NEWPORT BEACH HARBOR COMMISSION MINUTES
City Council Chambers
June 10, 2009

CALL TO ORDER 6:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Chairman Duffield, Commissioners Seymour Beek, John Corrough, Tim Collins, John Corrough, Karen Rhyne and Ralph Rodheim were present. Commissioner Lawrenz was excused.

Staff: Lorrie Arcese, Chris Miller and Shannon Levin

MINUTES: The minutes from the last meeting were approved.

HARBOR RESOURCES MANAGERS ANNOUNCEMENT

Commissioner Beek, who's last meeting is tonight was thanked and presented a token of appreciation for all of his years of service on the Harbor Committee and Harbor Commission by Chris Miller for the City of Newport Beach and the Harbor Commission.

ACTION & APPEAL ITEMS

ITEM #1

Subject: **Introduction to Harbormaster, Lieutenant Mark Long**

Issue: The Harbor Commission received an introduction to the newly assigned Harbormaster, Lieutenant Mark Long. He gave a rundown of his years of experience. He understands that the public feels the Harbor Patrol needs to be more friendly and approachable. He will be conducting thorough reviews on all current procedures.

Discussion: It was suggested that the Harbor Patrol attends more of the Harbor Commission meetings.

Action: Receive and file.

ITEM #2

Subject: **Harbor Water Quality Activity Presented by Jim Sinasek**

Issue: The Harbor Commission heard a presentation about ongoing efforts to improve water quality within Newport Harbor. We must teach future generations not to litter as it all goes to the ocean.

Discussion: The Clean Marina Program is a great program and is involving more and more marinas in Newport. Everyone, on the water and in the upland cities, needs to be using best management practices.

Action: Receive and file.

SUB-COMMITTEE REPORTS:

Commissioner Rodheim said that there is a desire in the City to have a water taxi. We need to agendize public docking areas for discussion. The marketing agreement is in the City Attorney's office for signature.

Commissioner Corrough gave a report on the Aerie Project (see attached). After looking at the drawings, calculations and placement of the buoys the subcommittee felt that the proposed project complies with all agencies. Commissioner Beek expressed his concern that the project takes over a water area that is now useable by the public. It should include the square footage of what this project area will take up.

PUBLIC COMMENTS ON SUB-COMMITTEE REPORTS OR HARBOR RESOURCES UPDATE:

Rick Julian thanked the subcommittee for coming out to investigate the Aerie Project. They will be performing many studies that have been requested. The project passed the Planning Commission, but it was brought up that the Harbor Commission opposed it. This is affecting the outcome. He would like for the Commission to agendize the project again and give it their approval. He will put it in writing to Chris and Chris will agendize it for the next meeting.

HARBOR RESOURCES UPDATE – Chris gave an update on the harbor. Please refer to the following website: ***The update is posted at: http://www.city.newport-beach.ca.us/hbr (under Harbor Resources Updates).***

COMMISSIONER'S ANNOUNCEMENTS OR MATTERS TO BE PLACED ON FUTURE AGENDAS FOR DISCUSSION, ACTION OR REPORT

- It was suggested that the City needs to be more proactive with the sea lion issue. Those who see sea lion action were told to call the Harbor Patrol and Harbor Resources so we know there is a problem and can react immediately. Harbor Patrol has spent many resources and hours on the sea lion issue. Having them jump on and off the docks is more damaging so we are looking for a permanent solution. They are open to any suggestions. The owners of vessels and docks are called immediately to take action on the problems.
- Commissioner Rhyne said we need to look at the new programs coming down from regarding the statewide coastal marinas permit.
- Commissioner Corrough said our harbor currently allows boats (fishing, rental boats) to sit and obstruct the entrance to the harbor. We need to discuss channelization, traffic scheme before there is an accident.

RECOMMENDED TOPICS FOR FUTURE AGENDAS:

- Evaluate fishing needs at the public piers
- Public Docking Areas

DATE OF NEXT MEETING: July 8, 2009
City Council Chambers

ADJOURNMENT

ATTACHMENT

Harbor Commission Aerie Docks Subcommittee Field Survey Memorandum

Background

At the April 8, 2009 Newport Beach Harbor Commission meeting, an advisory motion was passed unanimously that stated:

> " While not opposed to the expansion of the existing dock and its area and capacity, we believe the size and configuration of the proposed dock project would create significant negative impact on navigation and recreational boating in the harbor."

Unresolved Issues

Subsequent discussion among the Commissioners during this meeting, and during a visit by three commissioners to the site (Rodheim, Chairman Duffield & Corrough) indicated that there were a number of unresolved issues and internal HC disagreements with regard to the actual potential extent to which the project might "…create significant negative impact on navigation and recreational boating in the harbor", versus a "perceived/speculated" impact.

