

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers – 100 Civic Center Drive
Wednesday, November 9, 2022
5 p.m.

1) **CALL MEETING TO ORDER**

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

2) **ROLL CALL**

Commissioners: Steve Scully, Chair
Ira Beer, Vice Chair
Don Yahn, Secretary
Scott Cunningham, Commissioner
Marie Marston, Commissioner
Rudy Svrcek, Commissioner
Gary Williams, Commissioner

Excused: None

Staff Members: Paul Blank, Harbormaster
Jeremy Jung, Deputy City Attorney
Chris Miller, Public Works Administrative Manager
Jennifer Biddle, Administrative Support Specialist

3) **PLEDGE OF ALLEGIANCE – Commissioner Svrcek**

4) **PUBLIC COMMENTS**

Wade Womack expressed appreciation for Commission Marston reaching out to stakeholders about floats and lifts, leading to a good collaborative solution. He endorsed having additional stakeholder meetings to create better policy.

Jim Benson encouraged the Commissioners to work for their constituents regarding realigned moorings and other matters.

George Hylkema reported the Newport Mooring Association (NMA) is celebrating the centennial of moorings in Newport Harbor and spoke of the recreational boating history in the City.

Craig Bluell called for more slips in the harbor and decried the high cost of slip rents, noting a 40-foot slip in Newport Harbor costs \$4,000 a month. He added additional slips could be funded from robust tideland revenues.

Richard Dorn reported a wind-related tidal current challenge with his mooring in the C Field where both the Harbor Department and Orange County Sherriff said they could not assist. He added he complies with regulations. He stated there are too many moorings in his row and cautioned about future boat damage from the overcrowding.

Mr. Dorn's neighbor on mooring C-85 reported having a long history of problems with Mr. Dorn. He noted their row has seven boats instead of the C Field standard of six. He stated he is doing what he can to create space and called for a solution from the Commission.

5) APPROVAL OF MINUTES

1. Draft Minutes of the October 12, 2022 Harbor Commission Regular Meeting

No Commissioners requested changes.

Chair Scully opened the floor to public comments. There being no speakers, public comments was closed.

Vice Chair Beer moved to approve the draft minutes of the October 12, 2022 meeting as presented. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Secretary Yahn, Commissioner Cunningham, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: None

6) CURRENT BUSINESS

1. Harbor and Beaches Master Plan Projects - Review

The Harbor Commission subcommittee has reviewed the Harbor and Beaches Master Plan ("PLAN") and is seeking input from the Harbor Commission. It is anticipated the subcommittee will return with a final draft for approval at the December meeting.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Public Works Manager Chris Miller reported in either January or February the Commission recommended the formation of a subcommittee to further review the Harbor and Beaches Master Plan project list ahead of tonight's meeting. He reported the subcommittee reviewed the list of proposed larger capital projects to maintain harbor infrastructure. He clarified the list is a guidance document for future planners and not a budget document. He reported he will return in December to approve a final list based upon tonight's input for submission to the Finance Committee which will then send it to the City Council for consideration.

Public Works Manager Miller reported the subcommittee's list includes specific targeted projects and also potential projects for the Commission to review annually. He reported two potential

projects are to improve the restrooms along the shoreline of Newport Harbor and to consider a fire safety boat for the Harbor.

Public Works Manager Miller reported his next step is to clean up the list line-by-line, focusing on the accuracy of dates and updating the dates accordingly. He estimated the plan is about 95% completed and what is being presented tonight is a near-final version. He encouraged feedback from the Commission.

In response to Commissioner Marston's inquiries, Public Works Manager Miller clarified they discussed Lower Castaways but it was not added because it has not been clearly defined by the City Council. He advised they know the bulkhead has to eventually be replaced but he is unaware of what direction the City Council wants to go with the property. He confirmed it can be added to the list as a potential project pending further definition.

In response to Commissioner Marston's inquiries, Public Works Manager Miller clarified the useful life column applies to the present condition of a structure and not the useful life from when it was first built. He confirmed all of the public piers are currently in design. He advised these line items need to be updated based on the status of the piers. He clarified the confined aquatic disposal (CAD) facility is not on the list because it is a one-time expense already accounted for.

In response to Commissioner Svrcek's inquiry, Public Works Manager Miller confirmed the public piers scheduled for completion in 2022 are not completed and these are dates he needs to update. He added design work is complete and he expressed hopes he will be prepared to come to the next Commission meeting with a design review item.

Commissioner Cunningham reported he served on the subcommittee and the potential projects they found most important were the restrooms and fire safety bots discussed during the presentation.

Secretary Yahn noted he also served on the subcommittee and agreed with Commissioner Cunningham about potential projects

In response to Secretary Yahn's inquiries, Public Works Manager Miller stated the costs for the Agate Avenue and Palm Street bulkheads have not yet been calculated which is why they are listed as being \$0. He added those two are complex projects because the engineering needs could be extensive. He stated he could not assess the current condition of the bulkheads but added they do need to be worked on because they are on the poor side and they need to start thinking about raising them long-term.

