

**NEWPORT BEACH HARBOR COMMISSION MEETING MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Wednesday, February 14, 2018**  
**6:30 PM**

**1) CALL MEETING TO ORDER**

The meeting was called to order at 6:31 p.m.

**2) ROLL CALL**

Commissioners: William Kenney, Jr., Chair  
David Girling, Vice Chair  
Scott Cunningham, Secretary  
Ira Beer, Commissioner  
Paul Blank, Commissioner  
John Drayton, Commissioner  
Duncan McIntosh, Commissioner (absent)

Staff Members: Chris Miller, Harbor Resources Manager  
Dennis Durgan, Harbormaster  
Carol Jacobs, Assistant City Manager  
Ann Ewing, Deputy City Attorney  
Raymund Reyes, Management Specialist

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

**4) PUBLIC COMMENTS**

None

**5) APPROVAL OF MINUTES – Minutes of January 10, 2018**

Commissioner Blank moved approval of the draft Minutes for the January 10, 2018 meeting as presented. Commissioner Cunningham seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Commissioner Girling, Commissioner Cunningham, Commissioner Blank, Commissioner Drayton

**Abstaining:** Commissioner Beer

**Absent:** Commissioner McIntosh

**6) CURRENT BUSINESS**

Chair Kenney announced that staff has removed Items 6.1, 6.3, and 6.6 from the agenda.

**1. *New Dock Proposed at 2223 Bayside Drive (Removed from agenda.)***

**2. *City Harbormaster Report on Harbor Operations***

City Harbormaster Dennis Durgan will provide an update on Harbor Operations including a presentation by the City's Information Technology (IT) Division detailing their newly created mooring management software.

**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.

- 2) Receive and file.

Harbormaster Durgan reported that staff has been very busy removing rubbish and debris from the Harbor. Code Enforcement Officer Matt Cosylion has issued approximately 130 notices of violation. The City and the Orange County Sheriff's Department are holding a boat auction on Friday, February 16, 2018 at 9:00 A.M. Staff is beta testing three iPads and new mounts on their vessels. Staff continues working on software to collect statistics; developing policies and procedures; and handling complaints regarding unkempt boats and impounds stored in the Harbor. Five transfers were completed in January and two are pending completion.

In response to Commissioners' inquiries, Harbormaster Durgan explained the Coast Guard's regulations for stand-up paddleboarders' use of personal flotation devices. Staff has not issued any citations but attempts to educate the public. Debris is probably entering the Harbor because upstream catch basins are filled to capacity and overflow during rain events. If the boom were extended during a rain event, it might catch more debris. Public Works Director Webb added that the City will be applying for OCTA grants to upgrade the boom in order to collect more debris. The Municipal Operations Department cleans the boom as necessary. Staff is working with upstream cities to install booms upstream to catch more debris before it enters the Harbor.

Senior IT Analyst Avery Maglinti reported that the software used for Marina Park was not sufficiently flexible to incorporate mooring data; therefore, staff searched for appropriate software and determined that developing software in-house would be best. Staff facilitated the use of the existing software when the City gained control of the Harbor in July 2017. In December 2017, the IT division delivered a basic application for mooring management. In April 2018, a reservation system will be available for use. The final component will be a portal that allows permittees to provide and manage individual mooring information. The application will use permittee and location information to generate notices and invoices. The permittee portal should be tentatively available in August 2018.

In reply to Commissioners' questions, Senior IT Analyst Maglinti indicated the new application was developed with the intent to integrate with City software, and is not likely to be used by other commercial or public agency operations. Staff will utilize the application to generate notices for permittees to update information or provide current documentation.

**3. Mooring Revocation: J-211 (Removed from agenda.)**

**4. *Turning Basin Anchorage – Proposal for Permanent Year-Round Status***

**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.
- 2) Review the proposal to designate the anchorage area in the Turning Basin as permanent year-round, and make recommendations for staff to forward to the City Council for consideration.

Harbor Resources Manager Miller reported notices were sent to about 400 residents near the Turning Basin Anchorage. A few residents have expressed concern about a year-round anchorage. Staff toured the west anchorage with Coast Guard staff who indicated they would need to scrutinize a year-round anchorage. Coast Guard staff shared information about applying for either a seasonal or a year-round anchorage.

