chair Cunningham, Commissioner Beer, Commissioner Marston,

Chair Kenney, Vice Chair Cunningham, Commissioner Beer, Commissioner Marston, Commissioner Scully, Commissioner Williams, Commissioner Yahn

Nays:	None
Abstaining:	None
Absent:	None

6) <u>CURRENT BUSINESS</u>

1. Review of Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential

The Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential Facilities (Harbor Design Standards) have been updated. Staff requests

that the Harbor Commission review these standards, then return to the September 2020 meeting to consider forwarding to the City Council for approval.

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 the Harbor Design Standards. Return to the September 2020 Harbor Commission meeting to consider forwarding the Harbor Design Standards to the City Council for approval.

Public Works Administrative Manager Chris Miller reported staff has updated the Harbor Design Standards with consultation from the industry. He reviewed proposed revisions to Section I.A.3.d.(3), Figure No. 10A, and all Standard Drawings. Standard Drawing No. 616 for the West Newport area requires a minimum of 18 feet between the back edge of a float to the bulkhead, and staff proposes to eliminate the minimum distance. Staff proposes to simplify Standard Drawing Nos. 615—Sand Profile and 616—Datums.

In response to Vice Chair Cunningham's inquiries, Public Works Administrative Manager Miller indicated the Harbor Design Standards do not mention a multiple vessel mooring system. A multiple vessel mooring system generally utilizes a repurposed float; therefore, the float should probably comply with the requirements contained in the Harbor Design Standards. If an applicant proposes an alternate material or design that satisfies the intent of the Code and engineering requirements, a building official will review it and may allow it.

Commissioner Beer concurred with requiring an epoxy coating on rebar.

In reply to Commissioner Marston's query, Public Works Administrative Manager Miller advised that the Planning Department reviews all bulkhead projects and applies standards for sea level rise. Commissioner Marston suggested drawings with specific elevations be revised to replace the elevation with a note indicating the Planning Department will provide the specific elevation.

In answer to Commissioner Scully's question, Public Works Administrative Manager Miller would have to determine the number of applications that would be affected by removing the 18-foot minimum in Standard Drawing No. 616.

In response to Chair Kenney's inquiry, Public Works Administrative Manager Miller related that a homeowner will not have to raise the height of his bulkhead to repair or replace an existing dock. A project that rebuilds and raises the bulkhead cap could result in the need to alter the gangway, especially in a commercial marina.

Jim Mosher noted the tide gauge that provided the City with data has been out of service for many years. Consequently, the data shown on Standard Drawing No. 616—Datums is out of date. He inquired regarding the status of a new tide gauge on Lido Bridge.

Public Works Administrative Manager Miller clarified that the drawing is not a tide gauge, but a visual representation of datums, and the data on the exhibit is not out of date. An electronic tide gauge has been installed at the Balboa Yacht Basin. He would determine whether data from the gauge is available to the public.

2. Harbor Commission 2020 Objectives

Each ad hoc committee studying their respective Functional Area, within the Commission's 2020 Objectives, will provide a progress update.

Recommendation:

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

<u>Functional Area 1</u>: Chair Kenney reported work continues on Section 17.10. The City Attorney's Office has reviewed the proposed revisions and has proposed additional modifications. The ad hoc committee does not agree with the modifications and will meet with staff and the City Attorney's Office on August 18 to resolve issues. The ad hoc committee expects to present its recommendation to the Harbor Commission in September. The ad hoc committee and staff have drafted the four types of Marina Activities Permit (MAP) and provided them to the City Attorney's Office for review and comment. The ad hoc committee continues to compile information regarding Objective 1.4 and will focus first on onshore moorings.

<u>Functional Area 2</u>: Commissioner Beer advised that discussions and outreach continue regarding Policy H-3. Harbormaster Borsting has audited permitted moorings and GIS information and identified a few discrepancies, which GIS staff has corrected. Commissioner Beer will review the Policy H-3 chart of moorings and resolve any issues with key stakeholders. The U.S. Coast Guard has commented regarding the footprint of the proposed West Anchorage, and Public Works Administrative Manager Miller has redrawn the footprint. With respect to Objective 2.5, the ad hoc committee is arranging discussions for a plan.

Vice Chair Cunningham suggested Commissioner Beer consider day moorings within the Harbor under Objective 2.5.

<u>Functional Area 3</u>: Vice Chair Cunningham indicated the RGP-54 public notice comment period extends from August 7, 2020 to September 6, 2020. Public comments, if any, will be reviewed, and hopefully permits will be written soon after that. If a carve-out for beaches can be attained, Objective 3.2 may change for 2021. Regarding Objective 3.3, the City's modified request for \$10 million was well received. Public Works Administrative Manager Miller will propose new designs for floats at public docks at an upcoming meeting.

<u>Functional Area 4</u>: Commissioner Scully related that work on Objective 4.1 has been delayed due to the revision of Harbor maps, and Objectives 4.2 and 4.3 are on hold due to COVID. Work on Objective 4.4 is slow because of businesses not responding to written requests for information. Based on current information, more than 5 million people use the Harbor.

<u>Functional Area 5</u>: Commissioner Yahn advised that the ad hoc committee is exploring areas where marine-related activities and businesses can be preserved and exploring a relationship with the Planning Department to learn of projects that affect the Harbor. The ad hoc committee is interested in continuing a dialog and initiating meetings with the Parks, Beaches and Recreation Commission regarding Lower Castaways.

Vice Chair Cunningham inquired whether the Harbor Commission should form a subcommittee to make recommendations on revising the Objectives for 2021 or propose and discuss revisions during a Harbor Commission meeting.

Commissioner Beer requested to attend Vice Chair Cunningham's meeting with Public Works Administrative Manager Miller to discuss float design. Vice Chair Cunningham invited both Commissioner Beer and Chair Kenney.

Chair Kenney remarked that engineering criteria for anchoring multiple vessel mooring systems will be needed prior to their being incorporated into the Harbor Design Standards.

In reply to Commissioner Marston's inquiries, Commissioner Scully indicated the ad hoc committee for Objective 4.1 will work on MAPs when the new Harbor maps are available. Commissioner Cunningham indicated the discussion of a new float design will pertain to size and shape of the floats in an effort to optimize space and usage, and revisions to the Harbor Design Standards for the new float will not be needed.

In response to Chair Kenney's queries, Commissioner Beer reported the revised West Anchorage can accommodate about 13 vessels of various sizes. An area outside the West Anchorage can accommodate larger vessels that require a permit to anchor in the Harbor.

Chair Kenney concurred with Vice Chair Cunningham's proposal regarding day moorings.

3. Harbormaster Update – July 2020 Activities

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 March through May 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) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Kurt Borsting reported the Public Works Department is purchasing and installing an oil recycling station at Veterans Memorial Park. This will be the second Harbor location for such a facility. The Harbor Department will lock and unlock the facility daily, promote its use, and host occasional programmatic efforts. A State grant funds the collection and recycling of oil deposited at the station. Staff has updated onshore and offshore mooring permit forms to reflect recent revisions to Title 17, to require additional contact information, and to educate permitholders about rules and regulations. Gus Cortez and Michael Hawley have been hired as Harbor Service Worker Lead and Harbor Service Worker respectively. Interviews of candidates for two part-time Code Enforcement Officer positions are underway. Comparing July 2019 to July 2020, reservations for Marina Park slips increased about 6 percent, and the number of nights increased almost 50 percent. Reservations for sand lines increased, but the number of nights decreased. Reservations for mooring sub-permits were essentially flat, but the number of nights decreased.

In answer to Vice Chair Cunningham's inquiry, Assistant City Manager Carol Jacobs advised that the Revenue Division will review Harbor fees in the next few months. If the Harbor Commission would like to propose changes to fees, it should do so. If the Harbor Commission wishes, the Revenue Division could present information regarding the structure and calculation of fees. Harbormaster Borsting added that he would like the Harbor Commission to consider seasonal rates and some additional fees.

In response to Commissioner Beer's question, Harbormaster Borsting believed marketing to prior Harbor visitors could improve. A marketing strategy would be beneficial.

In reply to Commissioner Yahn's queries, Harbormaster Borsting indicated the new permit forms will be unveiled first with existing and new permittees for onshore moorings and then for offshore moorings. Permittees have to acknowledge dye tablet regulations and the ability of staff to board vessels. The new forms are much longer than the current forms, and staff will have to work with permittees to complete all information. Assistant City Manager Jacobs explained that previously a consultant conducted a study to aid the Harbor Commission in setting permittee rents. The upcoming review of fees will not include permittee rents. Commissioner Yahn appreciated the requirement for permittees to acknowledge the new regulations and staff's efforts to promote the new recycling station.

In answer to Commissioner Scully's inquiries, Harbormaster Borsting stated bilge pads can be deposited at the recycling station, and he would determine the station's ability to accept 5-gallon pails.

Chair Kenney noted the recycling station at the Balboa Yacht Basin accepts 5-gallon pails and bilge pads.

In response to Commissioner Williams' question, Harbormaster Borsting explained that the welcome packet for Marina Park slip users includes a customer satisfaction survey. An online survey could improve the response rate. There is not a survey for offshore mooring and short-term onshore mooring users. Commissioner Williams suggested implementing a text survey of users and sending it to users while they are in the Harbor.

Jim Mosher explained that the Revenue Division updates fees by department on a three to five-year cycle.

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

None

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

In reply to Commissioner Beer's inquiries, Harbormaster Borsting did not recall limiting the pedal boat business to a maximum of six persons; however, he would review the permit for occupancy and whether persons had to pedal. The City's Noise Ordinance applies to vessels on the water, but enforcing it may be a challenge. Assistant City Manager Jacobs added that additional Code Enforcement staff will increase enforcement on the water. Chair Kenney noted Harbor Department staff would need a meter to measure noise. Harbormaster Borsting indicated the Harbor Department has the equipment.

Chair Kenney requested staff determine whether the boat rental app Get My Boat and boat owners renting their boats through the app need a MAP.

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

Vice Chair Cunningham requested agenda items for Harbor Commission review of Objectives for 2021 and a presentation by the Revenue Division. Assistant City Manager Jacobs suggested a study session for discussion of 2021 Objectives. Commissioners agreed with scheduling a study session. Vice Chair Cunningham requested the revenue presentation include budgeting of fee revenues. Assistant City Manager Jacobs indicated the presentation will be similar to a Harbor Finances 101 class.

Chair Kenney requested an action item for Title 17.10.

10) DATE AND TIME FOR NEXT MEETING: Wednesday, September 9, 2020 at 5:00 p.m.

Chair Kenney proposed the Harbor Commission hold a study session to discuss Objectives at 4 p.m. with the regular meeting beginning at 5 p.m., with which Commissioners concurred.

11) <u>ADJOURNMENT</u>

There being no further business to come before the Harbor Commission, the meeting was adjourned at 6:50 p.m.

September 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission <u>agenda</u> are submitted by: Jim Mosher (<u>jimmosher@yahoo.com</u>), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item SS1. Review and Consideration of Harbor Commission Goals and Objectives for 2021

Execution of the Harbor Commission's goals and objectives appears predicated on the existence of a number of formally-appointed committees that will, as they have in past years, meet privately to formulate recommendations. While this is allowed by California's open meetings law applicable to local agencies (the <u>Brown Act</u>), it is important to ensure not only that each committee consist of less than a majority of the Commission, but that (1) their activity is limited to formulating a recommendation to the full Commission (as opposed to privately guiding staff) and (2) that their assigned activity is clearly enough defined to make it obvious when their job is done and they cease to exist (as opposed to functioning as a "standing" committee formulating recommendations pertinent to a particular subject matter on an ongoing basis). If not, their meetings need to be noticed and open to the public.

In the slides posted in advance of the meeting, possible problems exist with 2.2, 3.1, 3.3, 4.3, and possibly 4.4, which, as presented, appear to exist to interact with staff or outside agencies/stakeholders rather than to themselves make a recommendation to the Commission.

Item 10.1. Minutes of August 12, 2020 Harbor Commission Regular Meeting

I have not had time to read all of these, but on page 2 (page 17 of the agenda packet), in the first paragraph of narrative, the first refence to "*Standard Drawing No.* **616** for the West Newport area" was probably intended to read "*Standard Drawing No.* **606**" (see page 35 of the present agenda packet). Drawing No. 616, as the next sentence indicates, is "Datums."

Item 11.1. Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential: Review and Approval

As the draft minutes indicate, at the August 12 meeting I commented on the revised Standard Drawing No. 616 (on pages 42 and 116 of the current agenda packet), which I apparently mistakenly referred to as representing a "tide gauge" (of perhaps more accurately "tide staff").

What I believe it does try to represent is empirical water levels compared to the geometrically fixed system of heights called NAVD88 against which such things as sea level rise are measured.

As such, as I tried to point out, I believe it creates an impression of unwarranted precision. Not only because the averages change with time due to sea level rise, but because the tide gauge in Newport Harbor reported to NOAA only from <u>1955 to 1993</u>, which means it was operational for less than the full 18.3 year tidal "epoch," 1983-2001, over which the empirical measurements

are currently averaged. I believe that to compute the "<u>datums</u>" shown in Drawing No. 616, NOAA has assumed the same offsets from the heights observed by the more carefully and continuously maintained <u>Station 9410660</u> in LA Harbor.

In addition, Drawing No. 616 contains at least one typo: the highest tide observed during the operation of the historic Newport Harbor tide gauge (7.67' MLLW) was observed on 1/28/1983, not 1/28/1993 as indicated on the drawing.

But it should be understood the indicated high and low water levels are only those actually observed during the operation of the gauge. The LA Harbor station <u>reported</u> a slightly higher tide on 01/10/2005 and a substantially lower one than that reported for Newport on 12/17/1933. Even though Newport Harbor had no tide gauge reporting on those dates, it would seem safe to assume the waters here showed similar extremes (for comparison, see also the datums for the similarly long-operating <u>Station 9410170</u> in San Diego Bay, which experienced its highest tide on 11/25/2015 and lowest on 12/17/1937 – both dates for which NOAA has no data from Newport).

On this subject of extreme high and low water (which I believe purposely does not include the peaks produced by short-period wave action), I might also note I am not sure I understand the intended significance of the proposed revisions to Standard Drawing No. 609 (on page 38). This drawing of a residential pier platform shows lines on the right representing Highest and Lowest observed tides. Formerly they said "NTS" (I believe for "Not to Scale"). Now they will say "HOT" (Highest Observed Tide") and "LOT" (Lowest Observed Tide"). But the drawing does not explain how they affect the design. Must the bottom (or top?) of the platform be at least some distance above the HOT? If so, how far? And how does the position of the LOT affect the design, if at all?

Item 11.2. Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

As the two members of the ad hoc committee know, I submitted some suggested alternative modifications to the code, too late to make the agenda packet.

While I am generally supportive of the committee's recommendations, I have continuing trouble with the proposed definition of "Live-Aboard" (agenda packet page 120), which I think conflates regulation with definition. I think the definition should concentrate on articulating what the code means by "living aboard" and the limits on how long one can live aboard in various situations should be left to the regulations.

I could be wrong, but I have the impression that the concept of "living aboard" has primarily to do with "overnighting" on a vessel. The proposed definition makes no reference to that, and instead cites using "*a vessel as a domicile for human habitation*" – words that make little sense to me, especially since a "domicile" is generally understood to mean one's permanent home, and it's hard to see how staying on a vessel for 72 hours or even eight months, and even if one spends nights on it, makes it one's domicile if one feels the true and permanent home they will

eventually return to is elsewhere. The Commission should also know that a mooring is a kind of "berth" according to the definitions in Title 17.

I also think the whole Harbor Commission seeing only snippets of code and not the whole chapter as proposed is a bit dangerous.

For example, it may not be obvious if a live-aboard permit goes with a person or a vessel and if the former, if each person needs a separate permit (the third sentence of the proposed Section 17.40.030 was probably intended to read "*No permit shall be issued to any live-aboard* <u>for a</u> <u>vessel</u> which is not intended to serve as the principal residence of the live-aboard").

Also, as I have repeatedly tried to point out, the existing <u>Section 17.40.020</u>, as revised this year, makes reference to non-existent provisions about short-term and "long-term mooring subpermits as noted in Section 17.60.040(G)." Such permits no longer exist, so the meaning of the terms is undefined. And I remain unclear on the Harbormaster's authority to allow live-aboard activity for more than 72 hours on guest moorings.

Finally, although not mentioned in the staff report, one of the committee's recommendations seems to be to place no limit on the allowed number of live-aboards in commercial marinas.

As to the new regulations on the anchorages in the harbor proposed for Chapters 17.20 and 17.25 (pages 122 and 123), the Commission may wish to know these are being copied from restrictions the Council adopted in 2009 to address a problem with people anchoring vessels *in the open ocean* off Big Corona State Beach (see <u>Item 4</u> from the Council's January 13, 2009, meeting, which details the problems being addressed with open ocean anchoring).

There was evidently no intention at that time to apply those rules to the very different conditions at anchorages *within the harbor*. So the Commission may wish to exercise some caution in applying exactly the same rules there.



NEWPORT BEACH Harbor Commission Staff Report

e CITY OF =

September 9, 2020 Agenda Item No. <u>11.1</u>

HARBOR COMMISSION
Kurt Borsting, Harbormaster – 949-270-8158, kborsting@newportbeachca.gov
Chris Miller, Public Works Administrative Manager – 949-644-3043, <u>cmiller@newportbeachca.gov</u>
Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential: Review and Approval

ABSTRACT:

The Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial and Residential Facilities (Harbor Design Standards) have been updated after receiving industry input. Staff requests the Harbor Commission consider approving these standards, then forwarding to the City Council for review and approval.

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 reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Approve the Harbor Design Standards and recommend that staff forward to the City Council for consideration and approval.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

The Harbor Design Standards assist the City's residents, marine contractors and City staff by providing a complete set of rules regarding marine construction, berthing layout and other general issues within the harbor. Periodically, these standards are updated as technologies or engineering criteria may change or to incorporate other related policies such as sea level rise and bulkhead heights etc.

At the August Harbor Commission meeting, staff reviewed the Harbor Design Standards and noted some preliminary suggested changes at that time. Because of the large size of the document, staff suggested that both the Harbor Commission and the public take their time to

review the document over the next month. Then, staff would return in September with a request to approve the document.

Over the past several weeks, staff has received further feedback both from the industry and City staff within the Community Development Department. Please see Attachment A which lists only those pages that included updates. Attachment B represents the entire clean document with all changes incorporated therein.

A summary of the redlines as shown on Attachment A are explained below. (Sections are noted as being within the narrative, figures or standard drawings sections.)

- 1. Narrative section 3.d.(3): Rebar and concrete requirements.
- 2. Narrative section 6.g.(3): Minimum Bulkhead Elevation, Table No. 2.
- 3. Figure No. 10A: Misspelling.
- 4. Standard Drawings (all): Reformat to reflect uniformity with other Public Works standards.
- 5. Standard Drawing No. 600: Bulkhead height, rebar and concrete requirements.
- 6. Standard Drawing No. 601: Bulkhead height and rebar.
- 7. Standard Drawing No. 602, Sheet 1: Concrete requirements.
- 8. Standard Drawing No. 603: Bulkhead height.
- 9. Standard Drawing No. 605: Bulkhead height.
- 10. Standard Drawing No. 606: Bulkhead height. Removing 18' minimum distance between backside of the float and the bulkhead. New distance noted as "varies".
- 11. Standard Drawing No. 607: Bulkhead height.
- 12. Standard Drawing No. 608: Bulkhead height.
- 13. Standard Drawing No. 609: Datums updated.
- 14. Standard Drawing No. 610, Sheet 1: Concrete requirements.
- 15. Standard Drawing No. 611: Eye bolt material updated.
- 16. Standard Drawing No. 615: Bulkhead height and simplified drawing.