In response to Secretary Yahn's inquiry, Public Works Manager Miller agreed the Commission cannot set budget priorities and there is something to be said for which groups are making the most noise. He encouraged the Commission to let him know if there are items they feel should rise to the top and take precedence over other items.

In response to Chair Scully's inquiry, Public Works Manager Miller clarified the City intends to tackle projects as they arise as opposed to waiting until things break. He stated the items may not get addressed in the year listed but added the years do not certify when the item will break. He added the years mark the intent to keep peeling back the top of the list to address the items methodically.

In response to Chair Scully's inquiries, Public Works Manager Miller confirmed the channel dredging is scheduled to begin in the early spring of 2023. He added the City Council has allocated \$10 million towards the project and the United States Army Corps of Engineers has around \$10-12 million. He added they have to wait for bids to return before there is a definitive answer on cost.

Chair Scully called for public comments.

Jim Benson inquired if a study has been done connecting the costs to the mooring owners and the expenses which would predicate a change in rates.

An unidentified resident stated a column on the spreadsheet for remaining useful life would help for clarity.

An unidentified resident inquired about an update on the trash collection barge.

Public Works Manager Miller confirmed the project is coming.

Chair Scully closed public comments.

In response to Commissioner Marston's inquiry, Commissioner Cunningham clarified what spurred interest in the fire safety boat is interest from private parties in helping to underwrite it. He added looking at the Harbor's safety was also an overall objective for the Commission this year.

In response to Commissioner Marston's inquiry, Public Works Manager Miller confirmed the funding balance chart accurately reflects the City will have more money available from 2035 on.

The item was received and filed.

2. Harbor Council Policy H-1: Review of Proposed Changes to Pier and Float Extensions Beyond the Pierhead Line

The Harbor Commission subcommittee has reviewed the Harbor and Beaches Master Plan ("PLAN") and is seeking input from the Harbor Commission. It is anticipated the subcommittee will return with a final draft for approval at the December meeting.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Public Works Manager Miller stated the item could come before the Commission for a decision in December or shortly thereafter. He reported Policy H-1 has undergone many changes over the years. He stated over time it has evolved from a catch-all document for all harbor activities with many provisions since incorporated into the Newport Beach Municipal Code. He clarified Policy

H-1 now dictates how far docks and floats can extend beyond the pierhead line in certain areas. He reported Policy H-1 has been revised 69 times in its 57-year history as the needs of the harbor have evolved.

Public Works Manager Miller stated the goal of this revision is to allow basic dock projects to be resolved at a staff level. He stated the 2018 revisions to Policy H-1 serve as the backbone for the draft presented tonight. He added this version adds clarity by reducing ambiguity. He stated the Commission feels the current version is too restrictive. He added the ultimate goal of the process is to ease the application burden and reduce the number of required Harbor Commission public hearings.

Public Works Manager Miller clarified the new version of Policy H-1 will section off the Harbor and define how far docks can extend beyond the pierhead line in each particular area. He added an extensive map book will depict all the areas of the Harbor and what the rules are for easier policy management and implementation.

Chair Scully reported he had this responsibility along with Commissioner Marston, adding the work began when Harbormaster Paul Blank served as a Commissioner but it was denied by the City Council. He commended the addition of the map book for visual simplicity. He added the new policy will help staff approve or deny projects so the Commission can better focus on other tasks.

Commissioner Marston inquired about specific extension distances and if existing floats would be compliant, noting 10% would be out of compliance with the new policy. Public Works Manager Miller stated it might be 10-15%. He noted there is a clause in the policy about previously-permitted extensions. He added the document as written will not solve all of the harbor's problems by creating 100% compliance. He noted staff will be allowed to make decisions based on historical allowances while providing clear direction to an applicant, and reducing the number of public hearings.

Commissioner Marston stated the Commission needs to be focused on how the policy's language will be written. She reported from her tenure on the Parks, Beaches, and Recreation (PB&R) Commission about regular revisions to Policy G-1, shifting from viewing the policy as a law to code to viewing it as a general guideline where exceptions can be made. She added the City Attorney confirmed the PB&R Commission had the flexibility and lamented the Harbor Commission has been treating Policy H-1 as a code or law. She requested getting input from the City Attorney on the Policy's wording to allow for flexibility. She questioned how the Commission would handle the case of forcing a resident's dock to comply when their neighbors' docks do not without having flexibility in the policy.

Secretary Yahn inquired if any of the bulkhead numbers will be an overlay on the Geographic Information System (GIS) system and if Policy H-1 is already in GIS. Public Works Manager Miller stated Policy H-1 is not in GIS but added it could be a layer. He added an attachment with only the bulkhead station numbers might be a good addition to the policy.