In answer to Commissioners' queries, Harbor Resources Manager Miller advised that one or two minor issues have been resolved. Harbormaster Durgan indicated staff received one complaint about a raft-up

over the New Year's weekend. Harbor Resources Manager Miller estimated approximately ten boats of varying sizes could utilize the anchorage at one time. Chair Kenney recalled that Lieutenant Alsobrook's reports did not relate any significant issues or complaints with the west anchorage.

Commissioner Beer stated that usage of the anchorage appears to be sufficient for year-round status. Presumably, the west anchorage would relieve some pressure from the east anchorage and would benefit staff in maintaining safety. The west anchorage provides close access to retail shops, restaurants, visitor sites, and the newly constructed Central Avenue Public Pier. No complaints of noise pollution or bright lights from vessels in the west anchorage appear to have been made to staff. The Newport Aquatic Center and the commercial charter fleet operators have not reported issues with the west anchorage. The Newport Aquatic Center Executive Director suggested that the Harbormaster perform a drive-by Friday evening or Saturday morning prior to a race to ensure vessels do not protrude into the finish line. Initiatives are being discussed to allow the Harbormaster to enforce rules and regulations for the Harbor. Should the west anchorage be made permanent, he suggested removing the marker buoys and closing the west anchorage during the holiday Boat Parade; prohibiting raft-ups, prohibiting bright lights and loud music after 9:00 p.m.; enforcing length-of-stay rules; at the Harbormaster's discretion, temporarily relocating, adjusting, or removing buoy markers in the interest of public safety and based upon events and circumstances; and routinely inspecting for vessels that may be a distraction or obstruction to sanctioned and scheduled racing events that occur near the west anchorage and requesting relocation of such vessels. Historical data and observations demonstrate that the west anchorage supports the mission of the Harbor Area Management Plan and will not negatively impact navigation, surrounding property owners, or existing Harbor uses.

Jim Mosher questioned whether the public comments referenced by Harbor Resources Manager Miller were provided to Commissioners.

Chair Kenney advised that he received one email containing the Coles' comments, and that email was provided to all Commissioners, Mr. Miller, and Mr. Durgan. Harbor Resources Manager Miller reported he spoke with a resident regarding permanent moorings versus an anchorage. Chair Kenney and Commissioner Blank elaborated on the Coles' comments.

Commissioner Beer moved to make the west anchorage permanent and to approve his recommendations. Commissioner Blank seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Commissioner Girling, Commissioner Cunningham, Commissioner Beer, Commissioner Blank, Commissioner Drayton

**Absent:** Commissioner McIntosh

#### **5. Harbor Commission Objectives for Calendar Year 2018: Formation of Ad Hoc Committees**

The Harbor Commission will form ad hoc committees for each of their Functional Areas within the 2018 Harbor Commission Objectives.

##### **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.
- 2) Form ad hoc committees for each of the Functional Areas within the Harbor Commission Objectives.

Chair Kenney announced that the City Council approved the Harbor Commission's Objectives for 2018. He suggested each Commissioner who was responsible for a Functional Area become chair of the ad hoc committee for the Functional Area.

In reply to Commissioner Blank's question, Chair Kenney reported the City Council discussed the creation of a local port plan and added it to Functional Area 5.

Commissioners proposed the following membership for ad hoc committees:

Functional Area 1: Chair Cunningham, Commissioner Drayton, supported by Miller  
Functional Area 2: Chair Drayton, Commissioner Beer, supported by Durgan and Jacobs  
Functional Area 3: Chair Beer, Commissioner Drayton, supported by Durgan and Jacobs  
Functional Area 4: Chair McIntosh, Commissioner Kenney, Commissioner Blank, supported by Miller  
Functional Area 5: Chair Girling, Commissioner Kenney, supported by Miller  
Functional Area 6: Chair Blank, Commissioner Cunningham, supported by Jacobs

Commissioner Drayton moved to establish an ad hoc committee for each Functional Area of the 2018 Objectives and to name Commissioners to each committee as noted above. Commissioner Girling seconded the motion.

