

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, September 14, 2016
7:15 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 7:15 p.m.

2) ROLL CALL

Commissioners: Paul Blank, Chair
Dave Girling
Bill Kenney
Duncan McIntosh
Joe Stapleton
Brad Avery (arrived late)
Doug West

Staff Members: Chris Miller, Harbor Resources Manager
Shannon Levin, Harbor Resources Supervisor
Patrick Alford, Planning Program Manager

City Council Liaison: Duffy Duffield

3) PLEDGE OF ALLEGIANCE – Commissioner Stapleton

4) PUBLIC COMMENTS

Jim Collings reported a large boat, approximately 40 feet in length, was blocking access to the channel at the Newport Boulevard Bridge. He requested the Harbor Commission instruct staff to explore the situation and place an item on a future agenda for a full hearing.

Henry Haas advised that a 40-foot boat was impeding his use of the channel at the Newport Boulevard Bridge. He requested the Commission include an agenda item for the October meeting so that he could present information and a petition.

Walter Talleur shared details of his boat and his use of the north passage at the Newport Beach Bridge. He requested the 18-foot boat restriction for the dock be enforced.

Steven Haas related his experience with the boat blocking the channel at the Newport Boulevard Bridge. The boat was a hazard for other boaters. He wished to provide information and speak at a hearing on the issue.

5) APPROVAL OF MINUTES – August 10, 2016 Minutes

Commissioner Kenney moved approval of the Minutes as submitted. Commissioner Girling seconded the motion. The motion carried with 5 aye, 0 no and 1 abstaining votes.

Chair Blank brought Agenda Item 6 forward as Lieutenant Alsobrook, Harbormaster, was present.

6) **CURRENT BUSINESS**

1. ***Harbor Commission Objectives and Ad Hoc Committee Update: Quarterly Review***

Every quarter, the Harbor Commission will review the 2016 Objectives as well as the ad hoc committees they manage.

Recommendation:

- a) Receive and file.

Harbor Resources Manager Chris Miller advised that the purpose of the report was for Commissioners to provide comments of progress made on Harbor Commission Objectives and various ad hoc committees. Staff would publish comments in a report and post them to the City's website.

Chair Blank noted verbiage was cut off in the printed report and requested all language be included in the published report.

Commissioner Kenney suggested staff circulate a final draft quarterly report and request comments prior to the meeting. Chair Blank suggested the report provided in the staff report was sufficient for a final draft.

Jim Mosher believed the report gave an incorrect impression regarding a mooring management committee. This was actually the voting subset of the entire Commission that was selected at meetings to vote on mooring management issues.

2. ***Harbor Commission Ferry Tour Planning***

Planning details will be discussed about the upcoming Harbor Commission ferry tour later this year.

Recommendation:

- a) Receive and file.

Commissioner Stapleton reported the date for the ferry tour was December 10, 2016. Discussion would include derelict vessels, RGP-54, pumpout services, standup paddleboard safety, alternative anchorage, public piers, Mariners' Mile, Lower Castaways, alternative launch ramp sites, speed limits, marker replacement and more. Chair Blank clarified that the Harbor Commission meeting would begin at 8:30, and the ferry would depart at 9:00. Commissioners discussed ferry capacity, a registration process and reservations for VIPs. Anyone was welcome to attend the Commission meeting at 8:30 a.m. The first 60 people to the dock could board the ferry. Notice of the special meeting would be posted on the City's website and spread via word of mouth.

3. ***Harbor Design Standards – Draft Review***

The City is in the final stages of updating the Waterfront Project Guidelines and Standards – Harbor Design Criteria for Commercial and Residential Facilities (“Harbor Design Standards”). The purpose of this staff report is to provide a 90% final draft for the Commission and public to review over the next month. An ad hoc committee will also be formed to review the document before the Commission considers the near final draft in October.

Recommendation:

- a) Receive and file; and
- b) Form an ad hoc committee to review the Harbor Design Standards in detail and to report back to the Commission in October.

