

## **Workshop: Implementing Harbor Charges Public Comments Received**

Wednesday, August 21, 2013  
OASIS, Event Center  
6-8:00 pm

### **Moorings Comments – Wednesday, August 21, 2013**

1. Moorings and piers are treated differently. Why is this, when both are personal property?
2. The public piers should be accessible for dinghies and not taken up by unattended vessels using the piers for restaurants or loading and unloading.
3. Can parking at street ends be relaxed to allow mooring users better access their boats?
4. Piers can be rented by residential pier permittee but moorings cannot be rented by mooring permittee. Why?
5. Why are mooring fees higher than pier fees?
6. Mooring permittees should be informed of the code changes upon transfer.
7. Private transfers should be reconsidered.
8. Is there still an interest list for moorings that revert to the City?

**Residential Pier Comments – Wednesday, August 21, 2013**

1. Is there an option for a residential lease instead of a residential pier permit?
2. Does this recent revision in the residential pier permit affect the assessment of my property?
3. How do these fees affect my property tax? Some parcels are paying property tax on these areas already.
4. What is the maximum fee we can expect?
5. Are residential piers always guaranteed a permit?
6. Grand Canal docks are charged the same rate but the Grand Canal is unusable when the tide is low.
7. West Newport/Newport Island should be evaluated separately because of location specific issues as previously discussed. Docks and backyards flood. (See attached pictures.)
8. What would happen if a residential pier was confiscated?
9. Why the 10' buffer?
10. The charges are discriminatory based on the configuration or shape of the dock.
11. Was income lost when some residential piers were characterized as non-City tidelands and therefore are no longer paying a residential pier fee? Are the other permittees expected to make up the loss?
12. City Council should take into consideration the fairness of the charges and all other contributions the permittees are making such as property taxes.
13. Why do we have a new permit? It is complicated, and the old one worked fine.
14. Does the buffer go to the lot line or 10'? There should be a minimum buffer zone.
15. Some problems with the 10' buffer include other users (fishermen) using that area, and the area may be unusable due to site specific issues.
16. Permittees should not pay for the buffer area. Only the usable areas should be chargeable.
17. Since the permittee doesn't have exclusive use of the waterway, just the physical improvements, what rights are there to the water area?
18. How does this permit affect equity? Property owners were paying their fair share all along.
19. Property values were assessed including docks.
20. Has the residential pier permit changed? Can I have a permit each year?
21. How is Newport Shores charged for piers?
22. The homeowner, not the City, maintains the beaches and seawalls in front of their parcel, but the public has access to this area. Why should I be paying for this?
23. Why has permit changed to include eminent domain/taking of property for non-payment rather than a lien like the previous permit?

**Commercial Pier Comments – Wednesday, August 21, 2013**

None.

**General Comments – Wednesday, August 21, 2013**

1. Will Council take public comments into consideration?
2. There are public areas all around with improvements like seawalls. There is a community divide between those with waterfront interests and the rest of the City.
3. This issue should be reviewed by a new City Council one not comprised of those who made the previous decision.
4. Those who aren't paying for City tidelands (County and private waterways) should be paying for access to the harbor. Does the City have the right to charge others for access to the Tidelands and Newport Harbor?
5. How are other water bodies categorized? Are they paying too? What are they paying?
6. Is there a revenue expectation?
7. What gives the City the ability to charge for tidelands? Why are people paying for it? Do other areas (County Tidelands) have different criteria?
8. Other harbors or tidelands should have a similar valuation.
9. The City should give all the City Tidelands to the County so the City doesn't have to charge for them.
10. Is there a way to bill for fees on a one-time annual fee versus a bimonthly line item on the Municipal Services Statement?
11. This process went way too fast.
12. Can this be placed early on the Council's agenda?
13. If this is a land lease, why is the City charging based on the area being used instead of the area available to be used (linear footage out to the Pierhead Line)?