17. Standard Drawing No. 616: Simplified drawing.

If needed for comparison purposes, the current Harbor Design Standards may be found at the following location:

<u>https://www.newportbeachca.gov/government/departments/public-works/development-</u> services/permits/harbor-dock-pier-permits

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 reasonable 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 Design Standards – Redline Pages only Attachment B - Harbor Design Standards – Clean Final (all pages)



CITY OF NEWPORT BEACH WATERFRONT PROJECT GUIDELINES AND STANDARDS

HARBOR DESIGN CRITERIA COMMERCIAL & RESIDENTIAL FACILITIES



2017 EDITION

DRAFT, September 1, 2020



- (3) Fabrication and erection shall comply with the latest applicable codes as noted:
 - (a) AISC, Latest Editions
 - (b) Aluminum Structural Welding Code, Latest Edition
 - (c) Aluminum Design Manual, Latest Edition
 - (d) 12011 Design Manual for Structural Stainless Steel, Latest Edition
- (4) All bolts securing primary structural members shall be a minimum of ¹/₂ inch diameter thru bolts. Bolts shall be minimum A307 and include washers where direct contact with timber members occurs. Carriage bolts are also allowed.
- (5) No connecting device shall protrude beyond the fascia or waler into the berthed area, which may contact any part of the berthed vessel, or extend up into any walking surface creating a tripping hazard.
- d. Concrete and Reinforcing:
 - (1) Concrete shall be designed for permeability, strength, chemical stability and abrasion resistance, appropriate for its application. Minimum compressive strength for concrete, subject to salt water splash, immersion and/or brackish water is 5,000 psi and a 0.4 water-to-cement ratio.
 - (2) In absence of soil report recommendations based on soil testing, Portland cement shall conform to ASTM C 150 Type-I or Type II concrete meeting Exposure classification S1 and having minimum f'c=4000 psi and a water cement ratio of 0.4 shall be used in compliance with ACI-14 Table 19.3.2.1, modified, and low alkali. Chemical admixtures shall conform to ASTM C 494. Chemicals designed to limit corrosion of internal reinforcing may be used. Air entrainment admixtures shall conform to ASTM C 260. Coarse and fine aggregate shall conform to ASTM C 33, and ASTM C 330 where lightweight aggregates are used. Lightweight aggregate, if used, shall consist of expanded and coated shale or equivalent material of sufficient strength and durability to provide concrete of the required strength.
 - (3) Concrete structures shall be designed to provide sufficient coverage of reinforcing steel, so as to prevent corrosion, per code

Redline

requirements. For structures exposed to salt water splash or immersion, bar reinforcement shall conform to ASTM A 706, and shall be epoxy coated per ASTM A-<u>775 orand ASTM A-</u>934, after bending of the bars. Welded wire mesh shall conform to ASTM A 185 and shall be <u>galvanized or</u> epoxy coated conforming to ASTM A 884, with all visible defects and cut ends repair coated. Wires used to tie reinforcing steel shall be either epoxy-coated steel, or 316 stainless steel.

- e. Pilings and Anchorage:
 - (1) Piles shall be the products of manufacturers and contractors regularly engaged in the production of such items for marine construction. Typical materials approved for pile materials include: 1. Pre-stressed concrete, 2. Steel, or 3. High-strength composite materials. Timber piles are not allowed.
 - (2)Unless subsurface soil materials prevent their use, pilings shall be pre-stressed concrete. In absence of soil report recommendations based on soil testing, Portland cement shall be ASTM C150 Type II₂ concrete meeting Exposure classification S1 and having minimum f'c=4000 psi and a water cement ratio of 0.4 shall be used in compliance with ACI -14 Table 19.3.2.1, modified, low alkali. Water for mixing and curing shall be fresh, clean and potable. Aggregates shall conform to ASTM C33, Size Number 67, and be free from any substance that is deleteriously reactive with the alkalis in the cement. Admixtures, if used, shall conform to the requirements of ASTM C494 and not contain chlorides. Corrosion inhibiting concrete admixtures are encouraged. Prestressing steel shall be uncoated, seven-wire stress relieved strand with a minimum ultimate stress of 270,000 psi conforming to ASTM A416. Ties and spirals shall conform to ASTM A82, cold drawn and shall be epoxy coated per ASTM A775 or ASTM A934. Piles shall cure and reach a strength of not less than 4,000psi before de-tensioning and cutoff of the strands.
 - (3) Guide rollers shall be fabricated from polyethylene, UHMW, polyolefin or polyurethane roller or plate material. As an option to the use of rollers, UHMW rub blocks may be used. Minimum thickness of a rub block shall be 2 inches, with attachment bolts countersunk into the UHMW material.
 - (4) Any structural steel components used in the marine environment shall be hot-dip galvanized or epoxy coated per manufacturers recommendations, or 316 stainless steel.



Cantilevered seawalls are limited by the height of the wall above the waterside mudline and are generally effective for exposed heights of not more than 8 feet. For structural steel type seawalls, higher exposed heights are possible. Tied-back seawalls can be effective for exposed heights over 8 feet and may require continuous caps, walers (beams), steel tie rods and a foundation anchors (Deadman), or earth anchors. Tie-back anchor systems shall require protection against corrosion. Galvanic anode cathodic protection system is recommended. Tie-back anchor system shall be designed to last the life of seawall.

- (2) Generally, seawall sheets constructed of reinforced, prestressed concrete are desirable, although for special conditions, structural steel interlocking sheets may be necessary. Steel products in the marine environment require special non-toxic coating protection and cathodic protection, in order to provide extended life spans.
- (3) Seawalls shall have a top elevation of not less than 10.0 MLLW. Seawall elevations of greater than 10.0 MLLW may be required by City of Newport Beach, depending on location within the bay and potential for wave or wake over-topping.

The City understands there is a threat of flooding and inundation in and around Newport Harbor due to sea level rise. Newport Harbor and adjacent low-lying areas rely on a system of harbor bulkheads, seawalls, revetments, or other improvements to function. Additionally, the system of shoreline defenses protects existing development, public access, public views, and scenic qualities of the coastal zone. The City is committed to using the best-available science to determine a range of sea level rise projections for use in developing harbor development standards and in reviewing coastal development permit applications. Currently the best available science is California Coastal Commission Sea Level Rise Policy Guidance Final Adopted Science Update, November 7, 2018. Experts acknowledge that there is considerable uncertainty in the magnitude and rate of the rise in sea level and as a result, the City recognizes the need to set standards over time that provide protection from future sea level rise given the inherent uncertainty of the rate and magnitude of the rise.

Bulkheads, seawalls or other protective improvements shall be constructed and maintained as shown in Table No. 2. The structure shall also be initially designed and constructed to accommodate and receive future increases in height when directed by the City to protect adjacent low-lying areas from future flooding without the need to replace or substantially alter the structure.

Redline

Table No. 2

Year Structure Permitted	Initial Top of Structure Elevation ¹		Ultimate De Eleva	esign Height Ition ²
	NAVD88	MLLW	NAVD88	MLLW
2020-2024	<u>10.7</u>	<u>10.9</u>	<u>13.7</u>	<u>13.9</u>
2025-2029	<u>10.9</u>	<u>11.1</u>	<u>14.4</u>	<u>14.6</u>
2030-2034	<u>11.0</u>	<u>11.1</u>	14.6	14.8

- 1. The initial top of Structure elevations are derived using the Low Risk Aversion probabilistic sea level rise protection scenario for the Los Angeles tidal gauge estimated 75 years into the future based on the California Coastal Commission Sea Level Rise Policy Guidance Final Adopted Science Update, November 7, 2018. This scenario accounts for the upper range of what is "likely to occur" with approximately a 17 percent probability that sea level rise exceeds the elevations shown.
- 2. The ultimate design height elevations are derived using the Medium-High Risk Aversion probabilistic sea level rise protection scenario for the Los Angeles tidal gauge, again estimated 75 years into the future based on the California Coastal Commission Sea Level Rise Policy Guidance Final Adopted Science Update, November 7, 2018. This scenario accounts for increased sea level with approximately a 1-in-200 or 0.5 percent probability that sea level rise exceeds the elevations shown.
 - (4) The distance between seawalls and all floating dock components shall be a minimum of one foot horizontal distance.
 - (5) Seawalls shall be designed to resist all applicable vertical and horizontal loads.
 - (6) A minimum safety factor of 1.5 shall apply to gravity loads, and a minimum safety factor of 1.1 shall apply to seismic loading cases for the stability of seawalls.
 - (7) Decking may but to the seawall cap, or cantilever over the top of the seawall, if approved.
 - (8) Wing Walls: Wing walls are retaining walls that project landward and are perpendicular to the seawall. Wing walls may be necessary to isolate the seawall protection system of one property to the adjacent property. Special care must be taken to assure that the construction of a seawall for the subject property does not adversely impact the seawalls of the adjoining properties, either during construction or over the life of the structures.





- (1) Pierhead and Project lines are established and managed by the federal government.
- (2) Portions of floating docks that extend into Federal Dredging Limit must be removed by the dock owner at dock owner's cost, when the federal government conducts periodic dredging operations.
- (3) Dock fingers must be designed and constructed in such a way that provides structural integrity of the fingers to resist lateral impact and mooring line loads without guide piles at the finger ends. Continuous structural stringers and/or special moment and shear-carrying splices must be engineered and submitted to the Building Department for approval.
- (4) The City Council has allowed exceptions for dock construction beyond the Pierhead Lines as noted in Council Policy H-1.

DOCK ARRANGEMENT CASE 9B




















Image: constrained by the second by the se
DOCK CLEAT (TYPICAL DOCK MOORING CLEAT)
 NOTES: EYE BOLT SHALL BE FABRICATED OF STAINLESS OR GALVANIZED STEEL. EPOXY SHALL CONFORM TO ASTM C881 STANDARD, OR SHALL BE AN EPOXY FORTIFIED GROUT INTENDED TO BE USED FOR PERMANENT ANCHORAGE OF EQUIPMENT, AND SHALL BE APPLIED IN ACCORDANCE WITH THE MANUFACTURER'S WRITTEN INSTRUCTIONS. DOCK CLEATS SHALL BE GALVANIZED CAST METAL WITH HEX-HEAD THRU-BOLTS CONNECTED INTO THE TIMBER FRAMING WITH WASHER AND NUT, ALL GALVANIZED. DIAMETER OF THRU-BOLT PER CLEAT MANUFACTURER RECOMMENDATIONS. CLEAT AND BOLT SIZES BY DESIGN ENGINEER.
APP [] [] [] [] [] [] [] []
CITY ENGINEER RCE DATE NO. DATE DESCRIPTION OF REVISIONS
DRAWN: P. KHARAZMI EYE BOLT OR CLEAT
DATE: 1/8/2020 FOR BOAT ANCHORAGE



TIDAL DATUMS AND ELEVATIONS



APP.

CITY OF NEWPORT BEACH WATERFRONT PROJECT GUIDELINES AND STANDARDS

HARBOR DESIGN CRITERIA COMMERCIAL & RESIDENTIAL FACILITIES



2017 EDITION

DRAFT, September 1, 2020

City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities

TABLE OF CONTENTS

HARBOR DESIGN CRITERIA

Genera	al					
I.	Water	rside De	velopment5			
	A.	Docks				
		1.	Alternative Berthing Geometries			
		2.	Layout and Design (Commercial & Residential)5			
			General			
			Slip and Boat Overhang Into Adjacent Fairways			
			Finger and Walkway Widths			
			Table No. 1: Minimum Finger Widths			
			Single and Double-Wide Slips			
			Vessel "Rafting"			
			Long Docks			
			Loading Criteria			
			Graph No. 1: Wind Load, Vessel Profile Heights For			
			"Sail Area" (Recreational & Commercial Vessels)10			
			Flotation and Freeboards			
			Static Floating Tolerances			
			Torsional Resistance Requirements			
			Guide Piles			
		3.	Dock Materials of Construction			
			General15			
			Timber			
			Metal			
			Concrete and Reinforcing			
			Pilings and Anchorage			
			Alternative and/or Hybrid Materials			
		4.	Appurtenances			
			Locker Boxes			
			Cleats			
			Bumpers			
			Boarding Steps			
			Life Rings			
			Dock Ladders			
		5.	Access/Gangways/Americans with Disabilities (ADA)			
			Compliance			
			General			
			Commercial Docks			
			Residential Docks			

	6.	Special Harbor Facilities	25
		Fuel Floats	25
		Sewage Pump Out Facilities	
		Floating Buildings	
		Vessel Launching Facilities	
		Special Mooring Devices	27
		Piers, Platforms and Wharves	27
		Seawalls (Bulkheads)	27
	7.	Dredging	29
	8.	Utilities	29
		Electrical Power and Lighting	29
		Plumbing	31
		Fire Protection	
	9.	Environmental	
		Commercial Facilities	
		Residential Facilities	
	10.	Permitting	
		Maintenance Projects	34
		Alteration and New Construction Projects	34
II.	Landside Dev	velopments (Commercial Only)	35

HARBOR DESIGN CRITERIA

GENERAL

The construction of harbor facilities shall accommodate the need for safety and durability as well as convenience and appearance. Structural elements of the docks, floats, gangways, piles, etc., shall be adequate to safeguard human life, boats, and boating equipment. Boat berthing facilities shall be designed to adequately handle anticipated loads with reasonable factor of safety as deemed appropriate by the City of Newport. Materials of construction shall resist the corrosion of saltwater in order to assure low maintenance requirements and long life of the facility. Floats shall be designed to assure stability and buoyancy for safe operations. Adequate utilities meeting all requirements of the current, applicable codes, shall be provided for the convenience and safety of boaters and maintenance workers.

Harbor Permits and Plan Check shall be as per the Title 17 of the City of Newport Beach Municipal Code and Council Policy H-1.

Dock systems shall be designed by a civil or structural engineer, licensed by the State of California, who is experienced in the design of marine structures. Repairs and non-structural modifications to existing residential docks can be designed by a contractor experienced in dock facilities, at the discretion of the City of Newport Beach.

In accordance to California Building Code [A] 104.10 Modifications. "Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety"

In accordance to California Building Code [A] 104.11 Alternative materials, design and methods of construction and equipment. "The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

I. WATERSIDE DEVELOPMENT

The limits and constraints of construction in the harbor are defined by a series of lines that have been established over time by the Federal Government, as well as the City of Newport Beach. These lines have been defined in Chapter 17.01 of the Municipal Code. Prior to the preparation of documents to be submitted to the City of Newport Beach for review of a proposed project, the applicant should obtain a full understanding of these lines and have a qualified engineer, surveyor or contractor define these lines on any plans submitted for a proposed project. These lines include the existing or current edge of construction along the waterfront with respect to the Federal Bulkhead, Pierhead and Project Lines, Channel lines, Property lines (and their projections), Anchorage Area, and Turning Basins.

A. DOCKS

1. ALTERNATIVE BERTHING GEOMETRIES

Various berthing geometries are available and acceptable for the berthing of boats for a docking facility. The following figures present the generalized arrangements that are considered acceptable to the City of Newport Beach for the safe mooring of boats. The attached figures and "Case" geometries can be utilized as shown, or in combination with one another, in an overall marina dock scheme.

2. LAYOUT AND DESIGN (Commercial & Residential)

- a. General
 - (1) Layout and design of harbor facilities shall be based upon the use of the facility defined as follows:
 - (a) Single or joint residential
 - (b) Multi-residential
 - (c) Commercial
 - 1) Passenger
 - 2) Recreational boat marina
 - (2) "Layout & Design Guidelines for Marina Berthing Facilities", (2005 edition) published by the State of California Department of Boating and Waterways, except as modified by the City's harbor standard drawings within the Design Criteria may be used as a guide to design harbor structures.
 - (3) See the attached **Harbor Standard Drawings** for plans, sections and details of typical conditions for vessel moorings and docks,

gangways, platforms, seawalls, and beach profiles. These Standards are to be considered <u>minimum</u> requirements for the cases represented and, at the City of Newport Beach discretion, may not apply to the specific project submitted. The City of Newport Beach reserves the right to mandate deviation from the Standards, if particular project conditions require special consideration.

- b. Slip and Boat Overhang into Adjacent Fairways:
 - (1) Berths shall not be occupied by vessels more than 3 feet longer than the berth or slip, or in the case of fairways with a 1.75 x Lb width, not more than 10% of the length of the finger.
 - (2) For berths either parallel or perpendicular to a main channel, vessels can extend beyond the limits of the slip by as much as the beam of the boat.
- c. Finger and Walkway Widths:
 - (1) Minimum finger widths for recreational commercial and residential docks shall be per **Table No. 1**.
 - (2) Fillets at the connection of walkways to fingers shall not have less than a 4-foot side.
 - (3) Outer end (end tie) and side-tie fingers shall be a minimum of one foot wider than the minimal widths for all other adjacent finger docks.
 - (4) Residential Headwalks and Mainwalks:
 - (a) Minimum residential headwalk widths shall be no less than
 6 feet for dock lengths up to 120 feet in total length, and 8
 feet wide for dock lengths of more than 120 feet.
 - (5) Commercial Headwalks and Mainwalks:
 - (a) Minimum widths shall be no less than 6 feet for dock lengths up to 120 feet in total length, and 8 feet wide for dock lengths of more than 120 feet. If use of a walkway is for staging the public while waiting to board a vessel, the minimum dock width shall be 12 feet.
 - (b) At gangways, a minimum of 6 feet of walking surface shall be maintained in front of the furthermost gangway

projection (including toe plate) at high tide, and have a minimum of 4 feet of clear space to walk along the side of any gangway for access to berthed vessels.

Finger float Width (Feet)	Length of Berth (Feet)
F = 5.0'	All ADA Accessible
	Finger floats
F = 3.0'	Up to 35'
F = 4.0'	36' to 59'
F = 5.0'	60' to 79'
F = 6.0' ⁽¹⁾	80' to 119'
F = 8.0' ⁽¹⁾	120' and over

Table No. 1Minimum Finger Widths

⁽¹⁾ Widths of more than that shown in this Figure may be necessary for specific site conditions and/or uses of fingers over 70 feet.

⁽²⁾ Minimum 5'-0" widths are required for the entire path of travel for ADA access, including paths along main- and headwalks.