Harbor Resources Manager Chris Miller wished to provide the Harbor Design Standards to the Commission and the public to begin the 30-day review period. Staff had received recommendations to improve the Harbor Design Standards and was finalizing studies for incorporation into the package. He hoped to return to the Harbor Commission in October for comment and to present the results of the studies.

Chair Blank requested volunteers for an ad hoc committee to review carefully the document and return with a presentation in October. Mr. Miller envisioned a public breakout meeting with the ad hoc committee in a few weeks to review standards in detail. Commissioners discussed obtaining public comment, especially from contractors, and delaying review of the Harbor Design Standards for 60 or 90 days. Mr. Miller hoped to present the Harbor Design Standards to the Council in November as the Building Department was also presenting the updated California Building Codes. Commissioners Girling, McIntosh and Kenney agreed to serve on the ad hoc committee.

Commissioner West moved to appoint Commissioners McIntosh, Kenney and Girling to an ad hoc subcommittee to address with public participation the revised Harbor Design Standards. Commissioner Stapleton seconded the motion.

Jim Mosher felt the Council hearing the Harbor Design Standards along with the revised Building Codes was irrelevant. He wondered whether revisions to the Standards corrected ambiguities raised in a recent hearing before the Commission.

Carter Ford suggested staff invite engineers to participate in commenting on the Harbor Design Standards. An engineer had shared with Mr. Ford his hope that the Standards would allow more latitude and flexibility and provide an easier process.

Commissioner Kenney remarked that input from the engineering and construction trades would be critical and suggested an outreach meeting be held in the evening.

The motion carried with 7 aye, 0 no and 0 abstaining votes.

4. *Newport Beach Draft Sustainability Plan*

The Harbor Commission is asked to review the Newport Beach Draft Sustainability Plan, and to provide comments to staff.

Recommendation:

- a) Review and discuss the Sustainability Plan; and
- b) Direct staff to report and to provide comments and/or recommendations to the City Council.

Planning Program Manager Patrick Alford provided an overview of the Sustainability Plan. He requested the Harbor Commission provide opinions regarding the Sustainability Plan.

Harbor Resources Manager Chris Miller noted five sections of the Draft Sustainability Plan that could be of interest to the Harbor Commission.

Former Mayor Gardner reported a good cross-section of the community had participated in developing the Sustainability Plan. It was important to maintain businesses related to the harbor and not to be narrow in definitions. The City depended upon grants for many projects, and a Sustainability Plan would be important to granting agencies.

Commissioner Stapleton felt the Harbor Commission's support of the Sustainability Plan was critically important.

Commissioner West echoed Commissioner Stapleton's comments and highlighted opportunities for water conservation in the harbor.

Chair Blank disclosed that he had participated in two sessions regarding the Sustainability Plan; however, he did not represent the Harbor Commission at those meetings. The Sustainability Plan did a good job of identifying incentives and offering latitude to people who wanted to approach development and improvement opportunities within the City. The section regarding waste reduction was an opportunity to identify appropriate locations for marine recycling and hazardous materials disposal.

Jim Mosher suggested comments from previous Board and Commission reviews be provided to subsequent Boards and Commissions. The Harbor Commission should clearly state if it endorsed Mr. Miller's comments regarding the Sustainability Plan.

Chair Blank suggested Commissioners review the Draft Sustainability Plan over the next 30 days and provide comments. At that time, staff could aggregate the comments and present them to the Commission for discussion and a vote. Final comments would then be submitted to Mr. Alford.

Commissioner Stapleton moved to continue the item for 30 days with a commitment from Commissioners to review the Draft Sustainability Plan, provide their comments to staff in advance of the next meeting, to aggregate individual comments, and then to review, discuss and approve comments at the next meeting. Commissioner McIntosh seconded the motion. The motion carried with 7 aye, 0 no and 0 abstaining votes.

5. *Mooring Revocations*

Mooring permits may be revoked due to failure to pay annual rental fees. According to Newport Beach Municipal Code (NBMC) Chapter 17.70, the Harbor Commission shall conduct a hearing prior to revoking a mooring permit. Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permits for failure to pay annual rental fees.

Recommendation:

- a) Revoke moorings P-091, W-056, S-118, H-410, J-0712, H-610, and J-104 for failure to pay annual rental fees according to NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5).