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9 August 2013

City of Newport Beach  
Public Works Dept  
Harbor Resources Division

Att'n: Chris Miller, Manager

Dear Mr Miller;

We have received your Notice regarding meetings scheduled for Aug 15 and 21, 2013 regarding residential and commercial piers and floating docks. I'll be in litigation out-of-state on those occasions unfortunately, but wanted to outline my analysis of the issues you identify and suggest some helpful solutions.

As you know better than many others, the impact of this revenue-raising project affects those impacted by it unequally. Obviously a large multiple-use dock and float, or those used commercially are treated differently. Some having docks and floats escape this issue altogether such as those many bayfront homes on Lido Nord -- the north shore of Lido Island with no docks nor floats. And a great many with docks and floats also escape. Not everyone using Newport's facilities and living here with all the police/fire/medical protection are equally figured in the City's tax equation.

All of us in California recognize an ever increasing tax landscape as various governmental entities address loss of revenue and their pressing desire to increase tax revenue. The scheme the City proposes is a *tax* regardless of the *nomenclature* utilized. For the person receiving the vastly increased billing, it is yet another tax. Some label it a *Dock Tax*, which indeed it is. As it impacts my dock and float, it is a 1300+ % increase, but provides me and all other similarly impacted dockowners with *no additional* services from the City.

You know already that waterfront property owners with docks and floats already pay taxes for such -- and these revenues are called, honestly, just that -- a *tax*. But I am not arguing nomenclature. Nor am I arguing that there should be *no* increase on these taxes whatever -- I live in the real world where expenses are increasing constantly, and the City experiences this as well. Hence, I and many of my similarly situated neighbors (we have indeed discussed this in great

detail over much time) do not reject a reasonable tax increase, but 1300+% is not reasonable. An adjustment based on the Orange County Assessor's 2013 tax database for our waterfront properties would not be an unreasonable basis upon which to calculate a dock tax.

### **The Users of the Newport Facilities**

A huge audience of others use the City's facilities, like the thousands using Newport's beautiful ocean beaches, with lifeguard/police/medical protection, beach-cleaning, restrooms, showers, etc. They should pay their share of the costs. As any fisherman must get and pay for a license, so should those using our beaches *contribute*, but not just their *trash*. You pay to use Yosemite, Sequoia Park, etc, etc. This is no different. Those who come to our City and use our facilities must pay their share.

It is grossly unfair to ask a select few who have docks to pay for all others using our bay, ocean and bay beaches, restrooms, lifeguards, etc. Yes they pay the parking meters and pay on the parking lots -- so do I. In short, this is *unequal* treatment and protection under the law which is contrary to fully established law.

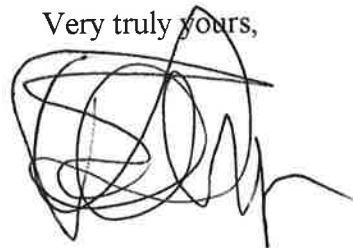
### **Fully Transparent Disclosure by City Urgently Needed**

The explanation offered by the City does not indicate where these new funds will go -- how will this money be spent and for whose benefit? I fail to see how any bayfront dock/float owner benefits in any way *whatever*. A complete, detailed *accurate* accounting by the City is urgently needed before **ANY** new tax/fee or "rent" is assessed on these facilities. In the long tradition of American History, there can be no taxation without representation. Yes, you are soliciting representation of the public at your meetings, but that public **MUST** be armed with all the facts first before voting or expressing opinions. I urge the City to do this immediately -- who gets this money? Who are the beneficiaries? The summer throngs using our beaches for nothing?

Do these funds go into to General Treasury/Fund? How is this to be spent? Paying for the new Newport Civic Center? I do want to help, as do many of us. But the bayfront property owners cannot be seen and treated as cash-cows to be milked dry, or as easy-cash ATMs.

Please let me know how I can help. I very much appreciate your attention.