- d. Single and Double-Wide Slips:
 - (1) Single-wide slips are those slips that have a finger on each side of the boat. Double-wide slips have only one finger adjacent to any given boat.
- e. Vessel "Rafting":
 - (1) Vessel "rafting" is the practice of connecting multiple vessels together, with only one of the vessels being tied/berthed to a walkway or finger. Rafting of vessels is not allowed, unless specifically approved by the Harbor Resources Division and/or the Fire Department for special facilities and/or events.
- f. Long Docks:
 - (1) Long docks are defined as side-tie docks with more than one boat berthed. Unless specifically identified otherwise, and for the purpose of establishing the number of boats that may utilize a long dock per State of California Department of Boating and Waterways Guidelines, it will be assumed that one boat is berthed alongside a long dock every 40 feet of long dock length. This would relate to a 30-ft berthed boat, with 5 feet of clearance on either end. Distance between two adjacent boats shall be minimum 10 feet.

- g. Loading Criteria:
 - (1) The design of the dock system shall incorporate all anticipated dead and live loads.
 - (a) Dead Loads: Dead loads shall include the weight of the dock system components (walers, bracing, bracket, etc.) which are permanently incorporated into the dock system, and non-dock system components (transformers, gangways, dinghy racks, trash containers, buildings, etc.) which are permanently affixed to the dock system.
 - (b) Live Loads: Live loads are temporary, transient loads imposed in the ordinary use of the dock system, such as people, carts, mobile equipment, wave loadings, wind loads, impact loads, etc. The dock system shall be capable of supporting live loads and freeboards per "Flotation and Freeboards". The structure shall also be capable of supporting a 400-pound moving point load anywhere on the deck surface, but no closer than 12" from any dock edge, while maintaining the level tolerances cited in this guideline.
 - (c) Wildlife Loads: Refer to "Layout and Design Guidelines for Marina Berthing Facilities".
 - (2) Wind loads shall be calculated both parallel to and perpendicular to maximum length of vessels and structures in accordance to current California Building Code.
 - (a) Wind load on the lateral area of vessels or structures shall not be less than 15 pounds per square foot acting on the projected area of the docks as well as the profile area -"sail area" of the berthed vessels above water level.
 - (b) Lateral area of vessels for wind load calculations acting on the "sail area" of the vessel shall be as per **Graph No. 1**, or the actual sail area of the anticipated vessel, whichever is greater.
 - (c) Ten percent (10%) of the full wind load for an unshielded vessel shall be applied to each vessel in the leeward side of the unshielded vessel.

- (3) Current Loading: Floating docks in areas of the harbor may be subject to current loads. Dock shall be designed for minimum current velocity of 1 feet/sec.
- (4) Impact Loading: Impact Load from design vessel (maximum boat size that may be moored on the dock) striking dock at 10 degree angle (from parallel to dock) with approach speed of minimum 1 feet/sec.
- (5) Wave Loading: A simple wave analysis was conducted to provide general guidance of a 100-year return period wind waves and ocean swells at Newport Harbor. In general, the majority of Newport Harbor is dominated by wind waves except for the areas near the harbor entrance which are dominated by Ocean Swells. Contact the City of Newport Beach, Harbor Resources for details of reference study.

A qualified civil engineer, licensed in the State of California, shall conduct site-specific engineering analysis to evaluate the appropriate design wave loading for the project.

- (6) Load Combinations:
 - (a) Combined load cases for design of docks shall include the following:
 - 1) Dead load plus uniform live load
 - 2) Dead load plus concentrated 400-lb live load.
 - 3) Dead load plus wind load plus current & wave loads.
 - 4) Dead load plus impact load.
 - (b) Fabrication, handling and lifting loads shall also be checked in the calculation of the dock system.
 - (c) A 1/3 increase in allowable stresses can be used when in combination with either wind, current, wave or impact loads. For all wood stresses, the allowable stress shall be reduced in accordance with the California Building Code for wet conditions, and then the 1/3 increase in allowable stress applied.
 - (d) Calculations shall include the transfer of forces from the dock system into the piles. All components within this transfer mechanism shall be substantiated.



- h. Flotation and Freeboards:
 - (1) Sufficient flotation shall be provided to support dead load plus live load with freeboards as noted below. Higher live load requirements may be required by the City of Newport Beach, under special circumstances as may be deemed appropriate.

Dock freeboard shall be minimum 14 inches and maximum 24 inches, under dead load. Dock freeboard shall not be less than 9 inches and there shall be minimum 1 inch of pontoon freeboard remaining, under dead plus live load. See Figure No. 13 for typical concrete dock system (where dock system itself is the pontoon) and Fig 14 for typical timber, aluminum, steel, and composite framing dock system (where framing is supported by pontoons).

- a) Residential docks shall be designed for a live load of 25 pounds per square foot.
- b) Marinas, Public Pier (also known as Public Docks) and Commercial Docks (Docks subject high volumes of pedestrian traffic and the movement of goods, material, supplies, cargo, etc. such as docks used for ferries, charter boats, fishing boats, boat shows, shuttles, water taxis, etc.) shall be designed for a live load of 40 pounds per square foot.

Commercial Docks, as described above, which are also used for the staging of passengers, or heavy loads, shall be designed for live load of 65 pounds per square foot. Signage indicating maximum number of people (using occupant load factor 200 pounds/person) that may be staged (Dock Staging Capacity) shall be posted at a prominent location at staging area.

Exception 1: Docks whose functionality requires dead load freeboard less than 14 inches (docks used for kayaks, rowboat, etc.) shall be designed for 25 pounds per square foot live load. These special docks shall be exempt from the freeboard requirement on "Floatation and Freeboard Section h.1". Signage indicating maximum number of people (using occupant load factor = 200 pounds/person) that may use the dock (Dock Capacity) shall be posted at a prominent location.

Exception 2: Repair or Modification to less than 50% of an Existing Dock is exempt from the freeboard requirement

on "Floatation and Freeboard Section h.1". However, Engineer of Record shall perform freeboard calculation, to provide sufficient floatation under repaired or modified portion of dock section, to match freeboard of existing dock and support minimum live load of 25 pounds per square foot.

- c) Weight of seawater, for the purposes of flotation calculations, shall be 64 pounds per cubic foot.
- (2) The flotation shall use a rigid block of expanded polystyrene (EPS) cores or equivalent. The use of hollow pontoons shall not be allowed.
- (3) Docks shall have pontoons composed of outer shells of either concrete (1" minimum thickness) or an ultra-violet stable plastic such as fiberglass or cross-linked polyethylene (1/8" minimum thickness). Other alternative materials must be submitted to the City for review and approval, per the "Request for Alternate Material or Method of Construction" appeals process. Exposed foam flotation is not allowed.
- (4) Residential Docks: In addition to the pontoon encapsulation types noted above, residential docks may also use spray-on elastomeric encapsulation systems for pontoons. Spray-on products must demonstrate resistance to ultra-violet rays, solvents that may be present on the water surface, and environmental conditions imposed by saltwater contact. Minimum spray-on product thickness shall be 100 mils.
- i. Static Floating Tolerances:
 - (1) The dock surface of the in-place dock system, which includes finger floats and walkways, under various loading conditions, shall be level within the following tolerances:

Under Dead Load Only, & Under Dead and Live Loads:					¹ / ₄ " per foot, 1" maximum (transverse)				
					1/8" per foot, 1" in 10 f maximum (longitudinal				feet l)
Under Loads:	Dead	and	Point	Live	¹∕₂" max	per timun	foot n (tran	(4%), sverse)	2"

¹/₄" per foot, 2" in 10 feet maximum (longitudinal)

On Accessible Routes, for ALL Shall not exceed 1:50 or Loading Conditions: 2% maximum (transverse)

- (2) Under Dead Load Only conditions, the free ends of finger floats shall always float level or higher than the finger float ends connected to the head or mainwalk, within the limits noted above.
- j. Torsional Resistance Requirements:
 - (1) General: Fingers, connected walkways, and free-standing headwalks unattached to other dock elements must be designed to provide dock stability and resistance to torsional loads. Torsion bars installed in fingers, and/or dock framing construction that provides for calculated and verifiable twist resistance, is required. Free-standing headwalks need not provide independent means of torsional resistance if the width of headwalk is 8 feet or more.

Alternative means of providing torsional resistance to fingers and main- or headwalks may be considered by the City of Newport Beach. Methods such as twist-controlling guide roller assemblies may be considered, if acceptable twist resistance can be proved.

- k. Guide Piles:
 - (1) Dock system pilings shall be designed by an Engineer, licensed by the State of California, who shall have demonstrated expertise in the design of marine structures. Pile loading calculations shall be provided based on a soils investigation by a licensed geotechnical engineer, or based on minimum code values for soil properties. Alternatively, a pile test may be conducted by a licensed engineer after piles have been driven, to confirm that the piles can withstand the design loads anticipated. Testing procedures must be approved by the City prior to commencement.
 - (2) Soil conditions in Newport Harbor can vary depending on the existence of rock strata near historic bluffs along the coastline. The Applicant is advised to research the soils conditions of the subject site in order to properly assess the conditions for pile stability and installation.
 - (3) Loading Conditions & Criteria:

- (a) Applied lateral wind and impact loads shall be calculated for not lower than a +7.5 foot MLLW water surface, and a load height acting upon the piles at no lower than +8.5 foot MLLW.
- (b) Loads imposed on the dock framing system as previously noted in this loading criteria, shall be imposed in-like-kind to the piles providing the lateral load resistance for the docks.
- (c) Pile penetration shall not be less than 15 feet.
- (d) Pile cutoff elevation shall not be lower than +12.0 feet, MLLW in protected areas of the Harbor. Applicant shall consider pile top elevation of +13.0 or higher for facilities in or near the Harbor Entrance, due to more severe environmental conditions.
- (e) Guide pile caps shall be provided to discourage birds from perching on piles.
- (4) Special Geological Conditions:
 - (a) There are locations within the Newport Harbor area that contain rock-like geological conditions, exhibiting different soil resistance characteristics than standard bay mud. The applicant is encouraged to observe the type of guide piles used in the existing surrounding installations to assess the type of piles that may be required for any new project. A geotechnical consultant could be retained to provide this information and pile design and installation recommendations, as well.

3. DOCK MATERIALS OF CONSTRUCTION

a. General:

Materials used in dock systems shall have a demonstrated history of use in salt water environments of at least 10 years, or otherwise be approved by a licensed engineer practicing in waterfront engineering. Materials used in dock systems are to be new and in good condition.

- (1) Flotation:
 - (a) Flotation systems shall be the products of manufacturers and contractors regularly engaged in the production of such items for marine construction.
 - (b) Flotation units shall consist of:
 - 1) Concrete cast around a solid, closed cell foam core, or
 - 2) Fiberglass, polyethylene or plastic shell with a fitting, solid, closed cell foam core.
- (2) Plastics:

All plastics used in the dock systems shall be ultra-violet light stabilized or protected. Plastics proposed for use must have a demonstrable performance history in salt water environments of at least ten years, or be the recommendation of a California licensed Engineer. Design strengths and thickness shall be appropriate for the intended purpose.

(3) Foam core for floats shall be a rigid block of closed cell expanded polystyrene with a unit weight of between 0.95 to 1.2 pounds per cubic foot. Properties of foam shall conform to ASTM C578, with maximum water absorption of 3.0 percent or less as determined by ASTM C 272, Method C. The foam core shall not have more than 10 percent reground material, and reground foam pieces shall not exceed 3/8-inch diameter.

- b. Timber:
 - (1) All wood-construction fingers shall have framing that includes cross-members that provide rigid connection to the full-length stringers. All connections shall be made using thru-bolts.

Commercial Dock Framing: For independent long docks that float freely and do not have docks and/or fingers attached for stability, all primary load carrying framing members shall be fabricated from glued-laminated beam construction, to prevent warpage of the major members, contributing to dock instability.

- (2) Allowable Stresses: Allowable stresses for harbor structures shall not exceed those stated in the "California Building Code".
- (3) Timber used for walking decks shall have a minimum net thickness of $1\frac{1}{2}$ inches.
- (4) Timber for walking surfaces shall be Douglas Fir, Select Structural. Sawn timber for other framing members shall be Douglas Fir, No. 1, minimum.
- (5) Glued-laminated timber shall be Douglas Fir 24F-V8, industrial grade for application in wet environments. Fabrication shall comply with Product Standard PS 56-73, "Structural Glued Laminated Timber".
- (6) Walking surfaces shall have a non-skid finish and be maintained periodically or when worn and unsafe. Treated timber decking requires no further non-skid finish.
- (7) Dimensional lumber is not required to be painted. However, if the applicant chooses to paint, such paint shall be maintained to good condition and appearance.
- (8) Plywood utilized within dock framing systems shall be exterior grade material. Plywood shall not be used as the walking surface for a dock system, unless the product can be demonstrated that it is provided with a factory-applied protective, non-skid walking surface that will be durable and has a proven process for patching and touch-up. Internal plywood members shall be provided in such a manner that water can be easily conveyed off the top surface of plywood and not pond or get trapped, leading to early deterioration and dry rot.

- (9) Weight of treated Douglas Fir shall be assumed to be 35 pounds per cubic foot.
- (10) All timber used for dock construction shall be marked with the appropriate grade of material and preservative treatment, or may be subject to rejection by the City Inspector.
- (11) Wood Preservative for Timber:
 - (a) All timber products shall be coated with preservative treatment to retention limits recommended by the American Wood Preservers Association Standard M4 "Standard for the Care of Preservative-Treated Wood Products" and AWPA Standard C2 "Lumber, Timber, Bridge Ties & Mine Ties – Preservative Treatment by Pressure Processes".
 - (b) Current State and Federal environmental requirements and guidelines for the type and application of preservative treatments will be strictly enforced.
 - (c) All lumber must bear a stamp approved by the American Lumber Standards Committee for conformance to the American Preservers Association Standards.
 - (d) Field cuts and bored holes shall receive field-applied preservative treatment in accordance with Best Management Practices. Preservative treatment chemicals shall not be allowed to enter harbor waters.
- c. Metal:
 - (1) Any steel components used in the marine environment shall be hotdip galvanized with a minimum of 3 mils of zinc, or epoxy coated per ASTM A 934 and manufacturers recommendations, or shall be stainless steel.
 - (2) Structural steel shall conform to Standard Specifications for Structural Steel for Bridges and Buildings. Stainless Steel shall conform to 316 material specifications. Aluminum shall be marine grade.

- (3) Fabrication and erection shall comply with the latest applicable codes as noted:
 - (a) AISC, Latest Editions
 - (b) Aluminum Structural Welding Code, Latest Edition
 - (c) Aluminum Design Manual, Latest Edition
 - (d) 12011 Design Manual for Structural Stainless Steel, Latest Edition
- (4) All bolts securing primary structural members shall be a minimum of ½ inch diameter thru bolts. Bolts shall be minimum A307 and include washers where direct contact with timber members occurs. Carriage bolts are also allowed.
- (5) No connecting device shall protrude beyond the fascia or waler into the berthed area, which may contact any part of the berthed vessel, or extend up into any walking surface creating a tripping hazard.
- d. Concrete and Reinforcing:
 - (1) Concrete shall be designed for permeability, strength, chemical stability and abrasion resistance, appropriate for its application. Minimum compressive strength for concrete, subject to salt water splash, immersion and/or brackish water is 5,000 psi and a 0.4 water-to-cement ratio.
 - (2)In absence of soil report recommendations based on soil testing, Portland cement shall conform to ASTM C 150 Type II concrete meeting Exposure classification S1 and having minimum f'c=4000 psi and a water cement ratio of 0.4 shall be used in compliance with ACI -14 Table 19.3.2.1, modified, and low alkali. Chemical admixtures shall conform to ASTM C 494. Chemicals designed to limit corrosion of internal reinforcing may be used. Air entrainment admixtures shall conform to ASTM C 260. Coarse and fine aggregate shall conform to ASTM C 33, and ASTM C 330 where lightweight aggregates are used. Lightweight aggregate, if used, shall consist of expanded and coated shale or equivalent material of sufficient strength and durability to provide concrete of the required strength.
 - (3) Concrete structures shall be designed to provide sufficient coverage of reinforcing steel, so as to prevent corrosion, per code

requirements. For structures exposed to salt water splash or immersion, bar reinforcement shall conform to ASTM A 706, and shall be epoxy coated per ASTM A775 or ASTM A934. Welded wire mesh shall conform to ASTM A 185 and shall be galvanized or epoxy coated conforming to ASTM A 884, with all visible defects and cut ends repair coated. Wires used to tie reinforcing steel shall be either epoxy-coated steel, or 316 stainless steel.

- e. Pilings and Anchorage:
 - (1) Piles shall be the products of manufacturers and contractors regularly engaged in the production of such items for marine construction. Typical materials approved for pile materials include: 1. Pre-stressed concrete, 2. Steel, or 3. High-strength composite materials. Timber piles are not allowed.
 - (2)Unless subsurface soil materials prevent their use, pilings shall be pre-stressed concrete. In absence of soil report recommendations based on soil testing, Portland cement shall be ASTM C150 Type II concrete meeting Exposure classification S1 and having minimum f'c=4000 psi and a water cement ratio of 0.4 shall be used in compliance with ACI -14 Table 19.3.2.1, modified, low alkali. Water for mixing and curing shall be fresh, clean and potable. Aggregates shall conform to ASTM C33, Size Number 67, and be free from any substance that is deleteriously reactive with the alkalis in the cement. Admixtures, if used, shall conform to the requirements of ASTM C494 and not contain chlorides. Corrosion inhibiting concrete admixtures are encouraged. Prestressing steel shall be uncoated, seven-wire stress relieved strand with a minimum ultimate stress of 270,000 psi conforming to ASTM A416. Ties and spirals shall conform to ASTM A82, cold drawn and shall be epoxy coated per ASTM A775 or ASTM A934. Piles shall cure and reach a strength of not less than 4,000 psi before de-tensioning and cutoff of the strands.
 - (3) Guide rollers shall be fabricated from polyethylene, UHMW, polyolefin or polyurethane roller or plate material. As an option to the use of rollers, UHMW rub blocks may be used. Minimum thickness of a rub block shall be 2 inches, with attachment bolts countersunk into the UHMW material.
 - (4) Any structural steel components used in the marine environment shall be hot-dip galvanized or epoxy coated per manufacturers recommendations, or 316 stainless steel.

- (5) Steel piles must be coated with a non-toxic coating that prevents or inhibits the corrosion of the pile base material. Design of steel piles shall include a 1/8-inch additional corrosion allowance. Coatings must be maintained to prevent growth and wear from the guide roller assemblies. Rollers should be cleaned periodically to prevent shell fragment build-up from further deteriorating the coatings protecting the steel piles. For added steel pile protection, sacrificial anodes may also be designed and installed to limit corrosion, and UHMW plastic pile wraps can be installed to limit wear of the steel surface from guide roller friction.
- (6) Installation Criteria:
 - (a) Piling shall be installed by a licensed contractor regularly engaged in the business of pile driving. Care shall be taken in the handling and driving of piling, to prevent spalling, cracking or other damage. Contractor shall install piles per approved local, state and federal requirements. Jetting may be permitted with Local approval.
 - (b) Tolerances:
 - The elevation of the head of piles shall be within one inch of designer top of pile elevation. Minimum pile top elevation for dock systems shall be +12.0 MLLW.
 - Piling shall be installed vertically plumb within tolerances defined in the construction documents, but in no cases more than 2.5% out of vertical plumb, and 4 inches out of horizontal location.
 - (c) Records, Certifications, and Inspection:
 - 1) Records of pile driving operations shall be maintained under the supervision of the Engineer of Record, and made available to the City upon request.
 - 2) Contractor shall make the pilings available for City inspection prior to installation;
 - 3) Upon completion of the pile driving operation, subject to the requirements of the permit, the engineer may certify that the pilings were installed in accordance with the design and these guidelines. Such certification shall be on the Engineer's letterhead and bear the

Engineer's stamp, and shall be submitted to the City prior to issuance of the certificate of occupancy.

f. Alternative and/or Hybrid Materials

Alternative materials such as recycled plastic, PVC, composite and others, which can show a demonstrated experience and useful lifespan in the marine environment and usage, can be proposed to the City of Newport Beach for consideration. The decision of the City of Newport Beach regarding the use of alternative or hybrid materials will be final.

