

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers – 100 Civic Center Drive, Newport Beach, CA
Wednesday, January 10, 2024
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
Marie Marston, Secretary
Scott Cunningham, Commissioner
Rudy Svrcek, Commissioner
Gary Williams, Commissioner
Don Yahn, Commissioner

ABSENT: None

Staff Members: Paul Blank, Harbormaster
Jennifer Biddle, Executive Assistant
Chris Miller, Public Works Administrative Manager
Yolanda Summerhill, Assistant City Attorney
Lauren Wooding, Real Property Administrator
Matt Cosylion, Deputy Harbormaster
Jeremy Jung, Deputy City Attorney

3. PLEDGE OF ALLEGIANCE – Led by Vice Chair Beer.

4. PUBLIC COMMENTS

Adam Leveranz inquired if public comments were allowable under each agenda item and noted that Item 7.2 in the agenda packet was missing certain pages between 17 and 19.

5. APPROVAL OF MINUTES

1. Draft Minutes of the November 8, 2023 Harbor Commission Regular Meeting

Commissioner Marston moved to approve the November 8, 2023 Harbor Commission Regular Meeting minutes, as amended. Seconded by Commissioner Williams. The motion carried by the following roll call vote:

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

6. PUBLIC HEARING

1. Appeal: Residential Dock Reconfiguration at 101 Bayside Place

Recommendation:

- a. Find this 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 that no exceptions under Section 15300.2 apply; and
- b. Adopt Resolution HC2024-01 of the Harbor Commission of the City of Newport Beach, California denying the appeal and upholding the approval in concept of the residential dock reconfiguration at 101 Bayside Place.

Public Works Administrative Manager Chris Miller noted the appellant requested to address the Harbor Commission prior to the commencement of the agenda report.

Gary McKitterick, attorney representing the appellant, requested a continuance of the item to the March hearing as new information relevant to the appeal was provided in the staff report that was not made available to the appellant prior, specifically as related to the size of the vessel to be docked, their biologist is out of town, the new information related to the size of the vessel, and the two maneuverability studies showing results of a 77-foot boat and a 90-foot boat.

Public Works Administrative Manager Miller stated the information had been available since he issued his approval in concept on November 1. The appellant did not request copies of any information until January 3, but it was available for the asking since the November 8 appeal filing. As far as the 77-foot boat maneuverability study, he did not issue that item earlier because the study did not represent the final requested boat length.

The appellant stated that they placed a public records request in on January 3, 2024 to ensure they had the correct information. At that time, they became aware of the special conditions which had been written in November, but were not shared with the appellant.

Assistant City Attorney Yolanda Summerhill confirmed the agenda for this meeting was noticed in compliance with the California Brown Act, which requires 72-hour notice prior to the meeting. It is within the Commission's discretion to hear the matter at this time or continue to another date.

There was general consensus from the Commission to hear the matter at this time.

Chair Scully opened the public hearing.

Public Works Administrative Manager Chris Miller provided a summary of the information contained in the publicly noticed agenda report. A PowerPoint presentation was displayed. The item before the Commission is the appeal of the Public Works Director's November 1, 2023 decision to approve a residential dock reconfiguration project at 101 Bayside Place. The final proposed dock design in the Approval in Concept is being appealed. The subject project is entirely landward of the Pierhead and Bulkhead Lines and does not require Harbor Commission review; staff is authorized to approve the project pursuant to Council Policy H-1. Because of the location of the project, staff requested additional information from the applicant before consideration,

including project dimensions, acknowledgement of both neighbors, and a maneuverability exhibit with scaled vessels providing graphical depictions. Upon receipt of the additional information from the applicant, staff sought the opinion of the Harbormaster, with specific consideration of the maneuverability exhibits. The Harbormaster concurred with Public Works that there was adequate water area to maneuver to/from the side-tie and that the neighbors also had adequate water area for ingress/egress into their respective slips.