Very truly yours,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Chris Miller

City of Newport Beach

Harbor Resources Manager

Dear Mr. Miller,

As I indicated to you over the telephone yesterday , I am a Newport Beach resident for over 25 years. I like everything about my city. Well.. almost everything. I believe city council and all managements doing great job. Of course there are certain things that I wish would have been done differently. As a very long time business owner ( 63 years) I some time wish to go the city council and express my opinion on certain agenda items. One of them was the discussion and debates on the use of prior location of the city hall.

The second issue was the city's charge on the on shore moorings. My personal opinion on that. \$ 57.96. bi- monthly charge is little bit too high. If we compare with other charges, this one looks out of proportion.

I respectfully demand that city take my opinion under consideration and lower these charges to a reasonable level, which should be minimum 35% less than current rate.

With Best Regards.

Antranik O. Zorayan

David Ellis <dle@delta-partners.com>  
To: Bob McCaffrey <rimccaffrey@yahoo.com>  
FW: Dock Tax Update & Notice of City Dock Tax Meetings

August 15, 2013 10:09 AM



# The Dock Tax

[www.StopTheDockTax.com](http://www.StopTheDockTax.com)

A Project of THE NEWPORT BEACH PRIVATE DOCK OWNERS ASSN.  
Bob McCaffrey • Chairman

## HOW WE GOT HERE & OUR PLAN GOING-FORWARD

The city council of Newport Beach has done a wonderful job of convincing the public that the Bay Front owners have not paid our fair share of harbor costs. Consider the taxes we already pay that should be credited to the Tidelands Fund:

1. Property tax on the increased value the Dock creates [Dock's increase value up to \$1 million]. The city receives 17% of this increase in property tax payments because a Dock exists.
2. Boat taxes. There are 9,000 registered pleasure boats in Newport Harbor, including the boat(s) tied up to your Dock. Each is assessed an unsecured property tax bill. The City receives a 17% of the unsecured property tax.
3. Possessory Interest Tax. Some are on long-term leases that trigger "Possessory Interest Tax" – a tax similar to property tax. The City receives a percentage of this tax.
4. Annual permit fee. We're not sure what we received for paying this fee, but we paid it for decades.

The City's budget does not reflect any of these revenues in the Tidelands Fund.

To claim we don't pay our fair share is absurd. This is an outrageously false statement due to the City's lack of homework on the issue.

If they done their homework prior to assessing the Dock Tax, they would have realized that in that the County Assessor's data contains a line item that shows the value of the dock, and what the Assessor is charging dock owners. This information has been available for decades – and the city has been aware of it.



**Actual OC Accessor Print Out**

Account	Description	Amount	Balance	Year	Month	Day	Time	Location	Operator
1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
3000	3000	3000	3000	3000	3000	3000	3000	3000	3000
4000	4000	4000	4000	4000	4000	4000	4000	4000	4000
5000	5000	5000	5000	5000	5000	5000	5000	5000	5000
6000	6000	6000	6000	6000	6000	6000	6000	6000	6000
7000	7000	7000	7000	7000	7000	7000	7000	7000	7000
8000	8000	8000	8000	8000	8000	8000	8000	8000	8000
9000	9000	9000	9000	9000	9000	9000	9000	9000	9000
10000	10000	10000	10000	10000	10000	10000	10000	10000	10000

For decades they have received 17% of this amount – without ever properly crediting it to the Tidelands Fund. Instead millions have been inaccurately (possibly illegally) applied to the General Fund for salaries, benefits, pensions, and city operations. This is likely violation of the of the State of California law.

Therefore, Bay Front owners have paid their fair share plus via multiple taxes and additional yearly permit fee. The outrage of this approach is that the Bay Front homeowners have been blamed for the wrong reasons have paid more than their share and additionally, the money has gone to the wrong fund. All these years the city has complained that the general fund has had to bail out the Tidelands while keeping these funds.

