

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES  
City Council Chambers – Marina Park – 1600 W. Balboa Boulevard, Newport Beach/Teleconference  
Location Pursuant to GC§54953(B): 62088 Upper Deer Creek Lane, Lakeshore, CA 93634  
Wednesday, July 12, 2023  
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

Staff Members: Paul Blank, Harbormaster  
Chris Miller, Administrative Manager/Public Works  
Jennifer Biddle, Administrative Support Specialist

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

**4) PUBLIC COMMENTS**

Chair Scully outlined the meeting rules of decorum.

Jim Mosher commented on a past General Plan Advisory Committee, the Housing Element, and referred to an email that was recently distributed.

Chair Scully acknowledged receipt of Mr. Mosher's email correspondence and the potential for placement of the referenced item on a future meeting agenda.

Vice Chair Beer requested Mr. Mosher resend the email correspondence on the item.

There were no other members of the public who elected to make public comments. Chair Scully closed the floor to public comments.

**5) APPROVAL OF MINUTES**

**1. Draft Minutes of the June 14, 2023, Harbor Commission Regular Meeting**

Chair Scully acknowledged there were comments received on the minutes from himself and Vice Chair Beer.

Commissioner Marston requested the correction of a public speaker's name on page 3 of the minutes (Jim Mosher).

Chair Scully opened the floor to public comments. Noting there were no individuals who elected to speak, Chair Scully closed the floor to public comments.

Vice Chair Beer moved to approve the minutes of the June 14, 2023, as amended. Commissioner Marston seconded the motion. The motion carried (7 – 0) by the following roll call vote:

**Ayes:** Cunningham, Marston, Svrcek, Yahn, Williams, Beer, Scully  
**Nays:** None  
**Abstain:** None  
**Absent:** None

## 6) ELECTION OF OFFICERS

The Harbor Commission will Elect Officers for the 2023-24 Year

### 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) Elect Chair; and
- 3) Elect Vice Chair; and
- 4) Elect Secretary.

Chair Scully opened the floor to public comments. Noting there were no individuals who elected to speak, Chair Scully closed the floor to public comments.

Commissioner Cunningham moved to nominate Steve Scully to serve as Chair. Commissioner Beer seconded the motion. The motion carried (6 – 0 – 1 - 0) by the following roll call vote:

**Ayes:** Beer, Cunningham, Marston, Svrcek, Williams, Yahn  
**Nays:** None  
**Abstain:** Scully  
**Absent:** None

Chair Scully moved to nominate Ira Beer to serve as Vice Chair. Commissioner Yahn seconded the motion. The motion carried (6 – 0 – 1 - 0) by the following roll call vote:

**Ayes:** Cunningham, Marston, Svrcek, Williams, Yahn, Scully  
**Nays:** None  
**Abstain:** Beer  
**Absent:** None

Chair Scully moved to nominate Marie Marston to serve as Secretary. Commissioner Cunningham seconded the motion. The motion carried (6 – 0 – 1 - 0) by the following roll call vote:

**Ayes:** Cunningham, Svrcek, Williams, Yahn, Beer, Scully  
**Nays:** None  
**Abstain:** Marston  
**Absent:** None

## 7) PUBLIC HEARINGS

### 1. Residential Dock Reconfiguration at 921 Via Lido Soud

Bob Olson ("Applicant") has applied for a harbor development permit to reconfigure his residential dock system at 921 Via Lido Soud which was recently merged with the former 925 Via Lido Soud. The project includes removing and replacing the dock systems at 921 and the former 925 and replacing with a new single-finger float system with the float positioned parallel to the bulkhead ("Project"). The proposed float extends beyond the pierhead line by 20-feet which is approximately 7-feet less than the existing float at 925 Via Lido Soud extends. Because Applicant is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project.

Therefore, Council Policy H -1 directs the Harbor Commission to hold a public hearing for the proposed project.

**Recommendation:**

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 3) Adopt Resolution HC2023-008 approving in concept the Project.

Administrative Manager/Public Works Chris Miller provided a summary of the agenda report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Discussion ensued regarding various aspects of the residential dock configuration including a similar configuration on the next property, the square footage of the actual dock, reorientation of the boat, a return of the proposed reconfiguration to two docks, square footage as related to Balboa Island properties, beam restrictions as related to boat size, and the property line condition serving as a standard condition.

Administrative Manager/Public Works Miller noted he would adjust the conditions of approval to reflect Harbor Commission discussion as related to the property line, noting that Special Condition No. 9 would state, "Vessels may not extend beyond the prolongation of the property lines."

Discussion ensued regarding various aspects of the residential dock configuration.