After reviewing the application and requested additional materials, staff approved the project but did not issue the permit, in accordance with NBMC section 17.50.040(B). As a courtesy, staff informed the two adjacent property owners of the decision and that the permit would not be issued for 14-days to allow for the appeal period. Staff also posted this decision on the City's webpage for 14-days. It should be noted that Special Conditions were attached to the Approval in Concept with site-specific conditions, as noted in the publicly noticed agenda staff report. The appellant appealed staff's decision to approve the dock reconfiguration based upon the items listed in the publicly noticed agenda staff report. Newport Beach Municipal Code (NBMC) Section 17.65.040(E) states that "at an appeal or review hearing, the reviewing body (Harbor Commission) shall make the findings prescribed in Section 17.05.140(D)(1) or state why it cannot make the findings when affirming, modifying or reversing the original decision." The detail concerning the various findings is listed in the publicly noticed agenda staff report.

The subject project conforms to City requirements and standards established by the City Council. It should be noted that view corridors as it relates to vessels are not protected in Newport Harbor. The Harbor Commission may modify the Public Works Director's decision to approve the Project if specific findings in NBMC Section 17.05.140(D)(1) are made. The Harbor Commission may rely on the Findings noted within the report but may also make (and/or be required to make) augmented or amended Findings. If the Harbor Commission modifies the Public Works Director's approval, the Harbor Commission must also make a California Environmental Quality Act ("CEQA") finding, which may differ from that in Recommendation No. 2. Staff would therefore provide a draft resolution for final approval at the next Harbor Commission meeting. The Harbor Commission may also reverse the Public Works Manager's decision and deny the subject project if specific findings are made as noted in NBMC 17.05.140(D)(1). No CEQA determination would then be required. Staff recommends the Harbor Commission find this Project categorically exempt from CEQA as detailed in the publicly noticed agenda staff report. However, if the Harbor Commission adopts the alternative action to modify the Public Works Director's decision to approve the Project, additional CEQA review may be required since the Project may no longer remain categorically exempt. If the Harbor Commission adopts the alternative action to reverse the Public Works Manager's decision and deny the Project, then no CEQA determination is required.

Commission and staff discussion ensued including affirmation that a vessel docked at 103 Bayside Place must cross the prolongation of the property line and into 101 Bayside Place's water area for ingress and egress. It was also discussed that dock designs within the Entrance Channel must consider the heavy currents, tidal activity and the need for increased slip sizes in that area.

Assistant City Attorney Summerhill confirmed there are no view protections under the City's municipal code for the subject property area.

Commission and staff discussion ensued including confirmation that any attachments affixed to a vessel, especially dinghies, could violate the maximum vessel length allowed; confirmation that it is up to the regulatory and resource agencies, not the City, to review biological studies and to include related conditions within their respective permits, as applicable; confirmation that there are only small adjustments in the subject configuration concerning the pier and gangway compared to the existing configuration; confirmation that staff does not dictate how an applicant chooses to design their dock systems; and confirmation that the project, as submitted, is exempt from the California Environmental Quality Act (CEQA).