Vice Chair Beer stated the draft is thorough and will be helpful going forward.

Chair Scully opened the public hearing. There being no comments, the public hearing was closed.

Chair Scully stated they would like to bring this item back for the next meeting. He encouraged Public Works Manager Miller to discuss the item with the City Attorney and encouraged him to add discretionary language if needed.

The item was received and filed.

3. Recommendations Resulting from Commission Objective 2.3 to Improve Navigation Safety, Allow for Additional Moorings Within the Fields and Mooring Size Exchanges Requests

At the Harbor Commission meeting of June 12, 2019, the Harbor Commission reviewed proposed amendments regarding offshore mooring extensions in conjunction with their 2018 Goals and Objectives to “Establish policies for modifications to mooring sizes”. At that meeting, Commissioner Beer took responsibility for analyzing the mooring field layouts and drafting policies for review and consideration by the Harbor Commission. Commissioner Beer has conducted significant research with the aid of City staff and documented his findings. He continues to put significant effort into a proposal which will include optimizing the mooring field layouts, perhaps allowing for additional moorings as well as providing a pathway and policies for those offshore mooring permittees who wish to adjust the length of the mooring for which they are currently permitted.

This report and presentation will update the Harbor Commission on Commissioner Beer’s efforts, process and research. The Commission will be asked to approve recommendations related to optimizing utilization of the mooring fields and allowing mooring permittees to request a permit exchange to mooring of a different size. The recommendations are included in proposed draft ordinance amending City of Newport Municipal Code, Title 17.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Review modify and/or approve changes proposed by the Harbor Commission subcommittee on improvements to the mooring fields and process for requesting a mooring size exchange and forward the recommendations to the City Council for consideration.

Chair Scully noted there have been many efforts to disseminate misinformation to create opposition to the moorings. He added the campaign has scared current mooring permit holders and created a level of mistrust in the Commission. He requested the NMA stop spreading misinformation and provide the facts to its members. He clarified the Commission is not proposing to change the current mooring transfer policy and added only the City Council has the authority to change provisions of Title 17. He noted the Commission can only make a recommendation to the City Council.

Chair Scully clarified the intent is to organize the mooring fields, open the water within the harbor, lay out the fields to support safe navigation, comply with the City's Harbor Design Criteria, and create an opportunity for additional public moorings. He added every effort will be made to accommodate existing mooring permit holders.

Harbormaster Blank confirmed the report has not changed materially since June.

Vice Chair Beer noted either he or Harbormaster Blank responded in writing to all of the written comments received on this item. He added the mooring reconfiguration initiative is in support of the Harbor Commission's Open Water Objective to improve safety, navigation, and useable open water space for all of the harbor's mariners. He stated most of the opposition received over the past three years has fallen into a handful of categories and he addressed the misinformation reflected in the comments.

Vice Chair Beer stated the new plan allows all extension requests received before November 1, 2022, to be relocated to a mooring in the same field that will accommodate all extension requests up to five feet. He added every permittee with a boat currently larger than the intended mooring length will be relocated to a proper size mooring in the same field.

Vice Chair Beer reported the proposal allows for the permittee to have a spreader line at their mooring, but also requires the spreader line be attached to both mooring buoys when the boat is off mooring so the mooring balls do not drift into the fairways creating unsafe navigation. He stated the proposed double rows take up less space allowing for more open water, wider fairways, and greater space between moored boats in the same row, noting the success of double rows for over 40 years now at America's Cup Harbor in the City of San Diego.

Vice Chair Beer stated the double-row moorings will have ample room for maneuverability in prevailing wind conditions, adding most boats will have more room to maneuver in and out of their moorings than they do today with the proposed configuration. He noted Phase I of this initiative will add only seven new moorings, making little impact on parking.

Vice Chair Beer noted Newport Harbor is not as it was 100 years ago and the harbor must adapt to change created by the growing population and boating community. He added the policy must change to adapt to the changing needs and also those of future mariners.

Vice Chair Beer stated the proposed modifications to Title 17 will provide a policy that will accommodate certain mooring extension requests, allow for the option to have double rows, accommodate mooring relocations to larger spaces in the future, require spreader lines when boats are not moored to a 2-point mooring, provide affordable boating with new moorings that will have no entry fee, are non-transferrable, and will generate revenue for the tidelands fund. He added the proposed changes also feature no changes to the transfer policy for current permittees. He stated the proposed modifications to Title 17 are in the best interests of better serving the mooring community and all mariners.

Vice Chair Beer reported in 2017 the City ended the contract with the Orange County Sheriff's Department (OCSD) for the management of the mooring fields and took over the management of the fields. He added OCSD had no official policy guidelines on approving mooring extensions, reducing poor utilization of open water space and hurting navigability. He added the Commission's policy since 2019 is to not approve extension requests to not make navigational matters any worse.

