

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES  
City Council Chamber – 100 Civic Center Drive, Newport Beach, CA  
Wednesday, August 9, 2023  
5 p.m.

**1. CALL MEETING TO ORDER**

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

**2. ROLL CALL**

PRESENT: Steve Scully, Chair  
Ira Beer, Vice Chair  
Scott Cunningham, Commissioner  
Rudy Svrcek, Commissioner  
Gary Williams, Commissioner  
Don Yahn, Commissioner

ABSENT: Marie Marston, Secretary (excused)

Staff Members: Paul Blank, Harbormaster  
Jennifer Biddle, Administrative Assistant  
Jeremy Jung, Deputy City Attorney  
Lauren Wooding-Whitlinger, Real Property Administrator

**3. PLEDGE OF ALLEGIANCE – Chair Scully**

**4. PUBLIC COMMENTS**

Chair Scully outlined the meeting rules of decorum and opened the floor to public comment.

There were no members of the public who elected to make public comments on non-agenda items.

**5. APPROVAL OF MINUTES**

**1. Draft Minutes of the July 12, 2023 Harbor Commission Regular Meeting**

Vice Chair Beer requested the subject minutes reflect the letter received on July 11, 2023 from the Newport Mooring Association (NMA), that he answered the two questions in the letter, and offered the NMA an opportunity to meet with the Harbor Commission if they send any additional questions in advance.

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 July 12, 2023, as amended. Commissioner Williams seconded the motion. The motion carried (6 – 0 – 0 - 1) by the following roll call vote:

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

## 6. CURRENT BUSINESS

### 1. Recommendation on New License Agreement for Use of Vacant City Moorings – Refined Language and Code Revisions

The City currently has in its possession fourteen vacant moorings. 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 use moorings without having to acquire an existing permit or participate in the sub-permit process at their June and July 2023 meetings. At those meetings, direction was given to staff to return with a proposed license agreement and arrangement for fairly issuing licenses to members of the public interested in making use of these moorings.

#### **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.

Vice Chair Beer provided a summary of the report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed.

Discussion ensued and included comments regarding designated length of chains, use of a lottery, month-to-month auto renewals, potential to extend 15-day timeframe, Harbormaster's ability to deem leave for up to 6 months, 27% discount and methodology related to the appraisal, revenues collected on the product will go into the Tidelands Management Fund for improvements to the Harbor (mostly capital), revenue amounts to be applied toward debt service, required disclosures to potential buyers of mooring permits, transferable versus non-transferable permits, assignment of premiums for location, potential of assigning a portion of revenues toward management, staff, and inspections, and the methodology for rate calculations.

Chair Scully opened the floor to public comments.

Jim Mosher inquired if his written comments on this item were received by the Commission, stated he was generally in support of the new product, suggested changes to the proposed amendments to Title 17, and expressed concern regarding the charges as related to tackle.

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

Discussion ensued and included comments regarding tying rates to various entities or to an index, changing the time of vacancy from 15-days to 30-days, annual fees to be included in waitlist, recommendation that funds get applied to the Harbor Department to the maximum extent possible and allowable by law, tying the financial determination and analysis to the result from the Balboa Basin Yacht Club, options to set rates, the rights to reassess the index annually, and changing the time of vacancy to 25-days.

Vice Chair Beer moved to:

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. Forward to the City Council for their review and consideration, the Harbor Commission's recommendation to approve a new Mooring License Rental Product and Agreement allowing for longer term rentals to the public for existing City-owned moorings and future moorings that may be acquired or constructed by the city of Newport Beach, as amended per the supplemental documentation provided at the August 9, 2023 regular meeting, including:

- a. 25-day vacancy change
- b. Annual fee of \$10 per mooring to remain on the waitlist
- c. New fee schedule for the City Mooring License Rental Product as set forth in the supplemental documentation, tied to the existing index used by the City for determining the Balboa Basin Yacht Club rates, with a condition that at some point in the future should the City change the methodology by which the fees are determined, that the methodology is reviewed annually by the Harbor Commission for any necessary adjustments or to request a new appraisal
- d. Adopt changes to the municipal code to accommodate the new City Mooring License Rental Product and Agreement, as conformed by the City Attorney's Office
- e. 25% of the revenues generated from the new product, at minimum, go directly to fund Harbor operations as a substantial amount of their time, energy and effort is spent towards mooring maintenance

Commissioner Yahn seconded the motion. The motion carried (6 – 0 – 0 - 1) by the following roll call vote:

**Ayes:** Cunningham, Svrcek, Yahn, Williams, Beer, Scully

**Nays:** None

**Abstain:** None

**Absent:** Marston (excused)

## 2. General Plan Vision Statement Update

The City is currently engaged in an update to the General Plan. Chapter 2 of the City's General Plan includes a vision statement for "Boating and Waterways" within the jurisdiction of the City. It has been suggested the Harbor Commission review the existing vision statement and contribute suggested revisions. The Commission may wish to discuss and suggest revisions during a regular Harbor Commission meeting or convene an ad hoc subcommittee to develop recommendations for the full Harbor Commission to consider at a subsequent 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; or
- 3) Make recommendations about a revised vision statement to be included in the updated General Plan; or
- 4) Convene an ad hoc subcommittee to develop a revised vision statement to be presented at a subsequent meeting.

Harbormaster Blank provided a summary of the report provided in the publicly noticed agenda packet. A PowerPoint presentation was displayed. He requested Mr. Jim Mosher be recognized for bringing this item to the attention of the Harbor Commission.

Chair Scully opened the floor to public comments.