4. **APPURTENANCES**

a. Locker Boxes: Individual locker "dock" boxes may be provided for slips, and may provide housing for electrical and mechanical services. Locker boxes shall be securely attached to the dock surface. All dock boxes should be located on finger fillets; i.e., the intersection of the finger and the main or headwalk, on the triangular dock surface. Locations other than on a finger fillet require the approval of the City. Locker boxes installed in the path of travel that limits safe pedestrian access will not be allowed. Minimum clearances for safe pathways are as follows: 2 feet clear on fingers, 3 feet clear path on main and headwalks.

Lockers boxes shall be made of 1/8 inch minimum thick fiberglass or cross-linked polyethylene. Flammable materials shall not be kept in locker boxes.

- b. Cleats: Cleats shall be designed to accommodate boats and loads appropriate for their location. A minimum of two cleats on each side of a finger is required. Cleats shall be attached to the dock system by means of through-bolts of adequate size to transmit loads between boats and the dock system.
- c. Bumpers: Bumpers shall be installed on dock surfaces that will come into contact with boats. Outer corners of fingers should be protected with corner bumpers or dock wheels. Bumper material shall be vinyl products, or those that have been approved by an Engineer, licensed to practice in the State of California. Water retentive material such as rugs, or salvage materials such as tires, shall not be used. Install bumpers with aluminum or stainless steel nails or screws.
- d. Boarding Steps: Boarding steps shall not be kept on main walks. Boarding steps may be kept on, or attached to, finger floats, but in no case shall boarding steps on finger floats occupy more than one-half of the width of the finger float. Boarding steps shall be light-weight and not used for storage, unless the supporting dock section has been specifically designed for the additional dead and live load. Boarding steps shall not be permanently attached to the outermost 5 feet of any finger float.

- e. Life Rings: Life rings shall be installed in strategic locations on commercial docks. Life rings for residential docks are encouraged, but not required.
- f. Dock Ladders: Dock ladders shall be installed in strategic locations on commercial docks for safety purposes. Ladders shall extend into the water by at least 3 feet, and be constructed of materials that resist corrosion and prolong ladder life. Ladders may be provided with the ability to swing out of the water in order to allow for special recreational uses of the docks. Ladders for residential docks are encouraged, but not required.

5. ACCESS/GANGWAYS/AMERICANS WITH DISABILITIES (ADA) COMPLIANCE

- a. General
 - (1) Landside facilities of commercial docks and of docks serving new multi-family developments shall meet all ADA requirements for the path of travel from the street and parking lot, to the gangway and down to the docks.
 - (2) Walking surfaces of gangways shall have a non-skid finish, such as punched metal, unpainted timber, or grit impregnated metal, painted non-skid coatings, etc.
 - (3) Gangway Support: Connections between gangways and the adjacent bulkheads or platforms shall be designed by a licensed engineer, and comply with the following minimum requirements:
 - (a) Gangways shall be supported by the bulkhead or platform through a mechanical connection system, such as facemounted plates or clip angle hangers with saddles, shackles or pins, attached to the bulkhead or platform with pouredin-place anchor bolts or epoxy-anchored threaded studs. Minimum diameter of bolts shall be 5/8 inch, and material for bolts in contact with concrete or treated lumber shall be Type 304 or 316 stainless steel.
 - (b) The hinge and supports shall be capable of transferring full dead and live loads generated by the gangway to the mechanical connection system.
 - (c) Steel angles, plates and other sections utilized in these connections shall be minimum A36 grade and have a
minimum thickness of 3/8 inches. Any exposed edges of plates that may potentially be in the path of travel or in contact with foot traffic shall have beveled or rounded smooth edges.

- (d) Dissimilar material shall not be in direct contact to prevent galvanic corrosion.
- (e) All steel members and hardware shall be galvanized, or coated with a formulated non-toxic coating system designed specifically for the marine environment.
- (f) The gangway shall be restrained from lifting out of the support saddle during extreme high tide elevations, without interfering with rotation at the gangway hinge.
- (4) Gangways shall be braced in the horizontal plane to prevent lateral deformation. The bracing system can consist of diagonal supports within or under the gangway framing system, plywood sheathing, or by decking designed to act as a shear transfer membrane.
- b. Commercial Docks: Commercial docks servicing the public will be required to meet all applicable requirements relating to Federal ADA Compliance requirements.
 - (1) Design live loads for gangways shall be a minimum of 50 pounds per square foot for gangways functioning strictly for access to the dock system, and a minimum of 100 pounds per square foot for gangways that can be used as a staging area for passengers boarding vessels. The maximum allowable deflection of a gangway or bridge at mid span is L/240, with L/360 suggested for walking comfort.
 - (2) Gangway slopes shall meet current state and Federal requirements for safety and ADA compliance, where applicable.
 - (3) All commercial gangways shall be ADA compliant.
 - (4) All walking surfaces shall be provided with a commercial grade non-skid surface. Worn or slick non-skid surfaces shall be repaired immediately upon notice. Non-skid walking surfaces shall be maintained and/or re-applied at a minimum of every six (6) months. The maximum allowable gap in adjacent walking planks or surfaces shall be ¹/₂", and the maximum vertical height differential between adjacent planks or surfaces shall be ¹/₄".

- (5) All gangways shall be equipped with transition plates at the bottom of the gangway, and if fabrication details include gaps in the hinge transition of more than ¹/₂ inch, at the top of gangway as well. These transition plates shall be of non-skid surface material and provide the transition from the gangway platform and/or dock, onto the gangways. All transition plates shall have a slope no steeper than 1:8 for non-ADA-compliant gangways, and 1:12 for ADA-compliant gangways. Transition plates shall have rounded edges along the path of travel and a height or thickness at the end of the plate of no greater than 3/8 inch.
- (6) Minimum clearance on the dock system around a gangway landing shall be 5'-0".
- (7) For additional discretionary gangways, other than the required ADA gangway, gangway slopes for commercial docks shall not exceed 1 foot vertically for each 3.0 feet of length, when the tide is at -1.0 feet MLLW. The minimum length of commercial gangway shall be 30'-0".
- (8) Guard, mid and hand railings shall meet the requirements of the latest State of California Title 24 requirements.
- (9) Railings shall be designed to resist a load of 50 pounds per foot applied horizontally to the rail or a 200-pound point load applied vertically at any point along the length of all horizontal rails.
- c. Residential Docks:
 - (1) Design live loads for residential gangways shall be a minimum of 25 pounds per square foot for gangways functioning strictly for access to the dock system. The maximum allowable deflection of a gangway or bridge at mid span is L/240, with L/360 suggested for walking comfort.
 - (2) Gangway slopes for residential docks shall not exceed 1 foot vertically for each 2.5 feet of length, during the full range of tidal swing elevations. The minimum length of residential gangway shall be 24'-0".
 - (3) Minimum gangway clearance (within handrails) shall be 2'-6" wide.
 - (4) A 3-foot long toe plate, at the base of a gangway, is encouraged for ease of use and safety and to provide a continuous sloping path of travel, from the surface of the gangway to the surface of the

dock. A gangway bottom "step-off", if the toe plate is not utilized, shall not exceed 7 inches in vertical height.

- (5) Worn or slick non-skid surfaces shall be repaired immediately upon notice. Non-skid walking surfaces shall be inspected and maintained periodically for safety purposes.
- (6) Gangway handrail heights shall be 34 to 38 inches above the gangway walking surface. Openings in rails of residential gangways shall not permit a sphere 12 inches in diameter to pass through.

The gangway rail shall be designed to resist a load of 20 pounds per foot of horizontal force applied to the top of the rail.

(7) If a residential dock system has 25 or more slips, an ADAcompliant gangway system must be designed with a minimum design load of 50 pounds per square foot, and a maximum deflection of L/240, with a deflection of L/360 suggested. See Federal ADA Accessibility Guidelines.

6. SPECIAL HARBOR FACILITIES

- a. Fuel Floats:
 - (1) Locate boat-fueling docks near the entrance of the harbor, in an area that is protected from waves and rough water environmental conditions.
 - (2) Fuel floats used for dispensing petroleum products shall be adequately designed and placed to provide maximum service to the boater. Adequate guide piles or dolphins shall be required to provide permanence, safety, and stability to the floating docks, and shall be designed by a California Licensed Engineer with waterfront experience. Fuel floats must be designed to support the dead loads imposed by the dispensers, hose reels, storage, pipe chase ways, etc.
 - (3) Fuel facilities shall be in conformance with County, State and Federal codes, ordinances and law. Equipment, such as containment booms and absorbent pads, shall be kept on the fuel dock to contain spills.

- (4) Fuel Floats shall contain all necessary firefighting equipment and systems, as deemed appropriate by the City of Newport Beach Fire Department.
- b. Sewage Pump Out Facilities:
 - Marinas with more than 50 boats are required to have at least one
 (1) sewage pump out facility. Sewage pump out facilities shall connect to the nearest City of Newport Beach sewage line system. Refer to *City of Newport Beach Standard Drawings for Public Works Construction* for details of these connections.
 - (2) Sewage pump out equipment shall be products that have been designed, tested and installed for the specific purpose of vessel sewage pump out. All sewage pump-out facilities shall be inspected regularly and maintained in operable condition.
- c. Floating Buildings:
 - (1) To obtain approval from the City of Newport Beach Harbor Resources Division for the installation of a floating building, the applicant must provide compelling reasons that such a facility is necessary and is precluded from location on land.
 - (2) Only commercial facilities are allowed to consider floating buildings. Residential facilities are not allowed to have floating buildings. Potential floating building uses include restrooms, the dock master's office, enclosures on a floating fuel dock, and boat rental office. Other uses may be considered, at the discretion of the City of Newport Beach.
 - (3) Floating buildings are subject to the latest edition of all local, State and Federal building codes.
- d. Vessel Launching Facilities:
 - (1) Vessel launching facilities may include vehicle launch ramps for trailered boats, concrete launch ramps with rails and/or tracks for special vessel carriers, elevated travel lift launches, swing hoists on davits, and forklift launching.
 - (2) All launch facilities shall be designed considering the launching and vehicle loads imposed on existing and/or planned structures.
 - (3) Vessel launching facilities shall be designed in accordance with California Department of Boating and Waterways, Boating

Facilities Division, "Layout, Design and Construction Handbook for Small Craft Boat Launching Facilities".

- e. Special Mooring Devices:
 - (1) Special vessel mooring devices may be required or desired for specific berthing conditions. Large vessels may require mooring and/or breasting dolphins (pile groupings designed to resist large impact and berthing loads), berthing walls, or other devices that facilitate vessel docking.
 - (2) Special mooring devices shall be designed by a licensed engineer and geotechnical consultant, with experience in waterfront engineering. Special mooring devices shall be designed to resist berthing loads, wind, wave, and current loading for the localized area.
- f. Piers, Platforms, and Wharves
 - (1) Piers, platforms, and wharves shall be designed by a California licensed Engineer experienced in waterfront structures. A geotechnical report, for pile design and installation, shall be provided that addresses special issues such as liquefaction potential, and the gravity and seismic support of the waterfront structure. The geotechnical report shall be prepared by a California-licensed Geotechnical Consultant.

Refer to the Harbor Standard Drawings for the various geometries allowed for piers and platforms that serve and provide access to residential floating docks.

- (2) Commercial: Structures shall be designed for an assembly area live load of 100 pounds per square foot (psf) as well as vehicle loads that may be imposed on the structure for maintenance purposes.
- (3) Residential: Structures shall be designed for a minimum live load of 50 psf.
- g. Seawalls (Bulkheads):
 - (1) General: Several types of seawalls are common to support soils and construction on the landside of the wall. Seawall material can be composed of various types of materials, including concrete, steel and other manufactured materials. Typical wall types include freestanding or "cantilevered" seawalls and "tied-back" seawalls.

Cantilevered seawalls are limited by the height of the wall above the waterside mudline and are generally effective for exposed heights of not more than 8 feet. For structural steel type seawalls, higher exposed heights are possible. Tied-back seawalls can be effective for exposed heights over 8 feet and may require continuous caps, walers (beams), steel tie rods and a foundation anchors (Deadman), or earth anchors. Tie-back anchor systems shall require protection against corrosion. Galvanic anode cathodic protection system is recommended. Tie-back anchor system shall be designed to last the life of seawall.

- (2) Generally, seawall sheets constructed of reinforced, prestressed concrete are desirable, although for special conditions, structural steel interlocking sheets may be necessary. Steel products in the marine environment require special non-toxic coating protection and cathodic protection, in order to provide extended life spans.
- (3)

The City understands there is a threat of flooding and inundation in and around Newport Harbor due to sea level rise. Newport Harbor and adjacent low-lying areas rely on a system of harbor bulkheads, seawalls, revetments, or other improvements to function. Additionally, the system of shoreline defenses protects existing development, public access, public views, and scenic qualities of the coastal zone. The City is committed to using the best-available science to determine a range of sea level rise projections for use in developing harbor development standards and in reviewing coastal development permit applications. Currently the best available science is the State of California Sea Level Rise Guidance, 2018 Update. Experts acknowledge that there is considerable uncertainty in the magnitude and rate of the rise in sea level and as a result, the City recognizes the need to set standards over time that provide protection from future sea level rise given the inherent uncertainty of the rate and magnitude of the rise.

Bulkheads, seawalls or other protective improvements shall be constructed and maintained as shown in Table No. 2. The structure shall also be initially designed and constructed to accommodate and receive future increases in height when directed by the City to protect adjacent low-lying areas from future flooding without the need to replace or substantially alter the structure.

Table No. 2

Year Structure Permitted	Adopted NB Standard Elevation ¹		Design for A Eleva	Adaptability
	NAVD88	MLLW	NAVD88	MLLW
2020-2024	10.7	10.9	13.7	13.9
2025-2029	10.9	11.1	14.4	14.6
2030-2034	11.0	11.1	14.6	14.8

- 1. Derived using the Upper Limit of the Low Risk Aversion probabilistic sea level rise protection scenario for the Los Angeles tidal gauge estimated 75 years into the future based on the State of California Sea Level Rise Guidance, 2018 Update. This scenario accounts for the upper range of what is "likely to occur" with approximately an 83 percent probability that sea level rise falls below the elevations shown.
- 2. Derived using the Medium-High Risk Aversion probabilistic sea level rise protection scenario for the Los Angeles tidal gauge, again estimated 75 years into the future based on the State of California Sea Level Rise Guidance, 2018 Update. This scenario accounts for increased sea level with approximately a 1-in-200 or 0.5 percent probability that sea level rise exceeds the elevations shown.
 - (4) The distance between seawalls and all floating dock components shall be a minimum of one foot horizontal distance.
 - (5) Seawalls shall be designed to resist all applicable vertical and horizontal loads.
 - (6) A minimum safety factor of 1.5 shall apply to gravity loads, and a minimum safety factor of 1.1 shall apply to seismic loading cases for the stability of seawalls.
 - (7) Decking may but to the seawall cap, or cantilever over the top of the seawall, if approved.
 - (8) Wing Walls: Wing walls are retaining walls that project landward and are perpendicular to the seawall. Wing walls may be necessary to isolate the seawall protection system of one property to the adjacent property. Special care must be taken to assure that the construction of a seawall for the subject property does not adversely impact the seawalls of the adjoining properties, either during construction or over the life of the structures.
 - (9) Seawall design requires a soils report from a California-licensed geotechnical consultant experienced with the design of waterfront structures. Any sloping surface on the water or landside of the seawall must be accounted for in the calculations for the seawall.

- (10) All concrete sheets used for seawall construction shall be designed as pre-cast, pre-stressed concrete elements. Sheet design shall provide for symmetrical distribution and sizing of strands, to prevent curvature of the wall. See "Pilings & Anchorage" for concrete and reinforcing requirements.
- (11) All seawalls or seawall alterations shall be designed by a California-licensed Civil or Structural Engineer.

7. **DREDGING**

- a. All projects that require dredging must follow current local, State and Federal permitting requirements.
- b. For maintenance dredging projects involving small quantities, the City of Newport Beach, in conjunction with the Army Corps of Engineers (ACOE), has a program allowing for a simplified permitting process, as long as the amount of dredging and disposal quantities are small and meet quality requirements. The applicant is encouraged to inquire about this simplified process with the Harbor Resources Division, to verify qualifications.

8. UTILITIES

- a. All utility lines in a floating dock system may maintain clearances as outlined in "Layout & Design Guidelines for Marina Berthing Facilities".
- b. Electrical Power and Lighting:
 - All electrical design shall be in accordance with the latest edition of the National Electric Code (NEC) Article 555 – "Marinas and Boatyards", California State Building Standards "Article E555 Title 24, and the National Fire Protection Association (NFPA) code, NFPA 303 and NFPA 70.
 - (2) Electrical systems shall be designed by an Electrical Engineer, licensed by the State of California, and shall be in accordance with the latest requirements of the City of Newport Beach.
 - (3) An electric service connection shall be located at a minimum of every other slip. Electrical receptacles shall be waterproof and approved for marine waterfront exposure. The following are suggested minimum receptacle requirements based on boat size: one (1) 120v, 30 amp outlet at each boat slip under 35ft, two (2)

120v, 30 amp outlets at each boat slip between the sizes of 36 to 45ft, one (1) 120v, 30amp and one (1) 120v, 50 amp receptacle at each boat slip between 46 to 55ft, and two (2) 120v, 50 amp receptacles for boats between 56 to 65ft. For vessels larger than 65ft, special power requirements may be required and the applicant should consult the vessel manufacturer. Some large vessels may require 220v or 480v, 100amp services. Sub metering of each boat slip is recommended and has proven to reduce power usage in marinas where meters have been installed.

- (4) Lighting shall be provided on all floating structures for pedestrian safety. All lighting shall be so designed as to provide sufficient light for safe pedestrian usage. All lighting on landside and waterside structures and buildings shall be designed to provide a minimum reflection/glare on the adjacent water areas with consideration for lighting reductions in evening hours.
- (5) Electrical cables and conduits shall be fastened securely to the dock system and gangways such that the system is protected from damage by boats. All electrical equipment shall be located above the harbor water level per NEC requirements at all times. If distribution cabling will be subject to water contact, cabling shall be rated for submersible use. All strapping supports for conduit shall be stainless steel. All electrical conduit and cables must be concealed within the dock system.
- (6) Transformers and panels located on the docks shall meet all requirements of the National Electrical Code (NEC). Several maintenance receptacles should be placed throughout the marina system to allow dock maintenance crews to use small electric tools without using metered power dedicated to slip renters.
- (7) Commercial Facilities:
 - (a) Commercial facilities shall provide minimum lighting levels for public safety along the path of travel from land to the berthed vessel.
 - (b) Lighting fixtures with a capacity of 9 watts mounted at heights between 1.5 to 3 feet above the floating deck surface in dock boxes or on individual pedestals along the path of travel will generally meet this requirement. Fixtures should be located such that lighting levels on the walking surface are as uniform as possible.