Chair Blank requested an update to the moorings permits proposed for revocation.

Harbor Resources Manager Shannon Levin reported 22 accounts were delinquent originally. Staff sent four notices for revocation with the first notice sent in late spring and the final notice in early August. Mooring permits S-118 and J-0712 remained delinquent. Ms. Levin reviewed actions staff would take if the Harbor Commission voted to revoke the mooring permits.

Commissioners discussed the leniency of the process; recurring offenders; potential revision of the Mooring Code; instituting a penalty or interest on delinquent accounts; City policy for delinquent notices; and the difference between a delinquent utility bill and a delinquent mooring account.

Commissioner Kenney moved to revoke mooring permit S-118 for failure to pay \$315 in annual fees subject to payment not being collected by close of business Friday, September 16, 2016. Commissioner McIntosh seconded the motion. The motion carried with 7 aye, 0 no and 0 abstaining votes.

Commissioner Girling moved to revoke mooring permit J-712 for failure to pay \$1,575 annual fees subject to nonpayment by close of business Friday, September 16, 2016. Commissioner Kenney seconded the motion. The motion carried with 7 aye, 0 no and 0 abstaining votes.

Council Member Duffield advised that the State Tidelands did not consider having a right to an annual use of a mooring the same as a lease of property.

6. *Harbor Patrol Mooring and Anchorage Update*

Every month, Harbormaster Mark Alsobrook will update the Harbor Commission on moorings and anchorage usage in the harbor.

Recommendation:

- a) Receive and file.

Lieutenant Mark Alsobrook, Harbormaster, advised his report regarding temporary anchorage covered the time period from June 3, 2016 to September 8, 2016. Harbor Patrol conducted 232 checks of

anchorage and logged 61 individual vessels from 18 cities other than Newport Beach. Thirteen vessels stayed overnight, and 28 vessels agreed to and were administered with dye tabs. During the same time period, 182 vessels stayed overnight at the east anchorage. The highest usage of anchorage occurred on weekends. In August 2016, Harbor Patrol rented 131 moorings; transferred 9 moorings; issued 56 monthly maintenance notifications; destroyed 1 derelict vessel with 2 others in the process; impounded 10 vessels; and found 4 vessels. In August 2016, 366 patrol events were related to moorings, which consumed approximately 110 hours of staff time.

In response to Commissioner Stapleton's questions, Lieutenant Alsobrook reported there were considerably fewer complaints from homeowners during the summer of 2016 compared to the summer of 2015, perhaps due to proactive patrolling. Vessels chose whether they anchored to the east or west side of Lido Isle. Lieutenant Alsobrook was not aware of any issues with the Invictus; however, he had heard about a vessel drifting out of anchorage and too close to Invictus.

In response to Commissioner McIntosh's questions, Lieutenant Alsobrook indicated Harbor Patrol distributed flyers to boaters. The capacity of anchorage depended on the size of vessels. There were no reports of anchorage being filled to capacity over the Labor Day weekend.

Commissioner West spent Labor Day weekend in temporary anchorage and shared his observations of vessels in anchorage during that time. He felt the Jetpack America operation probably discouraged some boats from anchoring and affected kayaks and paddleboards within anchorage.

7. Discounted Vessel Sewage Pumpout Service for Offshore Mooring Permittees (Time Permitting)

In an effort to improve and promote water quality, and to provide services to the mooring permittees, the City is considering a program to provide a discounted rate for vessel sewage pumpout service for the offshore mooring permittees. When the concept was presented to the City Council in June 2016, they recommended the Harbor Commission provide input on the program details.

Recommendation:

- a) Review the program details and recommend staff seek City Council approval.

Chair Blank inquired whether Commissioners wished to continue this item due to the time, to which the Commission responded no.

Commissioners West and Girling recused themselves because of their association with the Balboa Yacht Club. Chair Blank recused himself as he held a mooring permit.

Harbor Resources Manager Chris Miller reported regarding the purposes and details of the program and marketing efforts. Details were open to debate by the Harbor Commission. The City Council generally supported the proposed program and commented that the program should serve offshore mooring permittees only and mooring permittees should share some of the cost.