Chair Scully opened the public hearing and the floor to public comments.

Jacqueline Chung, representing the applicant, thanked Mr. Miller and expressed support for approval of the submitted dock reconfiguration.

Jim Mosher suggested referring to the similar dock configuration at an adjacent property and expressed concern regarding the approval process. He supported the proposed language amendment for Condition No. 9. He expressed concern with current Condition No. 8 in that City Council is the only body which can approve a waiver and did not believe the item could be approved by the Harbor Commission as presented.

Noting there were no other individuals who elected to speak, Chair Scully closed the floor to public comments and closed the public hearing.

Administrative Manager/Public Works Miller stated the item could be approved by the Harbor Commission, referring to the current beam width rule and the specific statement provided by the applicant as to the intended vessel size.

Discussion ensued regarding compliance with City Council Policy H-1, proposed project Condition Nos. 8 and 9, beam width as related to City-issued permits, U-shaped float scenarios, the upcoming City Council review of the Policy H-1 updates, and previously issued permits for the subject dock.

Vice Chair Beer moved to approve staff's recommendation, inclusive of the amendments to the Conditions of Approval. Commissioner Williams seconded the motion. The motion carried (7 – 0) by the following roll call vote:

**Ayes:** Cunningham, Marston, Svrcek, Williams, Yahn, Beer, Scully  
**Nays:** None  
**Abstain:** None  
**Absent:** None

**2. Residential Dock Reconfiguration at 419 Edgewater Place**

Bill Jumonville (“Applicant”) has applied for a harbor development permit to remove and replace the float, relocate the piles, and replace the gangway with a new gangway and gangway lobe (“Project”). The proposed float extends beyond the pierhead line by 5-feet, 3-inches (5’-3”) which is the same distance as the existing float extends. Because Applicant is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project.

**Recommendation:**

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 3) Adopt Resolution HC2023-009 approving in concept the Project.

Administrative Manager/Public Works Chris Miller provided a summary of the agenda report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Discussion ensued regarding dimensions of the existing configuration, gangway support lobes, and special conditions in the ruling that state that no boats can extend beyond the side property lines.

Chair Scully opened the public hearing and the floor to public comments.

Pete Swift commented it would be important to understand the applicant’s motivation for the proposed reconfiguration which involved resolving a matter with the adjacent neighbor.

Jim Mosher commented he has no opposition to the proposed reconfiguration; he referred to language on page 67 of the agenda report related to extensions beyond the project line, and that there are other City Commissions which approve encroachments into the public right-of-way. He suggested language be included in the proposed update to Council Policy H-1 that provides for the Harbor Commission to waive conditions.

Noting there were no individuals who elected to speak, Chair Scully closed the floor to public comments and closed the public hearing.

Discussion ensued regarding the need to list specific measurements in the special conditions section of each proposed resolution, the impact of fenders as related to measured space, and changing the language of the proposed Special Condition No. 9 to include the word “additionally” for clarity as related to the maximum beam of a vessel allowed.

Commissioner Yahn moved to approve staff’s recommendation, with the addition of the word “additionally” in the language of the proposed Special Conditions within the resolution as discussed. Commissioner Svrcek seconded the motion. The motion carried (7 – 0) by the following roll call vote:

**Ayes:** Cunningham, Marston, Svrcek, Williams. Yahn, Beer, Scully  
**Nays:** None  
**Abstain:** None  
**Absent:** None

## 8) CURRENT BUSINESS

### 1. Recommendation on New License Agreement for Use of City Moorings

There are currently fourteen mooring permits assigned to the City of Newport Beach. There is demand for longer-term use of moorings than a sub-permit allows. Some of that demand comes from mariners who wish not to go through the mooring permit transfer process. The Harbor Commission discussed opportunities and operational characteristics of a new arrangement that will allow mariners to make use of moorings permitted in the City’s name without having to

acquire an existing permit or participate in the sub-permit process at their June, 2023 meeting. At that meeting, direction was given to staff to return with a proposed license agreement and arrangement for fairly assigning the agreements to members of the public interested in making use of these moorings.

Any recommendation resulting from further discussion on such license agreements and method for assigning them will be forwarded to the City Council for consideration.

**Recommendation:**

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Review, modify and/or approve the proposed arrangements and Mooring License Agreement for use of City Moorings and forward to the City Council for consideration.

The meeting briefly recessed at 6:17 p.m. to resolve a technology issue. The meeting reconvened at 6:22 p.m.

Harbormaster Paul Blank provided a summary of the agenda report provided in the publicly noticed agenda packet. PowerPoint presentations were displayed.