Vice Chair Beer added this proposal intends to increase open water space, improve open water space's utilization, create wider and well-defined fairways, increase space between moorings in the same row, more space to maneuver when entering or exiting a mooring, and option of using a single-buoy system, and the addition of long-term moorings to each field.

Vice Chair Beer cited America's Cup Harbor in the City of San Diego as an example of a more efficient use of space similar to this proposal, noting it sees even higher wind speeds to Newport Harbor and is also more subject to wakes from larger vessels.

Vice Chair Beer noted the current mooring layout is below harbor design standards, adding there were far fewer boats when the mooring placements began 100 years ago. He stated the cluttered fairways pose a safety hazard to all mariners and that the proposal will increase the fairways. He confirmed the proposal does not include shared anchors. He noted the boats will now have between 20-50 feet available on both the left and right sides and 60 feet behind.

Vice Chair Beer reported the City's current moorings scar the floor of the harbor but the new system will include conservation buoys to help promote eelgrass growth and save the floor. He noted how the new configuration will create significantly more open water space between the mooring fields and Lido Isle. He stated the mooring fields would be converted in stages, starting slowly to confirm the proposal works as intended.

Vice Chair Beer emphasized there will be no cost to mooring permittees, adding they will remain in the same fields with more space. He added revenue from the new moorings will cover the City's cost for the project. He added the moorings are on public access water and they must ensure the area is equitable for all. He noted some areas are impassable except for locations where the fairways remain wide.

Commissioner Cunningham thanked Vice Chair Beer for his efforts.

Secretary Yahn thanked Vice Chair Beer for "a yeoman's effort" and noted the recommendation provides additional clarity on purpose and intent.

Commissioner Svrcek commented that the new arrangement looks fantastic.

Commissioner Williams thanked Vice Chair Beer for considering the public's comments.

Commissioner Marston thanked Vice Chair Beer and echoed Commissioner William's comments that he addressed many of the public's concerns.

Chair Scully called for public comments.

Craig Bluell thanked the Newport Mooring Association (NMA) for encouraging him to come to the meeting to listen to the presentation. He noted if everything is implemented as presented it is a good situation.

Fred Fourcher reported he has had a mooring in Newport Harbor since 1976. He noted if this program is voluntary and there is a consideration for the alignment with the shore mooring and off-shore mooring still being adjacent to each other. He recommended representatives of NMA speak with boat owners in America's Cup Harbor to obtain their input on the proposed system.

Don Farley reported he had a mooring for 30 years. He advised he provided public comment on November 3rd and has yet to receive a response. He provided a copy to the Harbor Commission.

Don Potenza noted he has had a mooring in the C Field for over 30 years and advised he is a former Coast Guard Captain. He thanked the Harbor Commission for keeping the spreader lines an option. He advised America's Cup Harbor is tucked in the northeast corner of Point Loma and has miles of elevated land for protection. He reported America's Cup Harbor as 88 double moorings and all but 5 have a stern mooring on one side. He noted of the 5 that do not have stern mooring 4 only have a single boat. He noted regarding Title 17 that a boat should never be moved without an owner's consent except in an extreme emergency and should never be at the expense of the owner unless the owner has done something wrong.

Jim Benson expressed concern regarding privacy with the proposed mooring system and believes the spread should be 30 feet. He expressed support for the remainder of the recommendations.

Dave Lambert expressed concern regarding new moorings not being transferable and inquired if the permit stays with the mooring in perpetuity.

Vice Chair Beer clarified that the transferability for all existing mooring permittees does not change.

Douglas Carstens, an attorney representing NMA, reported he submitted a letter to the Harbor Commission stating a Coastal Development Permit is required for the City to proceed. He advised he is a former Navy veteran and noted the proposal to eliminate mooring extensions and the proposal to conduct the pilot test constructing new moorings would be major changes. He advised the proposal would encourage unsafe navigation by large vessels in the mooring fields and would impede coastal views. He advised these actions would constitute development under the Coastal Act for which a Coast Development permit would be required in addition to a review by California Environmental Quality Act (CEQA). He encouraged the Harbor Commission to advise the City that it may not proceed without obtaining a Coastal Development permit. He reported NMA is willing to work with the City on a voluntary relocation program that would not require a Coastal Development permit or CEQA review. He advised under the existing Harbor Code permittees may request mooring extensions and extensions of 5 feet or under may be granted by the Harbormaster. He encouraged the Harbor Commission to consider his recommendations.

Jim Pickell reported he has had a mooring for years and his goal is to have a mooring that is safe, accessible, and can be modified to meet his future needs. He advised he has been waiting to hear back from the Harbor Commission on his requested mooring extension of over 5 feet which was not mentioned. He noted the proposed Title 17 changes provide uncertainty for many of the mooring permittees. He encouraged the test pilot should be run in parallel to the Title 17 changes to ensure feedback is provided from mooring permittees before permanent changes are made.