- (c) In addition, pole-mounted lighting shall be provided to illuminate vertical access systems such a gangways, steps, and lifts, providing a higher level of illumination at vertical transitions in the path of travel.
- (d) Lighting systems shall be designed to provide light for the floating walking and access surfaces and not project light into neighboring properties, skyward and/or water space. Special lens and/or shields may be required to ensure that stray light is blocked and/or managed.
- (e) All lighting shall be controlled by photo cells and/or timers, to assure that their operation is automatic and energy conserving.

c. Plumbing

- (1) Plumbing systems shall be designed by a Civil or Mechanical Engineer, licensed by the State of California, and shall be in accordance with the latest National Mechanical Code, State Plumbing Code, and National Fire Protection Association Code.
- (2) One hose bib shall be provided for every two (2) boats, as a minimum. Hose bibs for every boat slip are recommended for boater convenience and the reduction of clutter on the docks.
- (3) Backflow preventers shall be provided for all water supply systems into the site. Pressure reducers or booster pumps may be required to meet pressure and flow requirements.
- (4) Refer to Section "Sewage Pump Out Facilities" for criteria for sewage system installations.
- (5) Supply water and sewage piping shall accommodate the full range of tidal movement, via the installation of flexible hoses and/or mechanical swivel pipe fittings. All materials shall be suited for the salt-water marine environment and be rated as "Food Grade" materials.

- d. Fire Protection:
 - (1) General:
 - (a) All fire protection systems for marinas, wharves and piers shall be in accordance with NFPA Chapters 14 and 303, latest edition, and the California Fire Code Appendix II-C, latest edition. See the attached Newport Beach Fire Department "Fire Protection for Marinas, Wharves, and Piers" for system requirements.
 - (2) Code Requirements:
 - (a) Retroactivity of code provisions: At the option of the Newport Beach Fire Department, the authority can make the conditions and provisions of applicable current codes retroactive, if deemed necessary for public safety. Otherwise, the provisions of applicable codes that existed or were approved for construction or installation prior to the effective date of the standard shall apply.
 - (3) Fire Department connection/s (FDC's), backflow preventers and pressure reducing assemblies or booster pumps if required, firehose cabinets, fire standpipes and portable fire extinguishers shall be provided on the docks, as required by Code. Meet City of Newport Beach Fire Department requirements for periodic hose testing and replacement.
 - (4) Commercial Facilities:
 - (a) All commercial dock installations shall be provided with a fire fighting system, approved by the City of Newport Beach Fire Department. If the City water pressure is not adequate to produce pressures necessary to meet special City and Code requirements, an auxiliary booster pump system may be required.
 - (b) All new and existing marinas and boating facilities shall meet the requirements described in "Cases" as made part of this Design Criteria. The purpose of these requirements is to facilitate safe boating navigation, as well as provide fire-fighting capability.

- (5) Residential Facilities:
 - (a) Fire protection systems for single-family residential docks are optional, although highly recommended. The residential owner should contact their insurance carrier for any policy requirements associated with providing a fire protection system.
 - (b) Fire protection for multi-family or condominium residential docks, piers and floats are required to have a fire protection system meeting City and Code requirements.

9. ENVIRONMENTAL

- a. Commercial Facilities:
 - (1) All commercial facilities shall prepare a Best Management Practices plan to document environmental practices to be applied to daily operations. Plans shall address in-water maintenance limitations, storage and handling of hazardous and/or waste products common to the boating community, and emergency response to chemical spills.
 - (2) Commercial facilities shall provide a means for vessels to pump out their bilge tanks and the wastewater products taken to an approved treatment and disposal facility.
- b. Residential Facilities:

Not applicable

10. PERMITTING

Project Types and City Classifications: The purpose of project types and City classifications noted below is to establish the permit fee structure and process for submitted projects. Percentage replacement is based on the valuation of total dock system. Values of various types of construction are based on City records for average construction, and are not necessarily based on the construction cost estimates provided to the City by the Applicant.

a. Maintenance Projects:

(Do not require State and Federal permit processing)

- (1) Re-decking an existing float, gangway, or pier, like for like (not more than 20% of total replacement cost).
- (2) Fixing dry rot or damage (not more than 20% of total replacement cost).
- (3) Replacing piles, like for like, in the same hole (maximum 7 piles).
- (4) Replacing a gangway to City standards.
- (5) Raising a bulkhead to City standards.
- (6) Replacing deteriorated tie rods with earth anchors.
- (7) Repairing seawall cap beams and deadman.
- (8) Emergency repair of structures deemed by the City to jeopardize public safety. (Follow-up permitting may be required with the Coastal Commission.)
- (9) Partial demolition of structures; i.e., elimination of half of a "U" shaped dock and/or respective piles.
- (10) New waler at sea side of an existing bulkhead, minimum of 2 feet above mudline (without encroaching property line)
- b. Alteration and New Construction Projects: (Requires State and Federal permit processing)
 - (1) Re-decking an existing float, gangway, or pier, like for like (more than 20% of total replacement cost).
 - (2) Fixing dry rot or damage (not more than 20% of total replacement cost).
 - (3) Relocating one (1) or more piles
 - (4) Replace float, pier and/or gangway, like for like
 - (5) Change in orientation or configuration of an existing dock, including pile relocation.
 - (6) Any increase in dock footprint
 - (7) Total reconstruction of a float, gangway, and/or pier
 - (8) New configuration of a float, gangway, and/or pier
 - (9) Replace seawall panels
 - (10) New bulkhead system

II. LANDSIDE DEVELOPMENTS (Commercial Only)

- A. Landside developments of waterfront projects are subject to City of Newport Beach - Community Development Department, Building Division and Planning Division requirements.
- B. See State of California Department of Boating and Waterways "Layout and Design Guidelines for Marina Berthing Facilities", for minimum requirements for landside facilities, in support of waterfront developments.
- C. Landside requirements for marina projects include location and design of restroom facilities, minimum parking requirements and ADA compliance.



- Lo = LENGTH OVERALL, WITH BOW SPRIT, SWIM STEP OR OTHER PROTRUSIONS
- Wo = WIDTH OVERALL
- Lb = LENGTH OF BERTH (FINGERFLOAT OR SLIP) (DBAW)
- Wb = WIDTH OF BERTH (DBAW)

VESSEL SIZE ILLUSTRATION





DOCK ARRANGEMENT CASE 2



DOCK ARRANGEMENT CASE 3







<u>NOTE:</u>



MEDITERRANEAN-STYLE MOORING

DOCK ARRANGEMENT CASE 6



CASE 7



DOCK ARRANGEMENT CASE 8



DOCK ARRANGEMENT CASE 9A



- (1) Pierhead and Project lines are established and managed by the federal government.
- (2) Portions of floating docks that extend into Federal Dredging Limit must be removed by the dock owner at dock owner's cost, when the federal government conducts periodic dredging operations.
- (3) Dock fingers must be designed and constructed in such a way that provides structural integrity of the fingers to resist lateral impact and mooring line loads without guide piles at the finger ends. Continuous structural stringers and/or special moment and shear-carrying splices must be engineered and submitted to the Building Department for approval.
- (4) The City Council has allowed exceptions for dock construction beyond the Pierhead Lines as noted in Council Policy H-1.

DOCK ARRANGEMENT CASE 9B



PROPERTY LINE CONDITIONS



DOCK ARRANGEMENT CASE 13 (Grand Canal Only)

PONTOON 98ka 1988 DOCK CROSS SECTION DOCK LONGITUDINAL SECTION DEAD + LIVE LOAD FREEBOARD (DL+LL FB) = 9" MIN.<u>NOTE:</u> MIN DL+LL FB MAY BE DICTATED BY UTILITY LOCATION TO MEET 1 ELECTRICAL AND PLUMBING CODES 2. UNDER DL+LL, STRUCTURAL WALERS SHALL NOT BE SUBMERGED DEAD LOAD + LIVE LOAD FREEBOARD DOCK WITH NO FRAMING SUPPORTED **ON PONTOONS (TYPICAL CONCRETE DOCK SYSTEM)**



DEAD LOAD FREEBOARD

FLOATATION TYPICALLY VARIES FROM 90% TO 95%

DOCK CROSS SECTION

CONĈRETE CONĈRETE 2 CONCRETE PONTOON PONTOON PONTOON 1988 ******

NO DOCK FRAMING ABOVE PONTOON

DOCK LONGITUDINAL SECTION

FB. 1 18 ₩₩ ନ୍ଥ ମ

DEAD LOAD FREEBOARD (DL FB) = 14" MIN. 24" MAX

100

DEAD + LIVE LOAD FREEBOARD FOR DOCKS WITH FRAMING SUPPORTED ON PONTOONS (TYPICAL TIMBER, ALUMINUM, STEEL, FIBERGLASS FRAMING DOCK SYSTEM)

DEAD LOAD + LIVE LOAD FREEBOARD



БÐ I Π DOCK FRAMING SUPPORTED BY PONTOON PONTOON PONTOON PONTOON $\overline{\Box}$ DEAD LOAD FREEBOARD (DL FB) = 14" MIN. 24" MAX FLOATATION TYPICALLY VARIES FROM 60% TO 95% DOCK CROSS SECTION DOCK LONGITUDINAL ELEVATION DEAD LOAD FREEBOARD 25 PSF LIVE LOAD (RESIDENTIAL DOCKS) 40 PSF LIVE LOAD (MARINAS, PUBLIC PIER AND COMMERCIAL DOCK) 65 PSF LIVE LOAD (COMMERCIAL DOCK W/ STAGING)

Fig. No. 14




























Image: state stat			
DOCK CLEAT			
(TYPICAL DOCK MOORING CLEAT) NOTES: EYE BOLT SHALL BE FABRICATED OF STAINLESS STEEL. EPOXY SHALL CONFORM TO ASTM C881 STANDARD, OR SHALL BE AN EPOXY FORTIFIED GROUT INTENDED TO BE USED FOR PERMANENT ANCHORAGE OF EQUIPMENT, AND SHALL BE APPLIED IN ACCORDANCE WITH THE MANUFACTURER'S WRITTEN INSTRUCTIONS. DOCK CLEATS SHALL BE GALVANIZED CAST METAL WITH HEX-HEAD THRU-BOLTS CONNECTED INTO THE TIMBER FRAMING WITH WASHER AND NUT, ALL CALVANIZED. DIAMETER OF THRU-BOLT PER CLEAT MANUFACTURER RECOMMENDATIONS. CLEAT AND BOLT SIZES BY DESIGN ENGINEER.			
pp			
ATE: 8/26/2020 FOR BOAT ANCHORAGE 611 1 SHEET 1 OF 1			











TIDAL DATUMS AND ELEVATIONS



September 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission <u>agenda</u> are submitted by: Jim Mosher (<u>jimmosher@yahoo.com</u>), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item SS1. Review and Consideration of Harbor Commission Goals and Objectives for 2021

Execution of the Harbor Commission's goals and objectives appears predicated on the existence of a number of formally-appointed committees that will, as they have in past years, meet privately to formulate recommendations. While this is allowed by California's open meetings law applicable to local agencies (the <u>Brown Act</u>), it is important to ensure not only that each committee consist of less than a majority of the Commission, but that (1) their activity is limited to formulating a recommendation to the full Commission (as opposed to privately guiding staff) and (2) that their assigned activity is clearly enough defined to make it obvious when their job is done and they cease to exist (as opposed to functioning as a "standing" committee formulating recommendations pertinent to a particular subject matter on an ongoing basis). If not, their meetings need to be noticed and open to the public.

In the slides posted in advance of the meeting, possible problems exist with 2.2, 3.1, 3.3, 4.3, and possibly 4.4, which, as presented, appear to exist to interact with staff or outside agencies/stakeholders rather than to themselves make a recommendation to the Commission.

Item 10.1. Minutes of August 12, 2020 Harbor Commission Regular Meeting

I have not had time to read all of these, but on page 2 (page 17 of the agenda packet), in the first paragraph of narrative, the first refence to "*Standard Drawing No.* **616** for the West Newport area" was probably intended to read "*Standard Drawing No.* **606**" (see page 35 of the present agenda packet). Drawing No. 616, as the next sentence indicates, is "Datums."

Item 11.1. Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential: Review and Approval

As the draft minutes indicate, at the August 12 meeting I commented on the revised Standard Drawing No. 616 (on pages 42 and 116 of the current agenda packet), which I apparently mistakenly referred to as representing a "tide gauge" (of perhaps more accurately "tide staff").

What I believe it does try to represent is empirical water levels compared to the geometrically fixed system of heights called NAVD88 against which such things as sea level rise are measured.

As such, as I tried to point out, I believe it creates an impression of unwarranted precision. Not only because the averages change with time due to sea level rise, but because the tide gauge in Newport Harbor reported to NOAA only from <u>1955 to 1993</u>, which means it was operational for less than the full 18.3 year tidal "epoch," 1983-2001, over which the empirical measurements

are currently averaged. I believe that to compute the "<u>datums</u>" shown in Drawing No. 616, NOAA has assumed the same offsets from the heights observed by the more carefully and continuously maintained <u>Station 9410660</u> in LA Harbor.

In addition, Drawing No. 616 contains at least one typo: the highest tide observed during the operation of the historic Newport Harbor tide gauge (7.67' MLLW) was observed on 1/28/1983, not 1/28/1993 as indicated on the drawing.

But it should be understood the indicated high and low water levels are only those actually observed during the operation of the gauge. The LA Harbor station <u>reported</u> a slightly higher tide on 01/10/2005 and a substantially lower one than that reported for Newport on 12/17/1933. Even though Newport Harbor had no tide gauge reporting on those dates, it would seem safe to assume the waters here showed similar extremes (for comparison, see also the datums for the similarly long-operating <u>Station 9410170</u> in San Diego Bay, which experienced its highest tide on 11/25/2015 and lowest on 12/17/1937 – both dates for which NOAA has no data from Newport).

On this subject of extreme high and low water (which I believe purposely does not include the peaks produced by short-period wave action), I might also note I am not sure I understand the intended significance of the proposed revisions to Standard Drawing No. 609 (on page 38). This drawing of a residential pier platform shows lines on the right representing Highest and Lowest observed tides. Formerly they said "NTS" (I believe for "Not to Scale"). Now they will say "HOT" (Highest Observed Tide") and "LOT" (Lowest Observed Tide"). But the drawing does not explain how they affect the design. Must the bottom (or top?) of the platform be at least some distance above the HOT? If so, how far? And how does the position of the LOT affect the design, if at all?

Item 11.2. Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

As the two members of the ad hoc committee know, I submitted some suggested alternative modifications to the code, too late to make the agenda packet.

While I am generally supportive of the committee's recommendations, I have continuing trouble with the proposed definition of "Live-Aboard" (agenda packet page 120), which I think conflates regulation with definition. I think the definition should concentrate on articulating what the code means by "living aboard" and the limits on how long one can live aboard in various situations should be left to the regulations.

I could be wrong, but I have the impression that the concept of "living aboard" has primarily to do with "overnighting" on a vessel. The proposed definition makes no reference to that, and instead cites using "*a vessel as a domicile for human habitation*" – words that make little sense to me, especially since a "domicile" is generally understood to mean one's permanent home, and it's hard to see how staying on a vessel for 72 hours or even eight months, and even if one spends nights on it, makes it one's domicile if one feels the true and permanent home they will

eventually return to is elsewhere. The Commission should also know that a mooring is a kind of "berth" according to the definitions in Title 17.

I also think the whole Harbor Commission seeing only snippets of code and not the whole chapter as proposed is a bit dangerous.

For example, it may not be obvious if a live-aboard permit goes with a person or a vessel and if the former, if each person needs a separate permit (the third sentence of the proposed Section 17.40.030 was probably intended to read "*No permit shall be issued to any live-aboard* <u>for a</u> <u>vessel</u> which is not intended to serve as the principal residence of the live-aboard").

Also, as I have repeatedly tried to point out, the existing <u>Section 17.40.020</u>, as revised this year, makes reference to non-existent provisions about short-term and "long-term mooring subpermits as noted in Section 17.60.040(G)." Such permits no longer exist, so the meaning of the terms is undefined. And I remain unclear on the Harbormaster's authority to allow live-aboard activity for more than 72 hours on guest moorings.

Finally, although not mentioned in the staff report, one of the committee's recommendations seems to be to place no limit on the allowed number of live-aboards in commercial marinas.

As to the new regulations on the anchorages in the harbor proposed for Chapters 17.20 and 17.25 (pages 122 and 123), the Commission may wish to know these are being copied from restrictions the Council adopted in 2009 to address a problem with people anchoring vessels *in the open ocean* off Big Corona State Beach (see <u>Item 4</u> from the Council's January 13, 2009, meeting, which details the problems being addressed with open ocean anchoring).

There was evidently no intention at that time to apply those rules to the very different conditions at anchorages *within the harbor*. So the Commission may wish to exercise some caution in applying exactly the same rules there.

City of Newport Beach Waterfront Project Guidelines and Standards Draft, September 1, 2020

Comments by Marie Marston, Harbor Commissioner, 9/8/20

General Comments:

- 1. Suggest a list of abbreviations be added to the document. This would be particularly helpful for UHMW, S4S, Sel., ADAAG, PL, etc.
- Suggest a list of referenced standards be included in the document, i.e., California Building Code, City of Newport Beach Standard Drawings for Public Works Construction, California Layout and Design Guidelines for Marina Berthing Facilities, Standard for the Care of Preservative-Treated Wood Products, American Lumber Standards Committee, and many more.
- 3. References to the referenced standards should state "per the latest edition of...".
- 4. In numerous places throughout the document there are references that a licensed engineer is required. Sometimes it specifically states they must be California licensed. Sometimes it says whether they need to be licensed in civil or structural. But many times it is unclear what type of license (civil, structural, geotechnical, etc.) is required. This should be clarified.
- 5. There are a number of places in the document where the terms "safe" and "unsafe" are used. These terms should be used carefully as definitions of safe and unsafe vary from person to person and may present a liability concern. Suggest using phrases such as " to improve safety" or "to avoid a potential safety concern" rather than stating concretely that something is either safe or unsafe.

Comments on "General"

- 1. 1st paragraph. Correct the City's name to City of Newport Beah
- 2. 3rd paragraph. Most of the document makes references to design by a licensed engineer. This paragraph suggests a contractor can design some dock modifications if experienced.
- 3. 4th and 5th paragraphs. These are quoted portions of the CBC. Seems like there should be a sentence stating the City of Newport Beach requires compliance with these sections along with the appropriate City title for the correct "building official". 4th paragraph needs a period at the end.