Subcommittee Created to Perform Field Survey

As a result, an Aerie Docks HC subcommittee was created, comprised of 3 Commissioners (Chairman Duffield, Lawrenz, Corrough), who were self-tasked with creating an on-water survey and simulated layout (with properly located and anchored buoys) of the marina, based upon the current engineering drawings for the project, to examine these HC concerns.

Intent and Scope of Survey

The intent of this survey was to visually and physically illustrate, with a high degree of accuracy on the project water area, the actual physical relationship of the proposed dock system to the following specific elements of navigation and water area definition:

a. **The existing 3-slip dock system** to be removed and replaced, new pier access;
b. **The existing 500' Federal navigation channel** as defined in navigation charts and the engineering plans, the Federal/City Project Line (east channel edge) and the existing Federal navigation aid "R6" consisting of a vertical steel pole , red triangular daymark and light signal with the characteristics Fl R 4S 3M;
c. **The existing adjacent docks** and water areas whose position and navigational approaches were considered and incorporated in the overall proposed new dock configuration, as well as other existing docks in the Carnation Cove area for which the City/HC have granted approvals;
d. **The existing City Bulkhead Line, Pierhead Line, and Federal Project Line** as shown on the project engineering drawings and City documentation of the proposed docks, and the actual use of the navigation channel and adjacent waters;
e. **The existing Shoal Buoy** and shoal to the south, roughly on the Pierhead Line;

Additionally, the continuing general accessibility to the water areas between the navigation channel and the proposed docks/docked vessels as well as the water areas adjacent to and behind these proposed docks/vessels for use by various types of watercraft ranging from small vessels engaged in fishing, kayaks, sailboats and powerboats was informally assessed.

Conduct of Field Survey

On Saturday May 30th, 2009, the Aerie Docks Field Survey was conducted at the project site and in surrounding waters from approximately 12:30 PM to 3:30 PM.

Conditions were overcast, wind S/SW at approx. 6-8 knots, tide slack at start (12:30), rising to a day high of +4.7' at approx. 2:15 PM, creating an estimated 0.8 knot flood current during survey.

In attendance were:

-Chairman Marshall Duffield with an 18' Duffy, digital camera

-Commissioner Donald Lawrenz with a 13' Whaler, 150' tape measure, 3 buoys with anchor tackle, compass and depth sounder, digital camera
-Commissioner John Corrough with project drawings, aerial photos, handheld GPS, handheld bearing compass, digital camera
- Rick Julian, project developer, who assisted from on the existing docks

Prior to the on-water survey activities, a discussion of process and measurements was held, using the project engineering/EIR materials (plans, aerial photos, etc. showing proposed dock locations, dimensions and the various Harbor Lines. (see attached drawings & photos) The following control dimensions (from the URS engineering layout of the proposed docks) were established and utilized in the survey: (see attached drawings & photos)

-53.5' (+/-0.5') distance from the channelward edge of the existing center dock float (of three) on a magnetic bearing of 270 deg. (+/-2 deg.) was to be used as a baseline for the location of Buoy #1 (15" dayglow red round plastic buoy) to mark the channelward NW corner of the proposed outer dock;

-24.0' (+/-0.5') distance, on on a magnetic bearing of 270 deg. (+/- 1 deg.), beyond the location of Buoy #1 was to be used as the location of Buoy #2 (6" dayglow red "pot" buoy) to mark the channelward edge of the 24' side-tie allowed along the channel face of the proposed outer dock;

-155' (+/-0.5') distance, on on a magnetic bearing of 180 deg. (+/-1 deg.), from the location of Buoy #1 was to be used as the location of Buoy #3 (6" dayglow red "pot" buoy) to mark the channelward SE corner of the proposed outer dock.

The on-water placement of the buoys in the locations described above was accomplished by Commissioners Lawrenz and Duffield using the Whaler, with Commissioner Corrough confirming bearings and distances from the baseline point on the existing center dock.

Commissioner Lawrenz utilized adjustable anchor rodes on the buoys to properly position them in relation to current and anchor position, within the required locational parameters.

Distances and positions were again confirmed after placement, using the tape and hand bearing compass, as well as the Whaler compass. Use of GPS for further location was considered redundant and no position recordings were taken. Buoys were in position at approximately 1:30 PM. (see attached drawings and photos).

Photographs of buoy locations and surrounding waters and landmarks were taken from the Duffy by Commissioners Corrough and Duffield, and from simulated approaches along the eastern edge of the navigation channel along both Project Line and Pierhead Line courses of approximately 150 degree (inbound course) view and 330 degree reciprocal view magnetic headings. (see photos)

Additional photos were taken from approximate 90 and 120 degree magnetic sailboat tack headings approaching the proposed dock locations (and reciprocals from the existing docks) to determine the potential effect on sailboats using the of water to be occupied by potential new docks and berth vessels, and the amount of water area potentially remaining available for tacking. No significant effect other than an 80'-90' shortening of the inbound 600'+ tack was noted-other tacks on either side of the dock ends could continue as deeply into the site as present, with the docks in place.