Heidi Hall reported she has been in the Harbor for over 55 years. She thanked the Harbor Commission for all of its work and research. She inquired for those who would like to be moved to a larger mooring if the rows would be boat-length specific. She noted she has a smaller boat in a larger area and does not want it to be moved.

Steve Turansky reported he has been a mooring permittee since 1997 and has been inquiring about mooring extensions for the last 15 years. He advised he was routinely told the list was

closed but is now hearing those mooring extensions that were requested before November 1st will be accommodated. He noted when he obtained his mooring permit there were several moorings available and he paid extra to have an easy access mooring close to the dock and does not want to be moved to another mooring.

An unknown resident expressed support for the proposal but believes the pilot should be conducted using a temporary mooring so as not to impact current permittees and allow permittees to test its effectiveness. He encouraged a meeting where members of the public can ask questions.

Drew Quallemy reported he has a home at 106 31st Street and also has a mooring permit with an end tie in the C Field. He advised the intent of acquiring that specific mooring was to put a catamaran on it and does not know if another mooring will accommodate it. He believes the proposal needs more testing. He noted residents will be upset if they lose their ocean views. He encouraged the City to do the right thing.

Wade Womack reported he had a pamphlet he wanted Harbormaster Blank to pass out but refused to do so. He noted the Harbor Commission has never presented the redlined revisions and disagrees with Vice Chair Beer's summary. He advised the redline revisions were found in the Harbor Commission October 12th meeting agenda packet. He noted that the meeting was the first time the public was presented with the mooring report and the very first posting of the Harbor Code revisions. He noted the subcommittee works outside of the public view and while they have been working on this for some time, it just came to the public's attention on the October 12th agenda. He encouraged the Harbor Commission to consider public stakeholder meetings for further discussion and to consider a voluntary relocation plan. He noted the Harbor Commission must provide the public with all the details of the plan and justifications for any Harbor Code revisions before moving forward.

Cade Hatch advised he is not opposed to cleaning up the rows and making improvements but believes the proposal goes too far. He noted the Harbor Commission is supposed to be working for the people in the Harbor. He expressed resentment for this being imposed on mooring permittees. He noted Vice Chair Beer's plans are solely his assertions and need to follow up with public opinion. He encouraged transparency in the process. He expressed concern that mooring extensions were on hold due to this process. He advised there is no eelgrass in the offshore mooring.

Jerry LaPointe requested the Harbor Commission hold stakeholder meetings to provide more details of the plans that would lead permittees to support the plan.

George Hylkema reported there are other stakeholders other than the mooring permittees such as homeowners who need to be informed of the proposal.

Scott Karlin advised the proposal makes major changes to Title 17 with the major change being the authority for the Harbormaster to move permittees at his discretion. He expressed concern regarding the language of the proposed changes and noted they are confusing. He provided examples of the code and emails exchanged with Vice Chair Beer.

John Marshall representing South Shore Yacht Club expressed concern that verbal commitments are not being committed to the written proposal specifically regarding transferability. He would

like to see some language explaining the process. He encouraged the Harbor Commission to clarify the language so there is no confusion in the future.

Tom LeBeau, a 30-year Harbor front homeowner, thanked Vice Chair Beer for all of his hard work. He reported he has attended 6 meetings over the last 18 months and has watched the process methodically go through publically. He expressed support for the presentation and noted it was very clear to him. He noted he has no objections to the plan and expressed support for expanded water rights for all users of the Harbor.

Mr. Tagliareni expressed concern that the waterline length will be different from the overall length. He advised he bought a 40' mooring and put \$30,000 into restoring a wooden boat which is 39'8" on the waterline. He noted a 5' extension will not help his situation. He noted his retirement plan is to be a live aboard. He suggested the Harbor Commission make a rule that anyone with a 40' mooring be required to have a 40' spreader. He encouraged the Harbor Commission to have stakeholder meetings for more detailed discussion.

Brad Salter, a resident of Balboa Island, expressed support for stakeholder meetings so residents can have input in the process. He expressed concern regarding the moratorium on mooring extensions and transferability.

Marleen Pippen, a mooring permittee in the A Field, noted she takes offense that mooring permittees are not being considered members of the public. She advised she searched for her mooring for a year in 2006 which was purchased for the view and location. She noted more people use the mooring fields other than the permittees such as fishermen, kayakers, and paddle boarders.

Eric Langenbach reported he has over 30 years of experience working the waterfront, water construction, and servicing the mooring fields. He noted he does not feel that condensing the mooring fields will help much. He echoed Ms. Pippen's comments that more than the mooring permittees use the mooring fields. He noted that he does not see how eliminating 10 feet of chain off each end or installing buoys will do anything but decrease the cabin area and the gravity effect of the mooring chain. He encouraged the Harbor Commission to investigate increasing weights.