Gary McKitterick, attorney representing the appellant, displayed PowerPoint presentation as part of his comments. He stated they filed an addition to an initial appeal letter and a supplemental letter, and they would like the opportunity to respond at the end of the hearing if there are additional questions or if there are new facts from the applicant to address in a rebuttal. He understands the request for continuance was rejected. If the proposed dock expansion and the reconfiguration at the subject property is granted, it will substantially, negatively and irreparably alter the unique character of the cove at the subject property neighborhood. It will create an unsafe condition on the water and impinge on privacy of the residents of Bayside Place. He requested that the Commission honor the appeal and reject the approval in concept. There are only seven residents in the cove and all have U-shaped or pull-in docks. He acknowledged the 72-hour notice and that they could have done a public records request earlier. He stated it was not the way to conduct proceedings when there is awareness of a material opposition to a change in the Harbor. He alleged the appellants were misled in that 77-foot and 90-foot boats are dramatically different. It is imperative that the Commission evaluate the adverse impacts if they are going to consider a dock reconfiguration. The existing U-shaped boat dock should remain as-is and it is more safe and stable. There is no justifiable reason to change the dock configuration and size from the otherwise compatible size and character to the surrounding docks. The dock expansion would destroy the special nature of the cove. The City would be leaving it to the residents to call for enforcement when conditions of approval are not followed. The proposed dock is 15% larger than the current dock and 70% longer and materially wider. The dock expansion would require removal and replacement of more than 12 existing concrete and steel pilings, with much more significant disturbance of the sea floor and impact to sensitive marine life. The 100-foot or 90-foot vessel plus a 40 foot boat, if the condition were imposed, will eliminate coastal views and create material adverse intensity and capacity abuse, as it will appear to be more like a commercial use.

Mike Hewitt, attorney representing the appellant, stated the maneuverability layouts are missing all of navigation and safety elements that a captain or an operator of a vessel would have to contend with on any given day coming in and out of this proposed dock, such as storm surges, wind currents, and tides. A video was displayed. The U-shaped docks assist with safety. He encouraged the Commission to review correspondence submitted by Doug Carson.

Gary McKitterick stated there is a CEQA implication to this proposed project, and the project will have a significant effect on the environment. The biological impacts are not within the purview of the Harbor Commission, however, the project creates a safety concern and there is no compelling

reason to change the character of the harbor or U-shaped dock. He requested that the Commission grant the appeal and vacate the current approval in concept.

Mike Pacheco, representing the applicant as an in-house principal, introduced Jacquelyn Chung who is a coastal permit specialist, and Brian Hylland from Bellingham Marine Industries, a dock design and construction company. The applicants purchased the property around 2014 with the intent to raise the existing home, and with due diligence, the decision to buy this property also included the ability to replace the existing dock which is failing in its current condition. The intention was to replace the dock subject to City development and Coastal Commission standards and other authority approval. There have been some valid concerns raised by the neighbors about traffic, however that is part of typical homeownership and marine maintenance. The dock design must be very robust and to his knowledge, it was designed to comply with by-right entitlements. To his knowledge, the City requirements for dock design have been met. To his knowledge, the applicant has avoided eelgrass and will continue to do so. The City stands ready to approve the project and he stated that certain information provided by the appellant is not factually correct. The applicant remains willing to agree to a compromise, as submitted previously. However, the applicant has met the City's requirements and ask for approval of the subject project to advance to the Coastal Commission for next steps.

Brian Hylland of Bellingham Marine Industries representing the applicant, stated the proposed dock reconfiguration is the same type of technology used in wave attenuator systems, and U-shaped docks are older technology.

In response to an inquiry from Commissioner Yahn, Mr. Hylland stated the project was designed with the City's guidelines in mind and there does not appear to be a problem with the design elements.

In response to an inquiry from Vice Chair Beer, Mr. Hylland stated that stability is increased as the width of the structure increases, and a 10 foot reduction in length would still pass engineering standards for a 90-foot vessel.

In response to an inquiry from Vice Chair Beer, Mr. Miller stated that on Balboa Island, any proposed dock reconfiguration project is not allowed to increase their square footage beyond the existing square footage.

Chair Scully opened the public comment period.

Jay Moss, 109 Bayside Place, stated the potential negative impacts on the adjacent neighborhood due to the scale of the subject project including traffic impacts and those seeking to view the large-scale yacht. He expressed concerns with lack of noticing of the project, stating they only received a notice around December 15, 2023. He referenced that he was told by the City he could not get a bigger dock for his own property and such would not be approved.

Seeing no others, Chair Scully closed the public comment period.

In response to Vice Chair Beer, Mr. Miller confirmed that the original application referenced a 77-foot vessel, and subsequently the application had been modified for a 90-foot vessel. The final application showed a 100-foot float, and the Commission understood that a 100-foot vessel could be accommodated.