Ability for small, shallow-draft vessels to continue to approach/use the beach and to view the bluff bottom rock formations was also assessed informally and determined to be retained.

Observations from the existing docks by various Commissioners informally noted the courses and actions of vessels approaching and passing by/through the proposed dock area denoted by the buoys included sail and power vessels within the navigation channel , sail vessels outside the east edge of the channel (OCC Shields on an inbound tight beat course), and outbound kayaks and inbound rental fishing boats. No deviation was required.

Buoys and anchor tackle were recovered from their positions at approximately 2:45 PM.

Photographs from the top of the bluff overlooking the existing and future docks site and marker buoys were taken by Commissioner Duffield after the on-water survey. (see photos)

The on-site survey activities were concluded at approximately 3:30 and all Commissioners and vessels departed the site.

Aerie Docks Project Site Survey Findings and Conclusions

1. The proposed docks and their end-tied vessels would not present a direct navigational hazard to any vessels transiting within the established and marked 500' wide Newport Harbor federal navigation channel, and are located well outside the channel /Project Line boundary. This location/configuration complies with existing Newport Beach, federal laws.
2. The proposed docks and their end-tied vessels retain at least a 21'+ clear water buffer between the edge of the channel as defined by the Project Line and the nearest/largest permitted berthed vessel in the project. Small vessels (30' and under) typically meandering inbound or outbound through the open water area between the navigation channel and the project's docks and berthed vessels would continue to have adequate safe clearance between channel traffic and the project's largest berthed vessel for fishing, kayaking, canoeing, etc. This complies with the NB Approval in Concept conditions and EIR.
3. The proposed docks and their end-tied vessels would be located (and would appear) well inside (estimated 70'-80') a typical straight-line inbound course taken by a vessel to clear (by 50' apx.) the existing moored bait barge and the R6 fixed navigation mark, which is a typical day or nite inbound course and navigational waypoint (R6) during the high-traffic summer season when there is increased outbound and inbound traffic present. This continues the existing historic and necessary use of the navigation channel along this portion of its length and configuration and indicates that the proposed project would not alter this use or compromise safe passage of a vessel depending on these waypoints and course.
4. The "narrowest point of the harbor" for safe/official navigational purposes is not at the project site nor is it created by the design construction and use proposed project, but rather occurs some 350' to the North beyond the proposed project area where the R6 mark marks the bend and narrowing of the channel to the NW. Inbound vessels navigating outside the eastern edge of the navigation channel and to the east of the R6 mark will encounter the County mooring field and private docks and shoreline extending from Carnation Cove beyond which block their route and will typically turn well before the R6 mark. This continues the existing historic and typical use of the navigation channel and adjacent waters along this portion of its length and configuration and indicates that the proposed project would not alter this use or compromise the safe passage of vessels inside the navigation channel or 20' outside of it to the east.
5. The design of the proposed docks and their berthed vessels would retain continued direct public-waters access and views to the existing beach by small beachable vessels (kayaks,etc.) and retain shallow water access and views to the bluff and the distinctive rock formation through an 88' wide channel to the north of the docks and an 80' wide channel to the south, both opening up to wider water areas and views as these areas are entered on passed by vessels. These design elements appear to comply with the Draft EIR and with City, State and Federal laws and requirements, as well as the spirit of community interests in preserving public access to and use of this water area, its beach and its views to the rock formation.

Summary Conclusion:

Based upon the field survey and analysis effort and its findings stated above, it is the unanimous opinion of the Harbor Commission Aerie Docks Survey Subcommittee that the proposed Aerie Docks project appears to comply with all City, State and Federal requirements as designed and, if constructed and operated as proposed and required, would NOT "…create any significant negative impact on navigation and recreational boating in the harbor" as stated in the previous Harbor Commission advisory motion.

Subcommittee Cautionary Note:

The preliminary layout and design of the proposed dock system and its structural pilings appears to comply with accepted professional marine engineering practice and the recommendations of the various technical studies for a project of this type on this site. The project has accordingly received preliminary City Approval in Concept (with a number of conditions). The owner, through acceptance of these conditions, must acknowledge and assume the risk that the Newport Beach entry channel and thus docks and vessels on this site are potentially subject to potentially severe wave conditions in extreme weather events which may exceed even the storm-resistant design parameters of the docks. The owner/developer has agreed to certain operational and management procedures for the proposed docks and berthed essels including warnings to and required vessel relocation by the vessel owners, and other procedures, in case of an impending severe storm event. This Harbor Commission Subcommittee remains concerned that these requirements are sustained in place and continuously documented/updated subsequent to any

construction of this project, and that the owner/operator properly insures, maintains and operates this project in compliance with the continuing requirements attached to its Approval in Concept. Future Harbor Commissions, Harbor Resources and City staffs should track this.