Mr. Mallard reported he has kept boats in the harbor for decades. He noted Vice Chair Beer puts out a great argument on how this will be progress for everyone concerned. He expressed concern regarding the consolidation of rows and the impression that it will give more space. He expressed concern regarding the conflict between the NMA and the Harbor Commission and encouraged stakeholder meetings to discuss concerns. He noted there is a big space between the turning basin and where H Field starts and recommended that be cordoned off for non-boaters to use or be used for the longer boats

Dickey reported he has a 52,000-pound vessel and noted that pulling into a mooring with another vessel 20 feet away from him makes him nervous. He advised that there are more 50' moorings in the J Field than the drawings reflect.

Bud Cumins advised he would like to have less fairway space than a boat in front or back of his boat. He expressed concern regarding the usable public space as it he has encountered many issues with inexperienced rental boaters who run into trouble in the mooring fields. He discourages encouraging more people to explore the moorings.

Brian Benson, a longtime Lido Isle resident, noted he is a mooring permittee and expressed concern regarding the spacing. He expressed concern that he will be moved from his mooring as his vessel is smaller than his mooring and would like to protect his investment in the mooring. He expressed concern that communication on the proposal seemed very last minute and felt that everyone could have benefitted from additional time and conversation. He expressed concern regarding the assignments of dinghy racks to mooring permittees and felt there was not enough communication.

Eric Young, a mooring permittee in the C Field, echoed the comments of the previous public speakers requesting additional stakeholder meetings for discussion. He noted that cleaning up the mooring fields could be solved by using spreader lines without encouraging the public to cruise the fairways.

Dr. Kent reported he spoke with America's Cup Harbor's Mooring Coordinator and inquired about their thoughts on double moorings and was advised that there were no major problems. He advised that some of the permittees were requesting transfers to the leeward moorings because it is more difficult to get into the windward moorings.

Chris Bliss, a mooring permittee in the C Field for over 30 years, believes the regimentation of the mooring fields will take away from the aesthetics of the harbor.

Jazzy, a mooring permittee, reported her mooring was a huge investment and she now owns a 30' vessel in a 45' mooring. She expressed concern about placing more boats in the harbor to increase revenue but noted it is going to create more hazards for the boating community.

Michael Woods, a mooring permittee in the A Field, reported he has a 55' mooring but has a 40' vessel. He advised he plans to move up to a 55' vessel and expressed concern about being moved to another mooring. He expressed support for cleaning up the moorings as long as it is done properly.

Richard Dorn expressed support for moving within the same size mooring permittees have today but believes it would be a hardship for permittees to move to a smaller mooring. He noted that using a 2-ball mooring with a spreader will make the system work but a spreader line the size of the mooring will be too short to be of benefit. He expressed concern that the documentation changes the length from the manufacturer's length to the length overall and will cost more for those who will be required to go to a bigger mooring.

Chair Scully closed public comments.

Vice Chair Beer reiterated that there is a lot of misinformation being spread and noted the NMA is very good at spreading information at the last minute that is not accurate. He clarified that Length Overall (LOA) is defined in Title 17 as adjusted LOA. He explained in the absence of that, the U.S Coast Guard documentation will be used, followed by registration by another government association. He advised the mooring size determines the LOA that is allowed on the mooring. He noted the LOA of the vessel cannot exceed the LOA of the mooring permit. He advised the adjusted LOA can be longer as long as no part of the boat extends into the fairway.

Vice Chair Beer reported that Mr. Karlin's reference to email exchanges with the NMA was taken out of context. He explained the mooring size determines the size of the vessel that can be accommodated and as an example explained a permittee with a 40' vessel who owns a 50'

mooring will continue to have a 50' mooring. He advised they are trying to accommodate all mooring permittees.

Vice Chair Beer expressed serious concern regarding the continued misinformation being disseminated that is causing unwarranted concern. Mr. LeBeau has attended all of the 8 public meetings that have been held over the last 3 years and clarified this did not just pop up in October. He advised the first substantial presentation was given in June and is substantially similar to what is being presented today except for changes that were made based on public input and public outreach. He noted if the NMA has not disseminated the information properly or not at all during this period to its members, then its members should be looking to change how the NMA is dealing with its members. He announced that all Harbor Commission meeting agendas are publically posted and encouraged public participation.

Vice Chair Beer noted that Commissioner Williams had expressed concern regarding the lack of collaboration with the NMA. He explained he is not looking to beat up the NMA but to simply clear the air. He noted Commissioner Williams implored the NMA to reach out to the Harbor Commission with solutions and suggestions. He reported the Harbor Commission with 2 of the NMA board members along with Harbormaster Blank following the October meeting where he urged them to provide feedback. He announced the Harbor Commission received a letter yesterday providing some recommendations from the NMA which seems to happen at every meeting. He expressed support for collaboration but not at the 11th hour.