Commission Yahn inquired if there have ever been conditions of approval placing restrictions on land use as part of such applications including items to address intensity of use. Staff confirmed there are typically no restrictions for land based impacts.

Assistant City Attorney Summerhill stated that the conditions typically have to coincide with what the approvals are. She was unaware if there are restrictions within that private easement driveway. It could be imposed upon the neighbor or the applicant to ensure that they do not have their respective staff impede parking.

Assistant City Attorney Summerhill suggested the Chair Scully grant the appellant an opportunity to make a brief rebuttal to the information presented during the public hearing.

Chair Scully confirmed with Mr. Miller that the Public Works Director approval of the subject project was allowable under existing City and City Council standards and approval of same was not required to come before the Commission for approval apart from the appeal of the Director's approval.

Mr. McKitterick, attorney representing the appellant, expressed concerns that approval of the subject project would be a permanent change attached to the property and could have significant negative impacts to safety especially if a large boat comes off the moorings without a captain to mitigate any issues.

Chair Scully closed the public hearing.

Vice Chair Beer moved to:

1. Find this 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 that no exceptions under Section 15300.2 apply; and
2. Adopt Resolution HC2024-01 of the Harbor Commission of the City of Newport Beach, California denying the appeal and upholding the approval in concept of the residential dock reconfiguration at 101 Bayside Place.

Seconded by Commissioner Williams. The motion carried by the following roll call vote:

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

7. CURRENT BUSINESS

1. Code Enforcement Update - Special Enforcement Programs

Recommendation:

- a. 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
- b. Receive and file.

Deputy Harbormaster Matt Cosylyon provided a summary of the information contained in the publicly noticed agenda report. A PowerPoint presentation was displayed. Information presented included the mission of the Harbor Department, the promotion of enforcement programs to encourage safe boating, enhance water quality and eliminate public nuisances, focusing heavily on educating the members of the public. He provided detail on the navigational lighting enforcement program, especially for rental vessels, dye tab program, after-hour patrols, residential dock inspections, and the next steps to encourage the Department's mission and safe use of the Harbor amenities.

In response to Commissioner Yahn, Mr. Cosylyon stated there were only two dye tab fails in 2023, and were not overtly intentional. The vessel occupants were able to resolve the matter quickly.

In response to Commissioner Marston, Mr. Cosylyon stated speeding enforcement is under the category of enforcement, with more speeding occurring during the summer months. He further stated that "foils" are also regulated with speed enforcement, and educational methods are utilized.

Chair Scully confirmed that the Sheriff's stated they received validation that "foils" must be marked with "CF" numbers.

In response to Commissioner Svrcek, Mr. Cosylyon stated speeding enforcement is applied relative to the level of speeding, with variations from issuing a warning through administrative citations. He also responded that code enforcement also occurs at the public docks, including impounding vessels after expiration of time limits. This is a robust part of the enforcement program.

Chair Scully opened the public comment period.

A member of the public requested more detail concerning the dye tab protocol, expressing concern that boaters would be negatively impacted by having to go to the Harbor Department, rather than them going to the vessel. Mr. Cosylyon confirmed that staff would make appointments with the vessel owners/operators to conduct the dye tab protocols. The speaker also commented that if the code enforcement of the docks could raise the limit to 10-feet, there would be more compliance.

Seeing no others wishing to speak on this item, Chair Scully closed the public comment period.

There was no action taken on this item.

**2. Review of Appraisal and Discussion of Rental Rates for Off-Shore Mooring Permits
Recommendation:**

- a. 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
- b. Issue a recommendation to the City Council regarding this matter.