Comments on Section 1 – Waterside Development

- 1. Section 2. a., (1), (c). Should restaurants be listed as a potential commercial use?
- 2. Section 2. a. (2). Suggest stating (2005 edition or as updated). Capitalize Harbor Standard Drawings.
- 3. Section 2. c. (5) (b). Farthermost is used for distance references, not furthermost.
- 4. Section 2. (5) e. (1). Suggest that they type of application or permitting process be stated and that the approval would be for a definitive duration, not in perpetuity.
- 5. Section 2. (5) g. (1) (c). Should mention who this document is published by.
- 6. Section 2. (5) g. (6) (a). Do sea lions need to be considered in the live loading criteria?
- 7. Section 2. (5) h. (1) (b), 2nd paragraph. Commercial gangways have less loading than the dock loading?
- 8. Section 2. (5) k. (1). It does not make sense that piles will be driven and then testing performed. How is this possible? Need to clarify what is meant/required here.
- Section 2. (5) k. (4) (a). It is not clear what is required of the applicant for "encouraged to observe the type of guide piles used in the existing surrounding installations". This should be more definitive on what is required. Reference is made to "geotechnical consultant". Should this be California licensed geotechnical engineer? Also, in Section 6. e. (2), 6. F. (1), and 6. g. (9).

- 10. Section 3. b. (10). Is the City Inspector an actual title of an individual or should this be clarified with the required department?
- 11. Section 3. b. (11)(d). Should clarify this paragraph is regarding NPDES requirements. Some applicants may be unaware of the term "best management practices".
- 12. Section 3. d. (1). Compressive strength minimum is stated as 5,000 psi. Standard 610 for Pier Section shows 6,000 psi. Unclear if the Std 610 falls under this section of the HDC or not, but it should be clarified. Then in Section 3. e. (2), pilings are shown to be allowed with 4,000 psi.
- 13. Section 3. e. (6) (a). What is "local approval"?
- 14. Section 3. e. (6) (b). Regarding the reference to the "construction documents". The CDs could show anything the applicant wants. It would be better to state the maximum tolerances. Are there no battered piles allowed on any structures?
- 15. Section 3. e. (6) (c) (2). Suggest the inspection of pilings be required. Seems to be only a suggestion as written.
- 16. Section 3. e. (6) (c) (3). Reference to engineer's certification is this to be a geotechnical or structural engineer? "May certify" does not seem to be a requirement; may want to use stronger language. Is a "certificate of occupancy" the correct term?
- 17. Section 4. a. 2 feet clear on fingers and 3 feet clear on main seems narrow given ADA requirements and Table 1.
- 18. Section 4. c. Are these to be approved by a materials engineer? Civil engineer?
- 19. Section 5. a. (1). Paragraph does not mention single or joint residential (as listed on page 5), does that mean it does not apply to those uses?
- 20. Section 5. b. Clarify if this section applies to marinas, public pier.
- 21. Section 5. b. (1). Commercial gangways are min 50 psf while the dock is 65 psf (pg 11). Is this correct? Residential docks and gangways both use 25 psf.
- 22. Section 5. b. (2). Do the slopes apply to any water level or a particular range?
- 23. Section 5. c. (1). Does this section apply to all types of residential or just multifamily?
- 24. Section 5. c. (2). Suggest to clarify the "full range of tidal swing elevations".
- 25. Section 5. c. (5). Who will do the inspection? The owner or City? What is "periodically"? Suggest to provide a specific duration, e.g., once a year.
- 26. Section 5. c. (7). Insert the word "live" between "design" and "load".
- 27. Section 6. b. (2). How often is "regularly"?
- 28. Section 6. g. (1). Clarify the term "gravity"?
- 29. Section 6. g. (2). Does the 100 psf include vehicles or do vehicles need to be added to the 100 psi? What kind of vehicle?
- 30. Section 7. b. Assume "quality" is referring to water quality. Where does the applicant find what the requirements are?
- 31. Section 8. b, (4). Is there a foot-candle requirement?
- 32. Section 8. b. (7) (a). How is the lighting level for "public safety" determined?
- 33. Section 8. d. (3). Correct the typing should be "Fire Department Connections (FDCs). No apostrophe or forward slash needed.
- 34. Section 8. d. (4)(b). Suggest the "cases" refer to the Figures 2-12.
- 35. Section 9. a. (1). Should clarify this paragraph is regarding NPDES requirements. Some applicants may be unaware of the term "best management practices".

Comments on Figures

- 1. Figure 7 "mother chain on bottom" arrow points to nothing. Could add as a general note instead of with a leader line that appears to point to something. Is the licensed engineer to be structural or civil? Place "(typ)" next to "boat gangway".
- 2. Figure 10A there are two line types for the project line shown. If they have the same meaning, the line type should be the same.
- Figure 12 Place "(typ)" next to "stern lines". The leader arrows for the stern lines point to the seawall, not the lines should be corrected. Label the items in the section as well as the plan. Section and plan should align i.e., the seawall should be in the same position on the page.

Comments on Standard Drawings

- 1. 601 Note 1, "accord' should be "accordance".
- 2. 602 Note 1, "or" should be "of".
- 3. 602 sheet 3 of 3 detail 8 "dowels with hooks (epoxy coated) should have a "(typ)".
- 4. 603 suggest to redraft the note "2x4 railings 2/ (3) 16d at each post" since the (3) gets mixed in with the instruction. In the notes 2, 5, 6 reference is made to City approval. 5 and 6 say City of Newport Beach approval. Since these are City of Newport Beach standards, it is not necessary to call out the full city name.
- 5. 605, 606, 608 15' minimum penetration is noted. I don't know if refusal is ever encountered in the harbor, but if it is, then I would suggest "15' minimum or refusal".
- 6. 608 note 8 refers to the mudline. Is this the same as the "sand line" shown on the drawing?
- 610 refers to California licensed engineer but does not state what type of engineer (drawing and notes 5 and 8). Concrete minimum compressive strength is 6000 psi. Confirm this agrees with the document.
- 610 sheet 2 Notes 5 and 9 are these structural and geotechnical engineers, respectively? Also above on drawing.
- 9. 612 Note 3 what type of engineer? What is PL (on drawing)?



NEWPORT BEACH Harbor Commission Staff Report

et the city of the

September 9, 2020 Agenda Item No. <u>11.2</u>

то:	HARBOR COMMISSION
FROM:	Carol Jacobs, Assistant City Manager - 949-644-3313, cjacobs@newportbeachca.gov
TITLE:	Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

ABSTRACT:

During the past year the Harbor Commission has reviewed, solicited public input and recommended changes to Title 17 of the Newport Beach Municipal Code (the Harbor Code) to the City Council.

On January 28, 2020, the City Council adopted these proposed changes to Title 17 as recommended. As part of that action, City Council requested the Harbor Commission return to City Council with additional recommendations associated with requirements for live-aboard boaters with vessels in commercial marinas. (Attachment A – Pages 1-2).

Unrelated to the live-aboard related recommendations, staff is also requesting the Harbor Commission consider a recommended set of clarifications to Title 17, associated with use of the in-harbor public anchorage. (Attachment A – Pages 3-4).

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, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- Approve the recommended changes to Title 17 17.01 Definition of Terms; 17.40 -Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations and forward to City Council for their consideration.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

As part of the update to Title 17, the City Council requested that the Harbor Commission review the language relating to live-aboards in commercial marinas. As part of this review, the Harbor subcommittee consisting of Chair Kenney and Commissioner Yahn, held a public meeting on this issue on August 26, 2020. Letters were sent to all commercial marina operators in the City. The Commission received three letters (Attachment B) and eight individuals attended the virtual meeting.

Following the review of issues associated with live-aboard in commercial marina 17.01 and 17.40, staff is requesting changes to NBMC Section 17.01.030 - Definition of Terms and to NBMC Section 17.40 – Live Aboards. These recommended changes are intended to clarify expectations of permitted live-aboards in the mooring fields vs. those in commercial marinas.

The proposed revisions to 17.01 include:

• Modifying the definition of live-aboard, to clarify the difference between off-shore mooring live-aboards and commercial marina live-aboards.

The proposed revisions to 17.40 include:

- Clarifying the requirement associated with obtaining a live-aboard permit, specifically requiring a valid mooring permit in the case of those requesting live-aboard status in the mooring fields, and requiring a valid rental agreement in the case of those requesting live-aboard status in a commercial marina.
- Clarifying that live-aboard permits are issued to those making use of their vessel as their principal residence, as well as defining the minimum number of days in any calendar year one must reside on the vessel as a live-aboard on an off-shore mooring or a commercial marina.

In addition to the proposed revisions to 17.40, staff is requesting changes to Sections 17.20.020 - Vessel Operations and 17.25.020 - Anchorage, Berthing and Mooring Regulations, both intended to clarify public use expectations within the anchorage.

The proposed revisions to 17.20.020 and 17.25.020 include:

- Establishing continuous vessel occupancy expectations for anchored vessels.
- Establishing a maximum seventy-two (72) hours within any thirty (30) calendar day period for anchoring a vessel within the public anchorage.
- Establishing a provision for the Harbormaster to entertain and authorize extensions to this seventy-two (72) hour time limit, when circumstances are warranted.

The Harbormaster believes these clarifications will provide additional tools to manage the public anchorage more safely and effectively.

Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations September 9, 2020 Page 3

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 – Redline recommended changes Attachment B – Correspondence

PROPOSED REVISIONS TO SECTIONS 17.01 AND 17.40 LIVE-ABOARDS

17.01.030 Definition of Terms

I. Definitions: L

2. Live-Aboard. The term "live-aboard" shall mean the use or occupancy of a vessel as a domicile for human habitation; a) while at its dock, berth or mooring for a period exceeding seventy-two (72) hours in any thirty (30) day consecutive period; or b) at its dock or berth for a period exceeding one hundred eighty (180) days in any three hundred sixty-five (365) day period.

17.40.010 Purpose.

The City Council of the City of Newport Beach finds and declares as follows:

This chapter will promote the public health, safety and welfare by regulating the number of persons living aboard vessels on offshore moorings and insuring, to the extent possible, that the this residential use of a vessel in Newport Harbor does not result in the discharge of human waste; activities that are disruptive or imped other parties use and/or enjoyment of Newport Harbor; or otherwise adversely impact the health, safety and welfare on Newport Harbor and those that visit, work around or live on or near, the bay.

17.40.030 Permits Required.

No person shall live-aboard any vessel assigned to an offshore mooring in Newport Harbor without first having obtained a live-aboard permit from the Harbormaster. No liveaboard permit shall be issued except to a person holding a valid mooring permit issued pursuant to Chapter 17.60 or a valid rental agreement from a commercial marina. No permit shall be issued to any live-aboard which is not intended to serve as the principal residence of the permittee live-aboard. For purposes of this section, principal residence shall mean; a) for a mooring permittee, to live-aboard for not less than two hundred forty three (243) days in any calendar year; or b) for the holder of a valid rental agreement from a commercial marina, to live-aboard for a period not less than one hundred eighty (180) days in any three hundred sixty-five (365) day period.

17.40.050 Issuance of Permit

C. The applicant does not have a valid mooring permit as required by Section 17.60.040; or a valid rental agreement from a commercial marina.

17.40.050 Issuance of Permit

E. The vessel is incapable if safely maneuvering under its own power, whether by sail or engine, from its mooring, dock or berthing place, to the open waters of the Pacific Ocean and back to the mooring, dock or berthing place; or

17.40.060 Term/Renewal

C. The issuance of a live-aboard permit to a mooring permittee is not transferrable and does not create any tenancy between the City and the permittee or other persons living aboard, nor does it create any property right to the mooring site.

17.40.110 Limitation on Number of Permits

The number of live-aboard permits issued to permittees holding valid offshore mooring permits shall not exceed seven (7) percent of the number of offshore mooring permits issued by the City pursuant to Chapter 17.60.

PROPOSED REVISIONS TO SECTIONS 17.20 AND 17.25 IN-HARBOR PUBLIC ANCHORAGE RELATED

17.20.020 Vessel Operation.

E. Anchoring. In addition to the requirements set forth in Section <u>17.25.020</u>(A)(1)(b), no person owning, leasing, occupying or having charge or possession of any vessel shall anchor such vessel <u>in any of Newport Harbor's designated public anchorage areas</u> <u>or</u> on the Pacific Ocean unless the vessel is continuously occupied by a person during:

- 1. Any nighttime hours (sunset to sunrise);
- 2. Any time period when a Small Craft Advisory or greater has been issued by the National Oceanic and Atmospheric Administration; and

3. During daylight hours, except for one shore excursion per day for no more than three hours.

17.25.020 Anchorage, Berthing and Mooring Regulations.

A. Location. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within designated areas. Any vessel which is berthed, moored or anchored at a place not designated for such vessel shall be moved as directed by the Harbormaster. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space. No vessels shall be moored or anchored in any part of any turning basin or channel unless secured both fore and aft except as provided in subsection (H) of this section. Every vessel moored or anchored in any part of the harbor outside of any turning basin or channel shall be so moored or anchored as to prevent such vessel from swinging or drifting into any turning basin or channel.

1. No person owning, leasing, occupying or having charge or possession of any vessel shall:

a. Berth or anchor the same in Newport Harbor except within the designated areas; or

b. Anchor a vessel in any of Newport Harbor's designated public anchorage areas or at any location on the open waters of the Pacific Ocean within five hundred (500) yards of a designated protected swimming area for a cumulative period of time that exceeds seventy-two (72) hours within any thirty (30) calendar day period. The Harbormaster may authorize, in writing, an extension to the seventy-two (72) hour time limit if the Harbormaster determines that given the particular circumstances an extension of time is reasonable and warranted.

Biddle, Jennifer

From:	joe bergman <jbergman3333@gmail.com></jbergman3333@gmail.com>
Sent:	Tuesday, August 25, 2020 6:16 PM
То:	Title 17 Review
Subject:	Re: Meeting for Title 17 Review
Attachments:	NB liveaboards.docx
Follow Up Flag: Flag Status:	Follow up Flagged

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

Thank for allowing my thoughts to Harbor Commission and Newport Beach City Council. J. Bergman , Golden Hills Properties, LLC

Sent from Mail for Windows 10

NB liveaboards

Living aboard vessels is no different than increasing the number of floors, density and additional parking spaces of apartment buildings.

Adding liveaboards is also creating considerable addition of cars, i.e., parking spaces and increased traffic on Highway One.

Would the city of Newport Beach allow more three, four or five story apt buildings to alleviate the need for living space such as wanted by those wanting more slips for living aboard.

The City can't add nor allow more liveaboard space stacked on top of existing boat slips. How many two or three story slips can be added to the harbor surrounded by Newport Beach. Where will the parking spaces for added liveaboards come from?

Newport Beach doesn't have parking for visitors to the sand and the surf, certainly no additions of boats that will require one more parking space, or more likely three or five more parking spaces.

Living aboard is an addition much like having much larger charter boats to drift around the harbor much like cars drifting along PCH.

Keep adding and adding and adding. Maybe enlarge.

The more boats and people for living aboard will raise the water level to the top of the sea walls as they now exist.

Which is better? More liveaboard boats, charter boats or much higher water level.

Biddle, Jennifer

From:	Janet Friedrich <jfriedrich@burnhamusa.com></jfriedrich@burnhamusa.com>
Sent:	Tuesday, August 25, 2020 12:28 PM
То:	Title 17 Review
Subject:	Title 17 - Harbor Code Review
Attachments:	Letter to City of NB re Title 17 Harbor Code Review.pdf
Follow Up Flag:	Follow up
Flag Status:	Flagged

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

Please see the attached letter from Scott Burnham regarding the Title 17 Harbor Code Review.

BURNHAM USA

Janet Friedrich, Administrative Manager BURNHAM USA EQUITIES, INC. 1100 Newport Center Drive, Suite 200 Newport Beach, California 92660 Phone (949) 760-9150 jfriedrich@burnhamusa.com www.burnhamusa.com

This electronic transmission, and any documents attached hereto, (a) are protected by the Electronic Communications Privacy Act (18 USC §§ 2510-2521), (b) may contain confidential information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

It is understood that this email and any response hereto or any oral or written communication or any document which may be sent by or on behalf of either party to the other shall not have any binding effect on either party. Further, such understanding shall nullify any claim that either party or its representatives or agents is obligated to perform any act or expend time, money or effort based on this communication.



1100 Newport Center Dr., Suite 200 Newport Beach, CA 92660-6254 949-760-9150

August 25, 2020

Carol Jacobs Assistant City Manager City of Newport Beach 100 Civic Center Drive Newport Beach, California 92660

Re: City of Newport Beach - Title 17 - Harbor Code Review

To Whom It May Concern:

We are in receipt of your letter dated August 14, 2020 regarding the outstanding issue of allowing individuals to live-aboard year-round in the Newport Harbor marinas.

We wanted to take this opportunity to voice our strong opposition to this change that's being considered to the Harbor Code.

We believe that this would change the entire culture and character of our Newport Harbor marinas, as well as adding sanitation and cleanliness issues which would bring impact to not only the marinas, but to the public health at large.

Thank you in advance for your consideration in this matter.

Sincerely,

The Waterfront at Lido, L.P. By: Burnham USA Equities, Inc.

Scott T. Burnham Chairman/CEO

Biddle, Jennifer

From:	Jim Mosher <jimmosher@yahoo.com></jimmosher@yahoo.com>
Sent:	Friday, August 28, 2020 4:39 PM
То:	Kenney, William, Jr.; Don Yahn
Cc:	Title 17 Review
Subject:	Title 17 live-aboard discussion follow-up
Attachments:	Live Aboards Follow-up - Jim Mosher (2020-08-28).docx
Follow Up Flag:	Follow up
Flag Status:	Flagged

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

Chair Kenney & Commissioner Yahn,

I thank you for the effort on Wednesday to address the live aboard issue, although I have searched diligently through my recent emails and can find only the Zoom confirmation and instructions -- nothing containing the mark-up that was discussed during the workshop.

I have attached some further thoughts on the matter, including some history you may find interesting as to where the existing 7% limit on off-shore mooring live-aboards came from.

One further thought I have is that since the regulation of off-shore live-aboards originated primarily as a response to water quality issues, it might make sense to ask our Water Quality/Coastal Tidelands Committee to comment on the new proposal for commercial marinas -- with any ideas they may have as to the need and appropriate limit from a water quality perspective.

Yours sincerely,

Jim Mosher

Thoughts on the Live Aboard Regulations in NBMC Title 17

-- Jim Mosher, August 28, 2020

History of the Existing Provisions

Original Enactment (and Origin of 7% Limit)

The idea of regulating live aboard activity in Newport Harbor originates with the adoption of the Live Aboard chapter (then numbered 17.23) by <u>Ordinance No. 89-7</u>. This was one of two pieces of legislation recommended by the City's <u>Harbor Quality Committee</u> (forerunner of both today's Water Quality/Coastal Tidelands Committee and the Harbor Commission) the other being <u>Ordinance No. 88-18</u>, requiring installation of pumpout stations at certain kinds of sailing clubs and commercial docks.

Both ordinances contain extensive "Purpose" sections detailing the reasons for which they were enacted, the last paragraph of which for Ordinance No. 89-7 remains in Title 17 (and may now make less sense out of its original context).