Vice Chair Beer emphasized that the Harbor Commission is aware of the California Coastal Commission's Coastal Development Permit requirements. He thanked everyone who spoke about the topic for insisting the City look into that and advised they would do so promptly. He agreed there should be more public input and would recommend that an NMA stakeholder meeting is held that is opened up to all constituents by the end of the year. He advised he looks forward to working on this together with the NMA and looking forward not backward. He recommended the Harbor Commission not take action on the item this evening to allow for the stakeholder meeting.

Secretary Yahn agreed there has been a lot of information offered this evening to consider. He advised this is an evolutionary process 3 years in the making. He advised the Harbor Commission's job is to improve the waterways for everyone who enjoys the harbor, not just the mooring permittees. He defended Vice Chair Beer's motives for the proposal and advised the Harbor Commission serves the public. He expressed support for holding a stakeholder meeting with NMA.

Commissioner Marston thanked everyone from the public who provided public comments and noted they are also reading the emails that are received on the topic. She advised that changes have been made to the proposal based on public input. She expressed support for a stakeholder meeting to clarify misconceptions and hear ideas from the mooring permittees. She recommended that a meeting be held soon.

Commissioner Williams restated his comments from the last meeting that NMA is doing a disservice to its members, the public, and the boating community and stands by his comments. He referenced the emails received and the disinformation spread with outrageous statements about the Harbor Commission's motives. He noted that the Harbor Commission has demonstrated repeatedly they want the public's input and wants to work on it together with NMA. He announced that he received no emails from NMA after their last meeting and does not understand the intent

of their disinformation. He reiterated he has demonstrated a willingness to work with NMA and members of the public.

Chair Scully agreed with holding a stakeholder meeting and noted he has heard the comments from the public before the end of the year. He recommended NMA members provide their concerns to the NMA board before the stakeholder meeting so all concerns can be addressed.

No additional action was taken.

4. Harbor Commission Draft 2023 Objectives Review

The Harbor Commission periodically conducts a review and updates their objectives. An ad hoc committee was appointed to conduct a review of the Commission's 2022 objectives and recommend modifications for 2023 to be reviewed by the entire Harbor Commission. At their October 12, 2022 meeting, the Harbor Commission approved formation of an ad hoc subcommittee to draft objectives for 2023. Eventually, the approved objectives will be forwarded to the City council for review and consideration.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive, review and provide guidance for further refinement of the Commission's 2023 Objectives.

Harbormaster Blank reported the subcommittee has convened and is reviewing what the objectives should be for 2023 and presented some suggestions.

Chair Scully noted the functional areas that were used previously became a bit much and recommended they be simplified by reviewing objectives per Commissioner and by short-term and long-term objectives. He advised he has taken some of the 2022 objectives and rolled them forward as suggestions for 2023. He recommended the Commissioners look at the list and determine what each would like own and be a part of and work with other members of the dais to complete those objectives.

Commissioner Cunningham concurred with Chair Scully's recommendation and noted that less is better for 2023. He expressed support for the first draft and would like it to come back next month to finalize the list and then create subcommittees to tackle them.

Secretary Yahn inquired if an individual Commissioner would take ownership of one of the seven categories. Chair Scully confirmed and noted subcommittees would be formed but ad-hoc committees would not be part of the objectives. Secretary Yahn advised he would review the list and make sure nothing was overlooked.

Vice Chair Beer expressed support for Chair Scully's recommendation and taking on fewer items.

Commissioner Marston expressed support for the initial list and inquired if the intent was to pair up Commissioners. Chair Scully explained one Commissioner would own it and then one or two other Commissioners would join the subcommittees.

Commissioner Williams expressed support for the recommendation.

Commissioner Svrcek expressed support for the recommendation and noted he looks forward to participating.

Chair Scully called for public comments.

An unknown speaker noted he has had a mooring for over 25 years. He inquired if Harbormaster Blank could collect all of the permittee's email addresses and then send out a detailed email explaining the mooring field plan and collect any questions from permittees for future discussion.

Dickey inquired where he can find the Harbor Commission objectives. Chair Scully advised there were handouts in the audience and is also listed on the City's website.

Chair Scully closed public comments. He advised the item would come back at the next meeting of the Harbor Commission.

No additional action was taken.

5. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Commissioner Marston had no additional comments for Council Policy H-1.

Chair Scully called for public comments. There being no speakers, public comments were closed.

The item was received and filed.

6. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2022 Objectives, will provide a project update.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Functional Area 1: Secretary Yahn reported this area is involved in revisions to Title 17 including mooring alignments and Council Policy H-1 and is a work in progress.

Functional Area 3: Commissioner Cunningham advised they have discussed dredging and fire safety.