Real Property Administrator Lauren Whitlinger provided a summary of the information contained in the publicly noticed agenda report. A PowerPoint presentation was displayed. As prescribed by City Council Resolution No. 2016-17, a new appraisal of mooring rental rates for offshore moorings has been conducted under the direction of the Harbor Commission subcommittee responsible for 2021 Harbor

Commission Objective 1.3. The City issued a Request for Proposals and Netzer & Associates was contracted to perform the appraisal work. In late 2023, the appraiser was directed to evaluate the offshore moorings and the resulting appraisal is provided in the publicly noticed agenda report.

Given the significant difference in the appraised fair market rent compared to the City's current monthly rate, the Harbor Commission could recommend to City Council to implement the rent changes in phases, or at a lower percentage of the slip to mooring ratio.

Commissioner Beer continued the presentation, noting the Harbor Commission subcommittee responsible for 2021 Harbor Commission Objective 1.3 conducted a review of the subject appraisal and feels the Harbor Commission should consider making recommendations to the City Council with adjustments to the professional appraisal that reflect the unique characteristics and history of mooring permits in Newport Harbor, as well as the relationship between what mooring permittees pay relative to other users of tidelands in Newport Harbor including slip tenants at Balboa Yacht Basin and the licensees on the City moorings. The subcommittee has prepared the analysis in the publicly noticed agenda report and seeks feedback from the public and the full Harbor Commission on potential alternatives to the rates in the appraisal and how those alternatives can be substantiated to comply with requirements outlined in the Beacon Bay Bill and Resolution No. 2016-17.

Beyond the change to the monthly rate, staff recommends the continuation of annual adjustments to the rental rates based on the Consumer Price Index, similar to what is currently being performed. Additionally, staff recommends continuing fair market adjustment to the rental rates at five or ten year intervals and/or at the direction of the Harbormaster, pursuant to an appraisal to be performed by a Member of the Appraisal Institute (MAI) appraiser.

In response to Commissioner Cunningham, Commissioner Beer stated the recommendation for the process going forward is to receive input from the Commission and public as part of this item, conduct an actual public stakeholder meeting, specifically to address all the details of the appraisal and the effects to the existing and future mooring permittees. The Commission subcommittee would analyze and present recommendations back to the full Harbor Commission for consideration at a publicly noticed meeting.

Commission, consultant, and staff discussion ensued on the various methodologies utilized in the appraisal, the use of sales and rental comparison rates, the scope of the comparison which

ranged from San Francisco Harbor to San Diego, confirmation that most municipalities do not allow transferability, that “stair-stepping” is more in the marinas with the slip spaces than it is with the moorings, the subcommittee’s approach to keep rates at a conservative level, slightly below what fair market value perceivably looks like, keeping it in align with what the City Council had previously approved. However, it was stated that it was imperative to hear from the public and have stakeholders to be transparent with the information that has been gathered and to receive their perspective and input.

Chair Scully inquired if there is an obligation to hire an appraiser to come up with a fair market value or if there was a penalty for recommending something that was a percentage discount from fair market value. Ms. Whitlinger confirmed the Commission would be making a recommendation to the City Council and they would enact the resolution approving the rates and the rates that they establish are fair market value rates.

In response to Commissioner Marston, Ms. Whitlinger confirmed the State requires the City to charge fair market value rates. The City Council has to weight the Commission’s recommendation if it is less than fair market value, as well as other regulatory requirements.

The City’s consultant confirmed that he would transmit research information concerning transferability to the members of the Commission, particularly any other harbors which may have moorings that can be transferred. He also confirmed that private mooring owners have more discretion over what they can charge.

Chair Scully opened the public comment period.

Jerry La Pointe requested the Commission conduct further stakeholder and public meetings at the request of the NMA, which has also retained an appraiser of their own. She expressed concerns regarding the rental rates proposed in the current agenda report.

Jennifer Krestan expressed concerns that the proposed increases will have negative impacts and violate the Beacon Bay bill and other statutes and regulations. She has requested another appraisal.

Chris Bliss stated as a mooring owner he has not had a chance to review the full report and noted moorings have no value if there is no access, and the appraisal results do not take into consideration the transport vessels, such as a dinghy, which are needed to access the moored vessel. He also expressed concerns regarding the negative parking impacts.