**STEALING OUR EQUITY**

In their haste to levy the Dock Tax, the politicians stripped us of our "property right" to our docks. The second issue is that the City and the general public do not understand the financial effect on the bay front property owners. In forcing us to accept the new annual permit triggering the Dock Tax, there is language allowing the city to confiscate your dock for a "cause." Translation: Your property right to your dock is removed. Future city councils can take this further and by legislative fiat deem your dock a public asset and confiscate it.

Let me explain. If own a vacant lot without a dock on the bay front it could maybe worth x, if your neighbor had basically the same lot, with a dock, lot b could easily be worth \$500,000 to \$1,000,000 or more. By establishing a yearly permit, the city at any time, can cancel your permit, or charge huge yearly funds, and who knows what future councils may demand?

The owner no longer has any rights to the dock that they paid for and the equity they paid for, at purchase. The city has taken a valuable asset, the owner paid for, and the owner is expecting to recoup that equity at sale time. So in essence, the home owner has been stripped of the equity value of the dock and what does he do when he wants to sell?

The seller cannot guarantee a secured dock future. What will that do to property owners? What will lenders do if the future of the dock is unknown? How does that affect loan amounts to the future buyer? Valuations will go down and if values go down, taxes go down and that is not good for the city. And what will the buyer now offer?

**ONE BBI HOMEOWNER LOSES \$800,000 DUE TO DOCK TAX**

We have already seen a case of a bay front in escrow to close for almost \$5,000,000, until the buyer reviewed the Dock Tax Permit and subsequently reduced the offer to \$4,200,000. The buyer quickly surmised that the dock is no longer the property of the upland owner and counter-offered accordingly.

Basically what the city has done is to take away property rights by legislative fiat. It's a clever way of "taking" your property without triggering an adverse

possession, which they would lose in court. This will certainly affect the thinking of potential buyers think considering buying a Bay Front Home in Newport Beach.

My personal opinion as a Bay Front owner, is that the city did not realize the Bay Front owners were already paying way more, and for years, more than the city knew about and did not give any consideration as to the stripping of the owners dock equity, and therefore the value of the Bay front itself.

It's been eight months since the City crammed down the Dock Tax. Now they have agreed to take a look back at this situation in two public meetings. There are two basic issues, between the dock owners and the City that I feel can be resolved by coming back to the negotiating table, and addressing these two issues in a professional, non-contentious atmosphere on both sides.

We want our equity back, and we understand the need to financial support the Bay.

**ATTEND THE CITY SPONSORED DOCK OWNERS COMMUNITY MEETINGS**

It's been eight months since the City crammed down the Dock Tax. Now they have agreed to take a look back at this situation at two public meetings. There are two basic issues, between the dock owners and the City that I feel can be resolved by coming back to the negotiating table, and addressing these two issues in a professional, non-contentious atmosphere on both sides. We want the our equity in our docks back, to understand that we pay our fair share, and we understand the need to financially support the Bay.

**Thursday, August 15, 2013**

3:00 – 5:00 p.m.

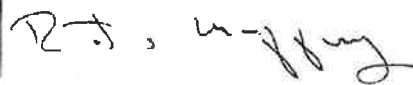
OASIS Senior Center  
Classroom #1  
801 Narcissus  
Corona Del Mar

**Wednesday, August 21, 2013**

6:00 – 8:00 p.m.

OASIS Senior Center  
Classroom #1  
801 Narcissus  
Corona Del Mar

Sincerely,



Bob McCaffrey Chairman,  
Stop The Dock Tax

[www.stopthedocktax.com](http://www.stopthedocktax.com) Please check with our web site for the latest information

Your donations keep us in court and communicating with the community. You can safely **donate on line** [here](#) to help continue our campaign to Stop the Dock Tax.

YARD SIGNS ARE AVAILABLE

Submitted by  
Jim Miller

Newport Island Area