Both were intended to address a growing concern with pollution in the harbor. The specific concerns motivating Ordinance No. 89-7 included:

- Improper disposal of trash and sewage generated by vessels on off-shore moorings
- Increased parking demand generated by persons living aboard same
- Greater noise disturbance likely to be caused by off-shore live aboard vessels compared to comparable vessels berthed in commercial marinas

The solution was to:

- Limit the future number of live-aboards to no more than the existing number (taken as 7% of the moorings)
- Both enforce that limit and tighten regulations on them through a permitting process.

More specific detail as to why 7% was chosen can be found in the Council discussion on the night the ordinance was introduced: see <u>page 18</u> of the February 13, 1989, minutes (officially, Volume 43, page 47). In short, 7% was chosen because it represented 51 off-shore moorings, which was thought to be a reasonable upper-limit estimate of the number of live aboards then existing. The number was thought to be closer to 30, but if more than 51 applied for permits they would have to vacate and go on a waiting list.

Uncertainties about Original Intent

Consistent its title, Ordinance No. 89-7 defined the regulated act of being a "live-aboard" as applying exclusively to persons living aboard vessels on off-shore moorings with a carve-out for those on guest moorings (who were apparently not regulated). It further restricts the definition to those who regard the vessel as their domicile as defined in what was then California Elections Code Section 200.¹ Essentially, for those otherwise qualified to vote in California, to be

¹ The text of what was then Elections Code Sec. 200 and disagreements over what "domicile" was intended to mean in it can be found in the California Supreme Court case of *Walters v. Weed*, <u>45 Cal.3d 1</u> (1988). The US Supreme Court justices disagreed the next year over the meaning of "domicile" in a piece of federal legislation: Mississippi Band of Choctaw Indians v. Holyfield, <u>490 US 30</u> (1989).

considered a "live-aboard" in Newport Harbor your off-shore moored vessel would have to be the address you would register to vote at (that is, the one you consider your "home").

It seems clear from Ordinance No. 89-7's statement of findings that **persons living onboard vessels berthed at docks were not intended to be regarded as "live-aboards"** and hence did not require permits and were not regulated. The assumption seems to be they had access to and used on-shore restrooms and trash facilities.

Curiously, though, in a slight bit of logical inconsistency Section 17. 23. 020 explicitly prohibited live-aboard activity on vessels on *onshore* moorings – even though "live-aboard" activity is not possible there according the definition in Section 17.23.010 even if one considered it one's domicile (because it is not an off-shore mooring).

However that may be, what is not clear is whether people living for extended periods on offshore moored vessels they did not consider the vessel their domicile needed permits to do so.

Subsequent Changes to the Regulations

The live aboard chapter (then number Chapter 17.23) appears to remained unchanged at least though the comprehensive update of <u>Ordinance No. 2002-18</u> (which changed only the appeal paragraph, Section 17.23.085, at the very end of the chapter).

More consequential changes were made in the comprehensive Title 17 clean-up culminating in <u>Ordinance No. 2008-2</u>. In addition to renumbering Chapter 17.23 to 17.40, those changes included deleting all of the original "Purpose" section except the last paragraph and adding as a "clarification" a 8-month minimum commitment as principal residence to be eligible for a live aboard permit: see the staff report for Council <u>Item 19</u> from January 8, 2008, for an explanation of the overall update.

This clean-up also seems to have deleted the Election Code reference and added to the definitions section of Title 17 the statement that anyone staying more than 72 hours in a 30 day period was a live aboard, but retaining the term "domicile" -- creating not only a logical contradiction² but the contradiction the Commission continues to struggle with today. Assuming this was intentional, **the intent seems to have been to prohibit living onboard for more than 72 hours in 30 days but less than 8 months** (while likely forgetting to address the former exemption for guest moorings).

Ordinance No. 2008-2 also added, in Section 17.40.020, **the prohibition on living aboard vessels berthed** "*at piers that are bayward of residentially zoned areas.*" This was presumably prompted by noise concerns rather than sanitary ones.

<u>Ordinance No. 2010-26</u> added the since abandoned concept of long- and short-term mooring permits, with live-aboards permitted on the short-term ones issued by Harbor Resources Manager (possibly without a separate live-aboard permit for which they would not qualify due to the shortness of stay?).

<u>Ordinance No. 2018-17</u> replaced references to the "Harbor Resources Manager" with "Harbormaster."

Most Recent Changes

The most recent changes were made by <u>Ordinance No. 2020-5</u>, with the redline changes visible starting at <u>page 184</u> of the Council staff report for Item 7 from February 11, 2020.

² One would rarely regard a place one stays at for only a few nights a month as one's "domicile".

It added to the "as a domicile" in the definition of "live-aboard" the phrase "or for human habitation while at its dock, berth, or mooring" (which I think makes "domicile" superfluous).

It also retained what I believe are obsolete references to long- and short-term mooring permits in <u>Sections 17.40.020.B & C</u>.

Remaining Problems

Under the present Title 17, a person living on a vessel anywhere in the harbor is defined as a live-aboard, but permits are required (and allowed) only for those with off-shore moorings. In addition, living onboard is prohibited on piers adjacent to residential areas.

The proposal is to require live-aboard permits for vessels in commercial marinas (presumably at slips not adjacent to residential property).

Some of the problems I see remaining are:

- The confusing reference to "domicile" in the definitions section should be removed.
- The question of whether the 8-month/243 day rule applies to the vessel (which may not be in Newport Harbor the whole time) or to the mooring needs to be resolved.
- The obsolete references to long- and short-term mooring permits in <u>Section 17.40.020</u> should be removed.
- Rules for live-aboards on guest moorings need to be added (including whether times longer than 72 hours but less than 243 days are allowed).
- If a rule such as the 15% limit for commercial marinas is considered, it needs to be made clear whether the 15% is (1) a limit for each marina separately or (2) whether the number of live-aboards at all commercial berths not adjacent to residential must be less than 15% of the total number of such berths in the harbor.³

Houseboats

Finally, as a historical note, the present prohibition on houseboats (permanently connected to landside facilities) began as a plan to permit houseboat marinas in the harbor: see (the unfortunately missing) <u>Ordinance No. 1029</u> from 1963.

³ Jim Parker seemed to assume the 15% limit would apply to each commercial marina individually, including his. If it is a cumulative limit for all marinas, then his could have many more (up to 100%) if the other marinas didn't allow the practice.

September 9, 2020, Harbor Commission Agenda Comments

The following comments on items on the Newport Beach Harbor Commission <u>agenda</u> are submitted by: Jim Mosher (<u>jimmosher@yahoo.com</u>), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item SS1. Review and Consideration of Harbor Commission Goals and Objectives for 2021

Execution of the Harbor Commission's goals and objectives appears predicated on the existence of a number of formally-appointed committees that will, as they have in past years, meet privately to formulate recommendations. While this is allowed by California's open meetings law applicable to local agencies (the <u>Brown Act</u>), it is important to ensure not only that each committee consist of less than a majority of the Commission, but that (1) their activity is limited to formulating a recommendation to the full Commission (as opposed to privately guiding staff) and (2) that their assigned activity is clearly enough defined to make it obvious when their job is done and they cease to exist (as opposed to functioning as a "standing" committee formulating recommendations pertinent to a particular subject matter on an ongoing basis). If not, their meetings need to be noticed and open to the public.

In the slides posted in advance of the meeting, possible problems exist with 2.2, 3.1, 3.3, 4.3, and possibly 4.4, which, as presented, appear to exist to interact with staff or outside agencies/stakeholders rather than to themselves make a recommendation to the Commission.

Item 10.1. Minutes of August 12, 2020 Harbor Commission Regular Meeting

I have not had time to read all of these, but on page 2 (page 17 of the agenda packet), in the first paragraph of narrative, the first refence to "*Standard Drawing No.* **616** for the West Newport area" was probably intended to read "*Standard Drawing No.* **606**" (see page 35 of the present agenda packet). Drawing No. 616, as the next sentence indicates, is "Datums."

Item 11.1. Waterfront Project Guidelines and Standards - Harbor Design Criteria, Commercial and Residential: Review and Approval

As the draft minutes indicate, at the August 12 meeting I commented on the revised Standard Drawing No. 616 (on pages 42 and 116 of the current agenda packet), which I apparently mistakenly referred to as representing a "tide gauge" (of perhaps more accurately "tide staff").

What I believe it does try to represent is empirical water levels compared to the geometrically fixed system of heights called NAVD88 against which such things as sea level rise are measured.

As such, as I tried to point out, I believe it creates an impression of unwarranted precision. Not only because the averages change with time due to sea level rise, but because the tide gauge in Newport Harbor reported to NOAA only from <u>1955 to 1993</u>, which means it was operational for less than the full 18.3 year tidal "epoch," 1983-2001, over which the empirical measurements
are currently averaged. I believe that to compute the "<u>datums</u>" shown in Drawing No. 616, NOAA has assumed the same offsets from the heights observed by the more carefully and continuously maintained <u>Station 9410660</u> in LA Harbor.

In addition, Drawing No. 616 contains at least one typo: the highest tide observed during the operation of the historic Newport Harbor tide gauge (7.67' MLLW) was observed on 1/28/1983, not 1/28/1993 as indicated on the drawing.

But it should be understood the indicated high and low water levels are only those actually observed during the operation of the gauge. The LA Harbor station <u>reported</u> a slightly higher tide on 01/10/2005 and a substantially lower one than that reported for Newport on 12/17/1933. Even though Newport Harbor had no tide gauge reporting on those dates, it would seem safe to assume the waters here showed similar extremes (for comparison, see also the datums for the similarly long-operating <u>Station 9410170</u> in San Diego Bay, which experienced its highest tide on 11/25/2015 and lowest on 12/17/1937 – both dates for which NOAA has no data from Newport).

On this subject of extreme high and low water (which I believe purposely does not include the peaks produced by short-period wave action), I might also note I am not sure I understand the intended significance of the proposed revisions to Standard Drawing No. 609 (on page 38). This drawing of a residential pier platform shows lines on the right representing Highest and Lowest observed tides. Formerly they said "NTS" (I believe for "Not to Scale"). Now they will say "HOT" (Highest Observed Tide") and "LOT" (Lowest Observed Tide"). But the drawing does not explain how they affect the design. Must the bottom (or top?) of the platform be at least some distance above the HOT? If so, how far? And how does the position of the LOT affect the design, if at all?

Item 11.2. Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

As the two members of the ad hoc committee know, I submitted some suggested alternative modifications to the code, too late to make the agenda packet.

While I am generally supportive of the committee's recommendations, I have continuing trouble with the proposed definition of "Live-Aboard" (agenda packet page 120), which I think conflates regulation with definition. I think the definition should concentrate on articulating what the code means by "living aboard" and the limits on how long one can live aboard in various situations should be left to the regulations.

I could be wrong, but I have the impression that the concept of "living aboard" has primarily to do with "overnighting" on a vessel. The proposed definition makes no reference to that, and instead cites using "*a vessel as a domicile for human habitation*" – words that make little sense to me, especially since a "domicile" is generally understood to mean one's permanent home, and it's hard to see how staying on a vessel for 72 hours or even eight months, and even if one spends nights on it, makes it one's domicile if one feels the true and permanent home they will

eventually return to is elsewhere. The Commission should also know that a mooring is a kind of "berth" according to the definitions in Title 17.

I also think the whole Harbor Commission seeing only snippets of code and not the whole chapter as proposed is a bit dangerous.

For example, it may not be obvious if a live-aboard permit goes with a person or a vessel and if the former, if each person needs a separate permit (the third sentence of the proposed Section 17.40.030 was probably intended to read "*No permit shall be issued to any live-aboard* <u>for a</u> <u>vessel</u> which is not intended to serve as the principal residence of the live-aboard").

Also, as I have repeatedly tried to point out, the existing <u>Section 17.40.020</u>, as revised this year, makes reference to non-existent provisions about short-term and "long-term mooring subpermits as noted in Section 17.60.040(G)." Such permits no longer exist, so the meaning of the terms is undefined. And I remain unclear on the Harbormaster's authority to allow live-aboard activity for more than 72 hours on guest moorings.

Finally, although not mentioned in the staff report, one of the committee's recommendations seems to be to place no limit on the allowed number of live-aboards in commercial marinas.

As to the new regulations on the anchorages in the harbor proposed for Chapters 17.20 and 17.25 (pages 122 and 123), the Commission may wish to know these are being copied from restrictions the Council adopted in 2009 to address a problem with people anchoring vessels *in the open ocean* off Big Corona State Beach (see <u>Item 4</u> from the Council's January 13, 2009, meeting, which details the problems being addressed with open ocean anchoring).

There was evidently no intention at that time to apply those rules to the very different conditions at anchorages *within the harbor*. So the Commission may wish to exercise some caution in applying exactly the same rules there.

Additional Material Received_Item 11.2 September 9, 2020 Harbor Commission Meeting

September 8, 2020

To: Carol Jacobs, Assistant City Manager

CC: Bill Kenney, Chairman, Harbor Commission

From: Jim Parker

Port Calypso Marina

Re: Proposed revisions to Title 17, Live-aboards

Ms. Jacobs,

I plan to join the Harbor Commission meeting on 9/9/2020 via Zoom. In the interim, I'd like to submit my comments on the proposed revisions that <u>specifically relate to</u> <u>Commercial Marinas</u>. See comments below in blue text.

Regards. **Jim Parker** Port Calypso Marina

17.01.030 Definition of Terms

I. Definitions: L

2. Live-Aboard. The term "live-aboard" shall mean the use or occupancy of a vessel as a domicile for human habitation; a) while at its dock, berth or mooring for a period exceeding seventy-two (72) hours in any thirty (30) day consecutive period; or b) at its dock or berth for a period exceeding one hundred eighty (180) days in any three hundred sixty-five (365) day period.

I support these 17.01.030 redline revisions.

17.40.010 Purpose

The City Council of the City of Newport Beach finds and declares as follows:

This chapter will promote the public health, safety and welfare by regulating the number of persons living aboard vessels on offshore moorings and insuring, to the extent possible, that the **this** residential use of a vessel in Newport Harbor does not result in the discharge of human waste; activities that are disruptive or imped other parties use and/or enjoyment of Newport Harbor; or otherwise adversely impact the health, safety and welfare on Newport Harbor and those that visit, work around or live on or near, the bay.

I support these 17.40.010 redline revisions.

17.40.030 Permits Required.

No person shall live-aboard any vessel assigned to an offshore mooring in Newport Harbor without first having obtained a live-aboard permit from the Harbormaster. No liveaboard permit shall be issued except to a person holding a valid mooring permit issued pursuant to Chapter 17.60 or a valid rental agreement from a commercial marina. No permit shall be issued to any live-aboard which is not intended to serve as the principal residence of the permittee live-aboard. For purposes of this section, principal residence shall mean; a) for a mooring permittee, to live-aboard for not less than two hundred forty three (243) days in any calendar year; or b) for the holder of a valid rental agreement from a commercial marina, to live-aboard for a period not less than one hundred eighty (180) days in any three hundred sixty-five (365) day period.

I support the intent of the revisions to section 17.40.030, but I'm concerned that the wording relating to the Harbormaster issuing a live-aboard permit to a commercial marina tenant with a valid Slip Rental Agreement may be misinterpreted by a slip tenant applicant. The ultimate approval/authorization for a marina slip tenant to live-aboard his/her vessel should be within the purview of the marina. Therefore, I recommend that the Harbormaster live-aboard permission for commercial marina tenants be framed as a vessel certification that simply certifies that the vessel of the marina tenant or potential tenant, as the case may be, complies with City live-aboard requirements such as those related to sanitation equipment and the capability to safely maneuver under its own power, whether by sail or engine. It would them be left to the marina to evaluate other slip tenant requirements to decide whether or not to authorize the owner of this *'Harbormaster Live-aboard Certified'* vessel owner to live-aboard his/her vessel at a slip in the marina.

Additional Material Received_Item 11.2 September 9, 2020 Harbor Commission Meeting

17.40.050 Issuance of Permit

C. The applicant does not have a valid mooring permit as required by Section 17.60.040; or a valid rental agreement from a commercial marina.

I support this 17.40.050 redline revision.

17.40.050 Issuance of Permit

E. The vessel is incapable if safely maneuvering under its own power, whether by sail or engine, from its mooring, **dock or berthing place**, to the open waters of the Pacific Ocean and back to the mooring, **dock or berthing place**; or

I support this 17.40.050 redline revision.

17.40.060 Term/Renewal

C. The issuance of a live-aboard permit to a mooring permittee is not transferrable and does not create any tenancy between the City and the permittee or other persons living aboard, nor does it create any property right to the mooring site.

17.40.110 Limitation on Number of Permits

The number of live-aboard permits issued to permittees holding valid offshore mooring permits shall not exceed seven (7) percent of the number of offshore mooring permits issued by the City pursuant to Chapter 17.60.



NEWPORT BEACH Harbor Commission Staff Report

September 9, 2020 Agenda Item No. <u>11.3</u>

TO:	HARBOR COMMISSION
FROM:	Kurt Borsting, Harbormaster, (949) 270-8158 <u>kborsting@newportbeachca.gov</u>
TITLE:	Day-Use Mooring Sub-Permit Trial

== CITY OF =

ABSTRACT:

The Harbor Department is responsible for managing the City's on- and off-shore mooring fields. Identifying opportunities to increase the utility of these fields, in order to better serve the needs of the local boating community, is a central goal of the department.

Some local boaters have expressed interest in the short-term day-use of vacant off- shore moorings, allowing them to enjoy secure and stationary/non-operational leisure time aboard their vessels while in the Harbor. To accommodate such requests and to better evaluate merits of such an offering, the Harbormaster is proposing to implement a six-month trial program, allowing for short-term day-use rental of off-shore moorings, for up to six hours.

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, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Approve staff recommendation to implement a day-use mooring program, on a trial basis, through February 28, 2021, as well as requesting staff to report back to the Harbor Commission on the results of this trial program, determining whether or not such a program should be considered as a standing harbor-related offering, beyond the six month trial period.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Newport Harbor experienced high volumes of recreational boating during spring and summer of 2020. During this period, a number of undesired practices were observed by Harbor Department staff. Examples of such practices included: occasional overcrowded conditions in the Harbor's

designated public anchorage; vessels anchored in unauthorized areas of the harbor (including channels and areas intended for active navigation); unauthorized day-use of off-shore moorings; and instances of "harbor drifting", where vessels were disengaged from sail or motor powered propulsion, and instead were left to intentionally drift within the harbor (typically within the main channel area) while those aboard enjoy leisure time on the bay.

Allowing for the permitted day-use of vacant off-shore moorings, as an alternative to the types of less desired activities described above, will hopefully improve Harbor safety and user satisfaction by providing an authorized and safe option for boaters to enjoy stationary time on the harbor. In addition, the program may reduce overcrowding in the public anchorage and provide variety for those interested in spending time in various areas within the harbor.

Title 17 of the Newport Beach Municipal Code (17.60.040) includes a provision allowing the Harbormaster to assign vacant moorings through the issuance of a mooring sub-permit for any period of time.

The City Council approved Schedule of Rents, Fines and Fees includes daily rates for guest use of off-moorings. Under this trial program, a pro-rated fee (equal to 25% of the approved 24-hour mooring use rate or \$0.31 per linear foot) would be applied – for up to six hours of mooring use.