In response to Deputy City Attorney Ann Ewing's inquiries, Chair Kenney explained that the ad hoc committees will pursue the tasks listed for each 2018 Objective in the order listed and provide recommendations to the Commission.

The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Commissioner Girling, Commissioner Cunningham, Commissioner Beer, Commissioner Blank, Commissioner Drayton

**Absent:** Commissioner McIntosh

**6. Mooring Lengths within the Offshore and Onshore Fields – Review of Current Practice (Removed from agenda.)**

**7. *Derelict Vessel Definition: Ad Hoc Committee Recommendation***

At the November 2017 meeting, the Harbor Commission directed the derelict vessel ad hoc committee to return to the Commission with an updated definition of a derelict vessel. The ad hoc committee does not recommend any changes to the definition at this time. Therefore, the ad hoc committee's initial responsibilities are complete and the committee consisting of Commissioners Cunningham and Drayton should be disbanded.

**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.
- 2) Receive and file the ad hoc committee's recommendation of not changing the current definition of a derelict vessel.
- 3) Disband the derelict vessel ad hoc committee.

Harbor Resources Manager Miller reported the ad hoc committee determined that revising the City's derelict vessel definition is not necessary at this time.

At Commissioner Blank's request, Harbor Resources Manager Miller summarized the definition of derelict vessel.

In answer to Commissioner Drayton's question, Harbormaster Durgan advised that the current definition is sufficient for enforcement purposes.

Commissioner Beer moved to disband the derelict vessel ad hoc committee. Commissioner Girling seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Commissioner Girling, Commissioner Cunningham, Commissioner Beer, Commissioner Blank, Commissioner Drayton  
**Absent:** Commissioner McIntosh

**8. *Stand Up Paddleboard Ad Hoc Committee: Disband***

Because the stand up paddleboard ad hoc committee fulfilled their original responsibilities in late 2017, the ad hoc committee consisting of Commissioners Kenney, Blank and Girling should be disbanded.

**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.
- 2) Disband the stand up paddleboard ad hoc committee.

In response to Chair Kenney's inquiry, Harbor Resources Manager Miller advised that the Commission's recommendations could be presented to the Council as early as March.

Commissioner Girling moved to disband the stand-up paddleboard ad hoc committee. Commissioner Beer seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Kenney, Commissioner Girling, Commissioner Cunningham, Commissioner Beer, Commissioner Blank, Commissioner Drayton  
**Absent:** Commissioner McIntosh

**9. *Pumpouts in Newport Harbor: Review***

Staff will present a brief review of the Harbor's pumpout facilities, particularly the five stations owned and maintained by the City.

**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.
- 2) Receive and file.

Harbor Resources Manager Miller reported that the City owns five pumpout stations in four locations. The Washington Street station is lightly used. The Fernando Street and Balboa Yacht Basin locations are well used. The most used location is 15th Street, where there are two stations. Each station has placards showing the locations of other public pumpout stations and the number to call for repairs. Stations are inspected on Mondays and Fridays. The pumpout stations require almost daily repairs.

In reply to Chair Kenney's query, Harbormaster Durgan advised that his staff tests pumpouts almost daily during the summer months.

**7) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)**

None

**8) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES**

Harbor Resources Manager Miller reported staff met with Coastal Commission staff regarding the Regional General Permit and administrative improvements in an effort to foster communications between the two agencies. Staff is preparing for the Lower Bay dredging project. Staff and members of Council will travel to Washington, DC, to lobby for statewide dredging and to discuss Newport Harbor. Collection of sediment samples in the Lower Bay is complete; analysis is underway and should be finalized in the next two months. Analysis of RGP samples is almost complete, and hopefully approval of the RGP can be obtained in April.

In reply to Chair Kenney's question, Harbor Resources Manager Miller indicated the Lower Bay was last tested in 2009 or 2010.

**9) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER**

None

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

None

**11) DATE AND TIME FOR NEXT MEETING: Wednesday, March 14, 2018**

**12) ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:58 p.m.