Mr. Mosher commented on the General Plan, his membership on the General Plan Advisory Committee and Vision Statement subcommittee, the Harbor and Bay Element of the General Plan, the articulation of associated goals and policies through development of the Vision Statement and suggested that the Harbor Commission work with the consultant who is assisting the City to update the Harbor and Bay Element.

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

Discussion ensued including comments regarding the potential creation of a Harbor Commission subcommittee to work with the Harbor and Bay Element update consultant, City staff, and the General Plan Advisory Committee as related to the Vision Statement.

Commissioner Yahn moved to approve the formation of an ad hoc committee to develop a revised General Plan vision statement to be presented at a subsequent meeting comprised of Chair Scully and Secretary Marston. Commissioner Cunningham seconded the motion. The motion carried (6 – 0 – 0 -1) by the following roll call vote:

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

### 3. Report on Process and Progress to Convert Mooring Permits to New City Form

The City took over management of nearly 1,200 moorings in Newport Harbor on July 1, 2017. Records associated with the mooring permits were transferred from the Orange County Sheriff's Department Harbor Patrol to the City at that time. Subsequently, the mooring permit form was updated and all permittees were asked to sign the new City issued form. There are 991 individual mooring permits not held by the Balboa Yacht Club, Lido Isle Community Association or the Newport Harbor Yacht Club. The process of converting those 991 individual permits to the new City form has been slower than anticipated.

This report and presentation will update the Harbor Commission on the process and progress for converting those 991 individual permits. The Commission may wish to discuss or suggest how the permits not yet converted (those still outstanding) might best be handled.

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

Discussion ensued and included comments regarding gaining clarification on the current number of vessels on the 5 moorings, methods for tracking ownership of outstanding permits, requirements for valid current permits, starting the process for noticing violations on the subject moorings, the potential to schedule an October agenda report regarding final written notice and revocation of permits due to non-compliance for any subject permit as determined to be necessary,

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.

There was no further action taken on this item.

### 4. 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.

Balboa Ferry ad hoc committee report:

Chair Scully spoke with Joe Beek who reported they made some progress and they have engaged in an agreement with a marine consultant to evaluate and recommend a path to electrify the existing ferries. Grant money will be needed which will require a detailed plan. The detailed plans will also provide estimates as to costs for electrification. The grants are estimated to cover approximately 80% of the cost (\$11 million for 3 ferries). A request was made to have staff obtain statistics from the City's traffic management division as related to the number of cars transported by the ferries.

Discussion ensued regarding the legal parameters related to City financial contributions to a private enterprise, such as the Balboa Ferry.

2024 Objectives ad hoc committee report:

Chair Scully provided an overview of the Objectives document distributed to the Harbor Commission.

Discussion ensued including comments related to the dredging objective, prioritizing the 8 to 10 objectives by the next meeting, the feasibility of addressing the transfer policy and a City-owned and managed boat launch ramp, oversight compliance and protection of City-owned marinas and associated maintenance items, and including a bullet point for a climate change abatement plan.

Chair Scully opened the floor to public comments.

Jim Mosher referred to the 7 core responsibilities of the Harbor Commission on the City's website and emphasized Number 6. He suggested the Harbor Commission review the Harbor Area Management Plan as an objective.

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

Chair Scully requested the Harbor Commissioners finalize their review of proposed 2024 Objectives and be prepared to discuss this matter when it is scheduled on an upcoming agenda (no later than October).

There was no further action taken on this item.

**5. 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)	Moving along, met with Deputy Harbormaster,

		scheduled to have list finalized for presentation to Commission within the next few meetings
1.2	Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	Nothing to report.
1.3	Work with City Staff to bring all onshore and offshore Mooring Permittees permit forms current and properly on file. (Beer, Cunningham)	Nothing to report.
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.	Nothing to 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)	Nothing to report.
2.2	Work with City Staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)	There is an appraisal and process for the existing offshore moorings; will be brought to Commission within the next few meetings
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)	Completed; Can be removed from the list
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)	BIIA came to meeting last month and were supportive; will address smaller subset such as Ruby Beach
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)	Will be addressed after the mooring reconfiguration rolls out (in hands of Coastal Commission)
2.6	Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)	Nothing to 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.	Nothing to report.
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.	Nothing to report.
<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)	There is construction going on with the Marina extension at Balboa Marina.
4.2	Evaluate and make recommendations for Lower Castaways. (Marston)	Assigned Commissioners have reached out to initiate discussions with the Parks Beaches and Recreation Commission regarding PBR's interest in developing a pool concept on the subject site
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 A productive Safety Committee meeting was held at City Hall; discussion regarding convening a smaller subset functional safety subcommittee of harbor users. 4.3.2 Objective is complete.

Chair Scully opened the floor to public comments.

Jim Mosher commented on Item 2.4, citing there may be a conflict with the moorings, noted the location of various swimming beaches, and stated he was pleased with the GIS mapping of beaches on the City's website.

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

There was no further action taken on this item and it was received and filed.

**6. Harbormaster Update – July 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.

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

Discussion ensued including comments related to the location of where crabs were caught, placement of dye tabs, inspections of pump-out logs for live-aboards, correction of an error in the code enforcement statistics, the electrical panel fire at Marina Park, and recent damage to sewer lines.

Chair Scully opened the floor to public comments.

Jim Mosher inquired whether the bridge jumping statistics presented were historically high or low.

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

There was no further action taken on this item.

**7. MOTION FOR RECONSIDERATION**

None.

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

Commissioner Svrcek commented on water balloons being thrown from Lido Bridge.

**9. 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:

Vice Chair Beer: Update on permit compliance (October)

Commissioner Cunningham: Off-shore mooring appraisal (within the next few months)

**10. DATE AND TIME FOR NEXT MEETING: Wednesday, September 13, 2023 at 5 p.m.**

**11. ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:33 p.m.