All other established procedures associated with mooring sub-permit issuance (such as providing proof of vessel ownership, insurance, and agreeing to be responsible for any damage to mooring equipment) would apply to the proposed day-use program as is currently applied for the 24-hour over-night short term offering.

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).



NEWPORT BEACH Harbor Commission Staff Report

September 9, 2020 Agenda Item No. <u>11.4</u>

TO: HARBOR COMMISSION

et the city of the

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

TITLE: Harbor Commission 2020 Objectives

ABSTRACT:

Each ad hoc committee studying their respective 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) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

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, 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 2020 Objectives Attachment B – Harbor Commission 2020 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 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.
- 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 N e w p o r t Beach Municipal Code assigns such authority to the Harbor Commission.
- 4. Advise the City Council on proposed harbor-related improvements.
- 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 - 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 Objectives Updated July 8, 2020

2020 Objectives	Functional Area
1. Complete current version of Title 17 while maintaining suggestions for future revisions. (Yahn)	1. Harbor Operations (Kenney)
2. Study and make recommendations for changes on Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permit. (Williams, Yahn)	Matters pertaining to the Management, Policies, Codes, Regulations, and Enforcement.
3. Help identify derelict vessels in the harbor including recommendations for limiting the inflow of derelict vessels into the harbor. (Beer)	
4. Study and provide recommendations for shore moorings including transfer permit policy. (Beer, Cunningham)	
1. Evaluate potential enhancements to City amenities provided to mooring permittees, residents, and visitors. (Scully)	2. Harbor Viability (Beer)
2. Support Staff with permanent anchorage at the west end of Lido Island. (Williams)	<i>Matters pertaining to Assets, Amenities, and Access.</i>
3. Evaluate options to consolidate and reduce the footprint of the mooring fields. (Yahn)	
4. Continue pursuit of a second public launch ramp. (Kenney)	
5. Complete evaluation for establishing day moorings off Big Corona beach. (Williams)	
1. Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process.	3. Harbor Infrastructure (Cunningham)
2. Establish a sustainable program that consistently re-nourishes our harbor beaches. (Marston)	Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and
3. Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth.	Beaches.
4. Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea level rise and coastal erosion. (Marston)	

2020 Objectives	Functional Area
1. Develop a plan to communicate and assist Stakeholders required to complete and meet the newly defined Marine Activities Permit program. (Marston)	4. Harbor Stakeholders (Scully)
2. Assist Staff in developing a communication outreach to the Stakeholders similar to the program in place with the Mooring Association. (Marston)	Matters pertaining to Residential, Recreational, and Commercial Users.
3. Continue 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. (Williams)	
4. Support Staff in the Harbor Attendance Study. (Yahn)	
 Draft a Harbor Plan that can be used independently or in conjunction with an update to the General Plan. Special attention should be made to preservation of marine related activities and businesses in Newport Harbor. (Williams) 	5. Harbor Vision (Yahn) <i>Matters pertaining to Community</i> <i>Outreach and the General Plan update</i>
2. Evaluate and make recommendations for Lower Castaways. (Marston)	

1.1 whi	Complete current version of Title 17	4. 3. Chudu and make as some and sticks for		
rev	nile maintaining suggestions for future visions. (Yahn)	1.2 Study and make recommendations for changes on Marine Activities Permits. Identify all Stakeholders within the Harbor who will require a Marine Activities Permit. (Williams, Yahn)	1.3 Help identify derelict vessels in the harbor including recommendations for limiting the inflow of derelict vessels into the harbor. (Beer)	1.4 Study and provide recomm shore moorings including trans policy. (Beer, Cunningham)
City and allow encro March 11, 2020 the i marin com	Council approved the recommended changes to Title 17 directed the ad hoc committee to review a provision wing administrative approval of commercial dock roachments in front of upland residential properties and limit on the number of liveaboards allowed in commercial inas. The ad hoc hopes to provide recommendations for inmercial dock encroachments at the next meeting.	The ad hoc obtained good feedback about the limit on liveaboards in commercial marinas at their first public outreach meeting. A second outreach meeting has been scheduled for March 31. The ad hoc committee will recommend the creation of five categories for a MAP and will schedule a public meeting	The ad hoc reported that the <i>Wild Wave</i> and 168 are no longer in the Harbor.	The ad hoc for this objective is scheduled and March and will likely schedule a public after.
April 8, 2020			This meeting was canceled.	
May 13, 2020			This meeting was canceled.	
The secti aboa held revie	e subcommittee is working on section 17.10, the final tion of Title 17 to be reviewed. Commercial Marina live- ards require an additional public meeting, which will be d as soon as possible. A review of 17.60.60 (E) will be ewed at a later date at the request of staff.	The subcommittee is working on 5 types of permits and will be meeting again in June to further refine process.	No change.	The subcommittee has been working of transfer of shore moorings and have for much more complex than would appe Additional work will need to be done on this
The recon 17.4 virtua July 8, 2020	e subcommittee summarized the Harbor Commission's ommendations and Council action for Sections 17.40.030, 40.110, and 17.60.060(e)and noted staff is exploring a Jal public meeting for Sections 17.40.030 and 17.40.110.	The City Attorney's Office is reviewing Section 17.60.060(e). The ad hoc committee recommended four distinct types of Marine Activities Permits (MAP): charter operations of any size; vessels that rent human-powered craft; vessels that rent craft powered by fuel, wind, electricity; and service providers who utilize the Bay. The City Attorney's Office is reviewing the ad hoc committee's recommendations. The ad hoc committee hopes to present recommendations for the MAP to the Harbor Commission in August and is studying shore moorings.	Nothing to report at this time.	The subcommittee has been gathering da formulating their recommendations.
Worl has addit August 12, 2020 modi	rk continues on Section 17.10. The City Attorney's Office reviewed the proposed revisions and has proposed itional modifications. The subcommittee will meet with f and the City Attorney's Office to address the proposed difications.	The subcommittee has submitted 4 types of MAP permits to the City Attorney's office for review and comment.	Nothing to report at this time.	The subcommittee continues to compile in Objective 1.4 and will focus first on onsho
September 9, 2020				
October 14, 2020				
November 11, 2020				
December 9, 2020				

endations for	
fer permit	
o meet in February	
meeting shortly	
n the number and	
nd issues that are	
r on the surface.	
s issue.	
ta and will soon be	
formation regarding	
e moorings.	

2. Harbor Viability (Beer) - Matters pertaining to Assets, Amenities, and Access.

	2.1 Evaluate potential enhancements to City amenities provided to mooring permittees, residents, and visitors. (Scully)	2.2 Support Staff with permanent anchorage at the west end of Lido Island. (Williams)	2.3 Evaluate options to consolidate and reduce the footprint of the mooring fields. (Yahn)	2.4 Continue pursuit of a second ramp. (Kenney)
	The item recording meeting extensions was removed from the	It was noted that discussion is possible prior to submission of a		
March 11, 2020	Council agenda the prior day so that a meeting with the Newport Mooring Association can be held. Staff noted that no mooring extensions will be issued until the policy is approved.	revised footprint for the West Anchorage, as well as public outreach.		
April 8, 2020			This meeting was canceled.	
May 13, 2020			This meeting was canceled.	
June 10, 2020	No change.	Staff and subcommittee have been working on the latest version of a proposal to create a permeant west anchorage. The US Coast Guard requires additional public outreach, which the Harbormaster is working on completing.	The subcommittee has reached out to the Newport Beach Mooring Association and asked for their input on the new City Council proposed policy on mooring extensions. They have been given 60 days to review and comment. Further discussions will occur once comments are received.	No change
July 8, 2020	No change.	Ms. Weiner is the new Coast Guard person reviewing the City's application for the West Anchorage. Ms. Weiner has requested review of all documents to date and a briefing with her superior. Subcommittee and staff will meet with Ms. Weiner following her briefing with her superior. The website for public outreach is ready.	The City Attorney's Office has approved a suggestion from the Newport Mooring Association, and the ad hoc committee will prepare a response. The ad hoc committee continues to evaluate and discuss City amenities for mooring permittees, residents, and visitors.	No change
August 12, 2020	Discussions and outreach continue regarding Policy H-3. Harbormaster Borsting has audited permitted moorings and GIS information and identified a few discrepancies, which GIS staff has corrected. Commissioner Beer will review the Policy H-3 chart of moorings and resolve any issues with key stakeholders.	The U.S. Coast Guard has commented regarding the footprint of the proposed West Anchorage, and Public Works Administrative Manager Miller has redrawn the footprint.	Nothing to report at this time.	No change
September 9, 2020				
October 14, 2020				
November 11, 2020				
December 9, 2020				

oublic launch	2.5 Complete evaluation for establishing day moorings off Big Corona beach. (Williams)
	No change
	The subcommittee is arranging discussions for a plan.

5. Harbur IIIIras	tructure (cummignant) - Matters	pertaining to sea waits, sea Lever R	lise, Dieugilig, Docks, allu Deaches		
	3.1 Secure timely closure of RGP54 permit renewal with emphasis on a more streamlined process.	3.2 Establish a sustainable program that consistently re-nourishes our harbor beaches. (Marston)	3.3 Support Staff to obtain funding and approval to dredge the federal navigational channels to its authorized design depth.	3.4 Study various dredging methodologies that provides consistent maintenance dredging and could help combat sea level rise and coastal erosion. (Marston)	
March 11, 2020		Thi	s Functional Area had nothing to report at this mee	əting	
April 8, 2020			This meeting was canceled.		
May 13, 2020			This meeting was canceled.		
June 10, 2020	Currently on target to have the renewal in place by the end the calendar year.	of As a carve out of the RGP54 permit, we have an approved methodology to execute consistent sand replenishment. Receiving permission from the agencies for routine sand maintenance is the hard part. Going into 2021 we will need an execution plan and funds in the budget. This project also impacts the shore mooring objective.	A work in progress. Received \$2 million from Army Corps of Engineers to dredge harbor mouth to Coast Guard cutter station. Continuing to work to get additional funds in 2021 and working on plan with legislators to get an additional \$10 million. The City continues to look at various alternatives to deal with 100K cubic yards of unsuitable material.	f Looking at various ideas to re-use harbor material to replenish our local beaches. It will take years of studies and pilot programs	
July 8, 2020	Nothing to report at this time.	The beach on the south side of Balboa Island needs materia to backfill the dredged area in order to create a natural slope into the water.	Nothing to report at this time.	Nothing to report at this time.	
August 12, 2020	RGP-54 public notice comment period extends from August 2020 to September 6, 2020. Public comments, if any, will the reviewed, and hopefully permits will be written soon after that	7, If a carve-out for beaches can be attained, Objective 3.2 may be change for 2021. t.	/ The City's modified request for \$10 million was well received. Public Works Administrative Manager Miller will propose new designs for floats at public docks at an upcoming meeting.	Nothing to report at this time.	
September 9, 2020					
October 14, 2020					
November 11, 2020					
December 9, 2020					

3. Harbor Infrastructure (Cunningham) - Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches.

	4.1 Develop a plan to communicate and	4.2 Assist Staff in developing a	4.3 Continue a dialogue with representatives	4.4 Support Staff in the Harbor Attendance	
	assist Stakeholders required to complete and	communication outreach to the Stakeholders	of the Harbor Charter Fleet industry, other	Study. (Yahn)	
	meet the newly defined Marine Activities	similar to the program in place with the	commercial vessel operators and rental		
	Permit program. (Marston)	Mooring Association. (Marston)	concessionaires to promote best practices		
	· •·····• p· •8· •··· (···•· •••··)		for charter and commercial boat operations		
			in Newport Harbor with particular attention		
			to vossal specifications, paise and pollution		
			control (compliance and long range plane for		
			control/compliance and long-range plans for		
			bertning. (Williams)		
	Communication with husinesses about obtaining MAPs is still			The ad hoc committee for this Eulectional Area has identified	
March 11, 2020	taking place.			158 Harbor stakeholders and related information and will	
,				continue to work on the study.	
April 8, 2020			This meeting was canceled.		
May 13, 2020			This meeting was canceled.		
June 10, 2020	Holding on this until the MAP is revised. Working on signing up those without a MAP.	This has been placed on hold until COVID 19 allows for public meetings again.	I his has been placed on hold until COVID 19 allows for public meetings again.	All commercial marinas have been contacted with the exception of one business and this information will go into the Harbor Attendance Study.	
	On hold until the new Marine Activity permits have been	Requires scheduling of meetings with multiple stakeholders.	Requires scheduling of meetings with multiple stakeholders.	The ad hoc committee spoke regarding Objective 4.4 spoke to	
	completed and approved.	Considering the COVID 19 pandemic, we will wait until a safer time to meet	Considering the COVID 19 pandemic, we will wait until a safer time to meet	ensure the attendance study obtains the correct data.	
				Nonprofits that utilize the Harbor have been contacted and	
July 8, 2020				include 1,470,661 for the Balboa Ferry, 1,319,287 for Lido	
				Marina Village, 200,000 for Davy's Locker, and 50,000 for	
				electric cruises. The ad hoc committee will provide feedback in the next few months	
	Delay due to revision of MARs	his has been placed on hold until COV/ID 10 allows for public	his has been pleased on hold until COVID 10 allows for public	Work on Objective 4.4 is slow because of businesses pet	
	Delay due to revision of MAPS.	meetings again.	meetings again.	responding to written requests for information. Based on	
August 12, 2020				current information, more than 5 million people use the	
				Harbor.	
Sentember 9 2020					
3cptcmbcr 3, 2020					
October 14, 2020					
October 14, 2020					
November 11, 2020					
December 9, 2020					
	1			1	

4. Harbor Stakeholders (Scully) - Matters pertaining to Residential, Recreational, and Commercial Users.

5. Harbor Vision (Yahn) - Matters pertaining to Community Outreach and the General Plan update

			•	
	5.1 Draft a Harbor Plan that can be used	5.2 Evaluate and make recommendations		
	independently or in conjunction with an	for Lower Castaways. (Marston)		
	update to the General Plan. Special attention			
	should be made to preservation of marine			
	related activities and businesses in Newport			
	Harbor. (Williams)			
		Separate meetings are scheduled with PB&R and Harbor		
March 11, 2020		Commission to discuss Lower Castaways with staff prior to		
		meeting together.		
April 8, 2020			This meeting was canceled.	
	-			
May 13, 2020			This meeting was canceled.	
	This has been placed on hold until COVID 19 allows for public	This issue was placed on hold by the City Council. Staff will		
June 10, 2020	meetings again.	follow up to determine if preliminary work can proceed.		
	This has been placed on hold until COVID 19 allows for public meetings again	This issue was placed on hold by the City Council. Vice Chair Cunningham stated be had an email exchange with Outrigger		
July 8, 2020		Club, the group actively cleaning up the lot and making		
		improvements at Lower Castaways, who indicated the short-		
	The subcommittee is exploring areas where marine-related	The subcommittee is interested in continuing a dialog and		
August 12, 2020	activities and businesses can be preserved and exploring a	initiating meetings with the Parks, Beaches and Recreation		
August 12, 2020	relationship with the Planning Department to learn of projects that affect the Harbor.	Commission regarding Lower Castaways.		
September 9, 2020				
October 14, 2020				
,				
November 11 2020				
11010111, 2020				
December 0, 2020				
December 9, 2020				



NEWPORT BEACH Harbor Commission Staff Report

September 9, 2020 Agenda Item No. <u>11.5</u>

TO:	HARBOR COMMISSION
FROM:	Kurt Borsting, Harbormaster, (949) 270-8158 kborsting@newportbeachca.gov
TITLE:	Harbormaster Update – August 2020

= CITY OF =

ABSTRACT:

The Harbormaster is responsible for on-water management of the City's moorings, the Marina Park Marina and code enforcement on the water. This report will update the Commission on the Harbor Department's activities for August 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) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

West Anchorage Proposal

On August 5, 2020 the Harbormaster, Chris Miller with the City's Public Works Department, and Harbor Commissioner Beer met with representatives from the local US Coast Guard's Aids to Navigation team. The meeting was organized to review and discuss the City's planned resubmittal of a proposal to establish a second public anchorage in Newport Harbor's turning basin, immediately west of Lido Isle. The meeting was informative and productive.

As a next step in the process, public outreach efforts will soon be launched to solicit and collect stakeholder feedback associated with the West Anchorage proposal. Following this public comment period, the City's updated proposal may be resubmitted to USCG for their consideration.

General Harbor Activity Volume

Boating activity in Newport Harbor remained brisk during the month of August. The Harbor experienced high volumes of weekend use of the public anchorage (West of Lido Isle), which in some cases resulted in overcrowding, vessels setting anchor outside designated boundaries, noise concerns, and related issues. The Harbor Department has modified our weekend patrol boat assignments in response to these issues, which has yielded some operational improvements.

Staff Recruitment Effort

Significant progress associated with recruiting part-time Code Enforcement Officers took place during the month of August 2020.

An initial screening process, followed by in-person interviews of candidates based on that screening process were both completed. Candidate reference checks are currently underway. Candidates of choice are expected to be advanced to the Human Resources Department in early September, hopefully leading to a completed successful process later in the month.

Code Enforcement Activity / Marine Activities Permits

During August 2020, Code Enforcement staff opened 84 new cases and successfully resolved/closed 38 existing files.

The Harbor Department would like to congratulate Mike Ong the owner of Southwind Kayak Center, for having been issued a recent Marine Activities Permit for his business.

Southwind Kayak Center is located at 100 N. Bayside Drive. The business provides kayak and paddleboard rentals.

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 August 2020

			H	Harbor	Depar	tment	Statisti	ics					
Fiscal Year 2020 - 2021													
	Luba	A	Cant	0	News	0		P. 1	5.4	A			VTD
	July	August	Sept.	Uct.	NOV.	Dec.	Jan.	reb.	Mar.	April	мау	June	YID
Anchorage	32	58											90
Assisting Vessels Over 20'	11	6											17
Assisting Vessels under 20'	4	14											18
Bridge Jumpers	128	27											155
Daily Anchorage Check	165	219											384
Discharge/Pollution	-	3											3
Dock/Pier/Bridge Issue	5	3											8
Emergency	82												-
General Assist	26	47											73
Hazards/Debris	12	6											18
Impound	5	11											16
Incident	7	11											18
Mooring Assist	25	17											42
Mooring Check	200	224											424
Noise	1	6											7
Paddleboard/Kayak	16	22											38
Public Contact	59	44											103
Public Dock Enforcement	498	184											682
Pump Out	31	11											42
Registration & Insurance	14	53											67
Sea Lions	11	33											44
Speeding	48	57											105
Swim Line	1	1											2
Trash	76	7											83
Rentals - Marina Park Slins	167	166											222
# of nights	593	422											1 015
Rentals - MP Sand Lines	19	24											1,010
# of nights	41	43											84
Mooring Sub-permitee	59	49											108
# of nights	271	176											447
Code Enforcement													1-1
New Cases	54	84											138
Closed Cases	46	38											84
Verbal Warning	21	27											19 19
Warning Notices	50	75											125
Admin Cites	10	10											20
MAPS Issued	1	1											20

	Harbor Department Definitions
Anchorage	Anchorage Check of vessels in anchorage each day
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
Hazard/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 Dock	Pump-Out Dock Issue (Enforcement of time limits or inopearable pump)
Registration and Insurance	Follow up with Permittees on Expired Documents
Sea Lion	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