Council Member Duffield added that a pumpout company had no way of knowing how many gallons it would pump out. He paid \$35 to pump out his boat and was unsure whether a savings of \$10 would be enough to interest permittees in the program.

Commissioners discussed the total cost to the City of \$40,000 to \$50,000; frequency and typical cost of a vessel pumpout; which permittees would utilize the program most; abuse of public pumpout stations; reduction of pumpout station maintenance and repair costs; exploring elimination of public pumpout stations; use of pumpout stations by pumpout companies; pumpout stations in private marinas available for public use; discussion of the program with the Newport Mooring Association; and economic viability of the proposed program.

Chuck South, South Mooring Company, commented regarding use and abuse of public pumpout stations; total cost of the program; repairs and improvements made to pumpout stations; and whether improvements would reduce maintenance costs.

Carter Ford shared the history of the pumpout station at 15th Street. Technical work enhanced the reliability and function of pumpout stations. Live-boards felt there were better ways to spend the money, and likely would not utilize the program.

Len Bose suggested a code enforcement agent could solve many of the issues.

Commissioners supported providing amenities for mooring holders, but not the amount of funds suggested. Cameras could be installed to document offenders; however, reviewing video and finding offenders would require staff time. Mr. Miller advised that downtime for pumpout stations was minimal after South Mooring made repairs and improvements. A code enforcement officer on the water could solve some problems.

Commissioner Stapleton moved not to proceed with a pilot program in that it did not go far enough and did not provide a service to mooring holders that they would use. Commissioner Avery seconded the motion. The motion carried with 4 aye, 0 no and 0 abstaining votes.

7) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Commissioner West presented each Commissioner with a DVD of the making of the Newport Harbor entrance.

Chair Blank announced the Harbor Commission would likely be invited to a Planning Commission meeting in the next few months. The California Coastal Commission approved the Coastal Implementation Plan for the City of Newport Beach. The next Mariner's Mile Revitalization Plan meeting was scheduled for Marina Park on September 26, 2016.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES

None.

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

Harbor Resources Manager Chris Miller reported the Central Avenue Pier would not be reviewed by the Coastal Commission in October. Staff was working on finalizing design of the pier and revitalizing the plaza. The Invictus was present for three or four weekends and had a total of 17 days to use in Newport Harbor. The Invictus requested the buoy remain deployed until mid-November. Mr. Miller approved the request and would charge the same fee as previously charged. The anchorage was supposed to be removed on September 15. The Resolution allowed Mr. Miller to keep it open up to another month. The Harbor Commission preferred to keep it open for as long as possible.

Chair Blank inquired whether speakers were needed to support the Central Avenue Pier before the Coastal Commission. Mr. Miller suggested comments could be submitted in writing rather than in person. He did not expect any objection to the project and hoped it would be placed on the consent calendar.

In response to Chair Blank's question, Mr. Miller indicated the mooring buoy for the Invictus was supposed to be lighted.

10) PUBLIC COMMENTS ON COMMISSIONER ANNOUNCEMENTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER

Jim Mosher did not understand the significance of replacing the appendix about eelgrass with a chapter about beachfront encroachment in the Coastal Implementation Plan. He believed the Chair of the

Coastal Commission was incorrect in stating applications for docks and development on the water would not be presented to the Coastal Commission, but reviewed by the City and approved locally. Chair Blank also understood on-the-water development was subject to the jurisdiction of the Coastal Commission while upland development in a coastal zone was covered by the local coastal program.

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

Commissioner Girling inquired about the process for placing an item on the agenda regarding the Newport Boulevard Bridge issue. Harbor Resources Manager Chris Miller was aware of the problem and would include an agenda item.

Commissioner West requested an item regarding the status and experience with Jetpack America. Mr. Miller advised that a Marine Activities Permit was an annual permit; however, the Request for Proposal process to select Jetpack America could have provided more than one year.

12) DATE AND TIME FOR NEXT MEETING: Wednesday, October 12, 2016

Chair Blank reported the next meeting was scheduled for October 12, 2016.

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 9:30 p.m.