Vice Chair Beer provided a brief synopsis of the presentation he made on this matter at a previous meeting.

Discussion ensued regarding providing specific names for the new products for clarity, bringing back a concise package for the Harbor Commission to review at their next meeting, provide better usage and more public access to a City-owned asset, directing the current subcommittee to work with the City Attorney to develop language which would add the City of Newport Beach as an entity with specific rights, responsibilities, and privileges as related to the new products, review of a comprehensive license agreement at an upcoming meeting, creation of a separate waiting list, and flexibility with regard to leaving the moorings for a period of time under the right circumstances.

Chair Scully opened the floor to public comments.

A resident expressed concern the City would be making a profit off of the moorings.

Jessie inquired regarding the monthly limitation and whether the City can rent spaces that are paid for, but not being used, for a limited amount of time.

Jim Mosher suggested several amendments to the proposals presented in the staff report including amending Title 17 to include the new mooring opportunity, including clear language as to what is allowed and prohibited in the Harbor, who is the governing authority as related to rulemaking on this item, and the potential to terminate leases for those who are not current on their payments.

Lee Pearl expressed concern with the length of the waitlist for City moorings and suggested the proposals be amended to address the matter.

Seeing no others who wanted to provide comment, Chair Scully closed the floor to public comments.

Discussion ensued regarding addressing the demand for short-term moorings, the per-night rental rate and City revenue, the cycle for payments pursuant to month-to-month agreements and scheduling an update on this item for the next meeting after staff and the subcommittee meets with the City Attorney.

There was no further action taken on this item.

**2. Discuss Potential Harbor Commission Objectives for 2024**

The Harbor Commission periodically conducts a review and updates its Objectives. This year

they decided to continue working on the 2022 Objectives instead of creating new ones for 2023, as there was still much work to be done and it would allow the new City Council Members to settle in and learn about the Harbor Commission. The Harbor Commission will begin discussing a plan to develop Harbor Commission Objectives for 2024.

**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) Provide input on the creation of the 2024 Harbor Commission Objectives and/or create an Ad Hoc Committee to develop Objectives for each functional area and return to the Harbor Commission with recommendations for 2024 Objectives.

Chair Scully suggested a primary goal of continued support for the Harbor Department, specifically safety and security, code enforcement, interaction with City staff, proper staffing, financial performance, municipal code review, alignment and community relations, regulatory compliance, and the overall experience of users of Newport Harbor from all perspectives (dredging, maintenance, water quality, ferry operations, etc.). Additionally, finding additional access to the Harbor and participation in development around the Harbor, protection of City-owned assets and facilities, economic development and promoting growth, environmental sustainability and promotion of environmentally friendly practices.

Discussion ensued regarding objectives including how to narrow down the objectives, the perspective of various Harbor stakeholders, focusing on a 12-month window, development of a master plan which includes existing objectives, continual funding for the Harbor Department, development of a “capital improvement plan” type list with prioritized rankings for each objective, and the development of a subcommittee to work on memorializing objectives.

Chair Scully opened the floor to public comments.

Jim Mosher expressed support for development of an objectives list of items which could be accomplished in a specific time frame. He referenced the Harbor Commission’s page on the City website which mentions the seven Council expectations for the Harbor Commission, including the development of objectives for Council consideration. He suggested a refresh of the previous Harbor Area Management Plan as a starting point.

Lee Pearl, representing the Balboa Island Improvement Association, suggested a phase out of the moorings located on their beach, as they may create safety issues for users. He requested staff develop a program to present to the Harbor Commission and City Council to set a moratorium on sales and pay market value to those who want to sell their moorings. He also suggested the Commission review the potential to place a charging station for Duffy boats on the Island.

Seeing no others who wanted to provide comment, Chair Scully closed the floor to public comments.

Vice Chair Beer moved to approve the formation of an ad hoc committee to develop Harbor Commission objectives for 2024 comprised of Chair Scully, Commissioner Svrcek, and Secretary Marston. Commissioner Yahn seconded the motion. The motion carried (7 – 0) by the following roll call vote:

**Ayes:** Cunningham, Marston, Svrcek, Williams, Yahn, Beer, Scully  
**Nays:** None  
**Abstain:** None  
**Absent:** None

### 3. Ad Hoc Committee Updates

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

**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, 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.

There were no substantive updates as related to the Balboa Ferry ad hoc committee.

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

**4. Harbor Commission Current Objectives Update**

At the February 8, 2023, Harbor Commission meeting the decision was made by the Commission to continue the 2022 Objectives instead of creating new ones for 2023. The Commission felt there was still much work to be done on the 2022 Objectives and it would allow the new City Council Members to get settled and learn about the Harbor Commission. Each ad hoc committee studying their respective Functional Area within the Commission’s 2022 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, 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.