Scott Karlin commented on the impacts of the Beacon Bay bill and the need to educate the public on its provisions. He stated the NMA appraisal will be a professional independent evaluation and requested additional time to incorporate the results of that appraisal into the public record on this matter. He noted there are access vessel needs and information concerning transferable moorings which need to be incorporated into the record.

Wade Womack expressed concerns that the agenda report is partially unfair and not balanced, as it references policies that only justify increasing mooring rates, and does not emphasize other policies and regulations that justify maintaining low and affordable rates and public access to the

water and Harbor. He requested incorporate of further stakeholder input and the results of the NMA appraisal into the public record on this matter.

A member of the public commented that the comparisons references in the agenda report are unfair and do not incorporate the correct comparison information concerning maintenance. He expressed concerns regarding affordability of moorings in the future.

Don Potenza stated the proposed rates would increase his mooring fee four times over and expressed significant concerns regarding ongoing affordability.

Jim Palmer stated the new program provides an opportunity to establish actual performance metrics for accurate occupancy rates and fair market value before changing the formula and rates charged the current mooring holders. He requested the program be evaluated once metrics with seasonal information can be evaluated.

Hein Austin expressed concerns that the proposed changes are not in accordance with California statutes and other regulations and that the current appraisal does not take into consideration the boats along the perimeter of the Harbor.

Michael Lawler expressed concerns that the proposed rates were too high and that the comparison metrics utilized were not appropriate for public moorings, as they utilized information from private moorings which come with other amenities. He requested the rates be kept the way they are with the cost of living index applied each year and completed evaluation when the City can incorporate the findings from the NMA appraisal.

Adam Leveranz stated a page is missing from the publicly noticed agenda report and utilization of real estate comparisons is not appropriate in this matter. He expressed concerns regarding ongoing affordability of the moorings and requested additional noticing from the Harbor Department on this matter.

Nick Ralston stated the mooring fees are really a tax and expressed concerns about the comparisons made to non-transferable moorings, which is not appropriate in this case. He requested reconsideration of the proposed rates.

Ann Stenton appreciated the current affordability of the moorings and the lack of affordability for those who are not wealthy if the rates are changed.

Barbara Griffith thanked elected and appointed officials for the responses they provided to her emails. She expressed concern with the Commission making up their minds on this matter during this meeting and expressed concerns regarding the ongoing affordability of moorings and the impartiality of the appraisal.

Bud Cummins expressed concerns with the proposed changes as they would dramatically impact the ongoing affordability of the moorings, especially for liveboards like himself. He expressed concerns with the metrics and comparisons utilized in the current appraisal.

A member of the public noted there are currently many empty moorings and that proposed changes to the rates will increase the number of empty moorings due to lack of ongoing affordability.

A member of the public expressed concerns that the Commission had previously stated they were not going to recommend raising mooring rates and that the proposed rate changes may be in violation of State law.

Jim Mosher requested assurance that private yacht clubs are paying the City for their use of the water at the same rate that the other mooring holders are being charged and inquired how the results of the 2016 appraisal compare with the current appraisal, as it appears there was something wrong with the 2016 appraisal concerning the assessment of fair market value.

A member of the public expressed concerns that the proposed rates are not reasonable, especially as related to comparison metrics related to maintenance costs at private moorings.

A member of the public expressed concerns regarding the ongoing affordability of moorings and impacts on equitable access and use of moorings.

Seeing no others, Chair Scully closed the public comment period.

Commission and staff discussion ensued including comments confirming there are over 50 applications for the 16 City licensed moorings and disclosure on the City's website and other media outlets of applicable fees, the upcoming Thursday, February 1, 2024 public and stakeholder meeting scheduled for further consideration of this item, and appreciation for the public input received on this matter.

There was no action taken on this item.