Functional Area 4: Chair Scully reported there is nothing to report for Objective 4.1. He inquired if Harbormaster Blank had heard anything regarding Objective 4.2 as it relates to the Lower Castaways.

Harbormaster Blank reported there has been no further action taken and no current action is being taken. He advised nothing is stopping the Harbor Commission from pursuing its evaluation and recommendation.

Chair Scully reported that on Objective 4.3, he and Commissioner Williams conducted the inaugural Newport Harbor Safety Committee and reported it went very well.

Commissioner Williams agreed the meeting went very well with over 20 in attendance along with positive dialogue.

Functional Area 2: Vice Chair Beer noted he had nothing to report.

Chair Scully called for public comments.

Craig Bluell reminded the Harbor Commission that many mooring permittees are not members of NMA. He noted he did not know anything about this until three weeks ago. He inquired how non-NMA members would get notified about the stakeholder meetings and noted the Harbormaster has his email.

Vice Chair Beer inquired if Mr. Bluell had received an email he had sent out approximately 2 weeks ago.

Mr. Bluell confirmed he received the email.

Vice Chair Beer advised he will ensure the information will go out to that email list along with other pertinent email lists for the stakeholder meeting.

Jim Palmer echoed the comments of Mr. Bluell and expressed concern regarding the tactics of NMA. He advised he is an active user of Lower Castaways and noted that pre-pandemic it was not actively used. He noted that during and post-pandemic it is now very busy on the weekends for launching personal watercraft and recommended an additional review be conducted.

Mr. Gourd advised that life jackets for personal watercraft and inflatables are not been enforced. He noted last November he saved a man's life while intoxicated while operating a dinghy and referenced another incident several years prior.

Chair Scully closed public comments.

The item was received and filed.

7. Harbormaster Update – October 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Blank reported 599 emails were sent to current mooring permittees noticing this meeting and the topic being covered. He advised 5 permittees do not have email addresses and were noticed through the postal service. He noted less than 10 of the 599 emails bounced back.

Harbormaster Blank reported the sea star living at Marina Park is continuing to thrive and has been named Pebbles. He reported two of the Harbor's three vessels have been repowered with new engines. He advised the Harbor Department continues to work with USCG Aids to Navigation (ATON) group on the recurring obscuring of Nav Marker 11 near Bay Island. He reported department personnel also participated in CPR (re)certification and first aid training. He advised the finials on public piers was polished in October.

Harbormaster Blank reported extra emphasis on public dock enforcement at the Fernando Street pier was conducted throughout the month. He noted 3 boats were impounded as a result. He reported Code Enforcement Supervisor Cosylyon collected the award for "Most Innovative Code Enforcement Program of 2022" at the Code Convention put on by the California Association of Code Enforcement Officers. He reported Harbor Department team members began participating in the school-year-long Mayor's Youth Council. He noted a University of California Irvine intern

will begin working with the Harbor Commission to work on water quality and the health of marine life in Newport Harbor.

Harbormaster Blank reported the Santa Ana Regional Water Board is having a meeting on Copper TMDLs on December 2nd and encouraged the Harbor Commission to review and weigh in with their opinion if possible. Lastly, he reported the Harbor Department continues to outpace revenue from prior years.

Harbormaster Blank provided an update on new mooring permits and noted the total number of issues went up.

Commissioner Williams inquired about the sea star's name. Harbormaster Blank advised its name is Pebbles.

Commissioner Marston inquired about the increase in Marina Park dock maintenance. Harbormaster Blank advised it was due to a focus on the sanitation systems and cleanliness of the dock boxes.

Chair Scully noted it is important the dais review the email that Harbormaster Blank sent to the Santa Ana Regional Water Board as it will impact Newport Harbor. He encouraged the dais to write letters to the Santa Ana Regional Water Board.

Commissioner Cunningham advised that major dredging will be taking place next year and believes the Santa Ana Regional Water Board should be pushing it back given how deep the Harbor will be after dredging.

Chair Scully called for public comments.

Daniel Sullivan noted that the visual presentation is not good and is difficult for attendees to see. He noted that the Harbor Department should be taking care of some of the issues with the fairways. He advised in his row in H Field, the mooring buoys are 60 to 65 feet.

Mr. Dorn thanked the Harbor Department for its enforcement of Fernando Street and noted he has been able to use it every day. He advised he received a letter that his mooring service is due with 3 recommended contractors listed but advised only 1 of them is open for business.

Chair Scully closed public comments.

The item was received and filed.

7) MOTION FOR RECONSIDERATION

None

8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Secretary Yahn applauded Joe Stapleton for being elected to the City Council in District 1.

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

None

10) **DATE AND TIME FOR NEXT MEETING: Wednesday, December 14, 2022 at 5 p.m.**

11) **ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:25 p.m.

DRAFT