<b>Functional Area 1: Harbor Operations (Yahn)</b>		
<b>Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement</b>		
<b>Objective</b>		<b>Report</b>
1.1	Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn)	Received input regarding updates; will proceed further with Harbormaster regarding updates to Title 17 and then potentially having an ad hoc committee or the Harbor Commission review them.
1.2	Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	Discussion on potential updates for MAPs and possible creation of ad hoc committee to assist with updates.
1.3	Work with City Staff to bring all onshore and offshore Mooring.	No report.

	Permittees permit forms current and properly on file. (Beer, Cunningham)	
1.4	Evaluate current Harbor Department Operations to determine if the department is structured properly to meet all responsibilities of the Harbor on a daily basis.	No report.
<b>Functional Area 2: Harbor Viability (Beer)</b>		
<b>Matters pertaining to Assets, Amenities, and Access</b>		
<b>Objective</b>		<b>Report</b>
2.1	Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham)	No report.
2.2	Work with City Staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)	Appraisals are in process; expect back in 60 to 90 days.
2.3	Evaluate the current mooring fields and provide a recommendation for new guidelines that better define rows and fairways to improve navigation, safety, and optimization of space within the mooring fields. (Beer)	This item was reviewed by the City Council and is complete.
2.4	Review the On-shore mooring vessel specifications providing a long-term plan with the goal of insuring adequate spacing between moorings, residential docks, and street ends. (Cunningham, Scully)	No report.
2.5	Evaluate options for additional City Moorings and/or Multi Vessel Mooring Systems (MVMS) for temporary use by visiting mariners or long-term mooring permittees. (Williams)	No report.
2.6	Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)	No report.
<b>Functional Area 3: Harbor Infrastructure (Cunningham)</b>		
<b>Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches</b>		
<b>Objective</b>		<b>Report</b>
3.1	Support staff on the rehabilitation of the current public floats and gangways including areas of the harbor that could benefit with additional public access.	Dock plan in progress with Public Works. This objective is considered complete.
3.2	Evaluate and identify the responsibilities and obligations of the City for additional safety vessels/equipment that may be added to the Harbor in the future.	Does this need to continue to be an objective? Consideration for the 2024 Objectives.
<b>Functional Area 4: Harbor Stakeholders (Scully)</b>		
<b>Matters pertaining to Residential, Recreational, and Commercial Users</b>		
<b>Objective</b>		<b>Report</b>
4.1	Evaluate enhancements and/or services to City amenities which will improve the operation and enjoyment of the Harbor. Additionally, identify new revenue generating offerings that would be administered through the Harbor Department. (Scully)	No report.
4.2	Evaluate and make recommendations for Lower Castaways. (Marston)	No report.
4.3	Continue the dialogue with representatives of the Harbor Charter Fleet industry, commercial vessel operators and rental concessionaires to: (1) promote best practices for all charter and commercial boat operations in Newport Harbor with particular attention to safety, operational support, speed, noise and pollution control/compliance and (2) evaluate (a) total number of vessels for hire on the harbor, (b) maximum passenger capacity for each vessel and in total, and (c) overall height of the superstructure of vessels for charter within the Harbor. (Williams)	4.3.1 Potential to develop a smaller subcommittee and development of objectives. 4.3.2 This Objective is complete.



Chair Scully opened the floor to public comments.

Jim Mosher commented on existing Municipal Code sections which provide definitions for “recreational activity” and regulations regarding safety and suggested clarification in the Code to determine where the actual swimming areas are located (Section 11.12).

Seeing no others who wanted to provide comment, Chair Scully closed the floor to public comments.

The item was received and filed.

**5. Harbormaster Update – June 2023 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, events 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.

Brief discussion ensued regarding the Coastal Commission and its interaction with the City and staff.

Harbormaster Blank provided a summary of the staff report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Chair Scully opened the floor to public comments. Seeing none, Chair Scully closed the floor to public comments.

There was no further action taken on this item.

**9. MOTION FOR RECONSIDERATION**

None.

**10. COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)**

None.

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

The following items were mentioned as matters to be placed on a future agenda:

1. Vision statement approved by City Council in 2006.
2. Continuation of discussion on mooring licensing.

**12. DATE AND TIME FOR NEXT MEETING: Wednesday, August 9, 2023, at 5 p.m.**

This meeting will be held in the City Council Chambers.

**13. ADJOURNMENT**

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

DRAFT