3. Ad Hoc Committee Updates

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:

No updates at this time.

General Plan Vision Statement ad hoc committee report

No updates at this time

Chair Scully opened the public comment period.

Jim Palmer stated he thought he reviewed documentation that the Harbor Commission would revisit the transferability of moorings as part of their 2024 objectives.

Seeing no others, Chair Scully closed the public comment period.

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

4. Harbor Commission Current Objectives - Final 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.

Chair Scully stated the 2024 objectives were approved as part of the City Council consent calendar at their last meeting and the item during this meeting would be the final update on the current objectives.

Functional Area 1: Harbor Operations (Yahn)		
Matters pertaining to the Management, Policies, Codes, Regulations and Enforcement		
Objective	Report	
1.1	Conduct an annual review of Title 17 and recommend updates to the City Council where necessary (Yahn)	No update
1.2	Conduct an annual review of the Marine Activities Permits and recommend updates thereto as necessary.	No update
1.3	Work with City Staff to bring all onshore and offshore Mooring Permittees permit forms current and properly on file. (Beer, Cunningham)	No update
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 update
Functional Area 2: Harbor Viability (Beer)		
Matters pertaining to Assets, Amenities, and Access		
Objective	Report	
2.1	Study and provide recommendations to the transfer permit policy for onshore and offshore moorings. (Beer, Cunningham)	No update No update
2.2	Work with City Staff on an update of the market rent to be charged for onshore and offshore moorings. (Beer, Cunningham)	Discussed as part of the January 10, 2024 meeting agenda
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)	No update

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 update
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 update
2.6	Complete evaluation for establishing day moorings off Big Corona beach and harbor moorings. (Williams)	No update
Functional Area 3: Harbor Infrastructure (Cunningham)		
Matters pertaining to Sea Walls, Sea Level Rise, Dredging, Docks, and Beaches		
Objective		Report
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.	No update
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.	No update
Functional Area 4: Harbor Stakeholders (Scully)		
Matters pertaining to Residential, Recreational, and Commercial Users		
Objective		Report
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)	New public dock is close to completion
4.2	Evaluate and make recommendations for Lower Castaways. (Marston)	Did not make it to the agenda; Memo received from subcommittee to engage City Council and get authorization to hire a consultant for a best use study at approximately \$25,000-\$30,000. Asked to agendaize for next meeting; requested consideration of an aquarium with educational components in compliance with the General Plan.
4.3	Continue the dialogue with representatives of the Harbor Charter Fleet industry, commercial vessel operators and rental	A member (insert name) resigned from

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)	the Safety group, and (insert name) requested to be appointed; next meeting will be in February.
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Chair Scully opened the floor to public comments.

Jim Mosher expressed support for placing consideration of Lower Castaways on the next meeting agenda and spoke regarding historical aspects of the property and its designation. He noted the City Council received and filed the Harbor Commission's proposed objectives, and did not discuss or approve them.

Austin Hein noted there will be considerable input concerning the use of Lower Castaways, given the likely traffic and other impacts to adjacent properties depending on the proposed uses.

Seeing no others, Chair Scully closed the floor to public comments.

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

5. Harbormaster Update – November & December 2023 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.

The Commissioners thanked Harbormaster Blank and staff for their ongoing work to benefit the residents of Newport Beach.

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.

7. MOTION FOR RECONSIDERATION

None.

8. COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

Chair Scully noted the Council Policy H-1 will be on the City Council consent calendar for consideration on January 9, 2024

9. PUBLIC COMMENTS ON NON-AGENDA ITEMS

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

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

The following items will be added to the next agenda:

1. Consideration of a recommendation to the City Council to hire a consultant to conduct best use study for Lower Castaways.

11. DATE AND TIME FOR NEXT MEETING:

The next regular meeting was scheduled for February 14, 2024, at 5 p.m. There is also a special meeting scheduled for February 1, 2024 at 5 p.m.

12. ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:27 p.m.