

CITY OF NEWPORT BEACH

HARBOR COMMISSION STAFF REPORT

Agenda Item No. 1
June 13, 2007

TO: HARBOR COMMISSION

FROM: Harbor Resources Division (City Manager's Office)
Chris Miller, (949) 644-3043
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SUBJECT: Response to Grand Jury Investigation entitled, "Newport Harbor Moorings: Are They Held in the Public Trust or Private Profit?"

ISSUE:

The Mooring Master Plan Subcommittee has reviewed the Grand Jury Report and has prepared a draft response. The response was prepared with input from committee members and revised to indicate a consensus opinion. Following Harbor Commission's consideration of the draft, the City Attorney will provide a final review and will then present the draft to City Council for consideration. We are trying to provide an acceptable document for the Mayor's signature prior to the August 8, 2007 deadline.

RECOMMENDED ACTION:

The Harbor Commission may:

1. Approve the draft Grand Jury response and recommend transmittal to City Council for consideration; or
2. Approve the draft Grand Jury response with revisions and recommend transmittal to the City Council for consideration; or
3. Request the Mooring Master Plan Subcommittee to make revisions and return to the Harbor Commission for consideration.

ENVIRONMENTAL REVIEW:

The Harbor Commission's approval of this item does not require environmental review.

PUBLIC NOTICE:

This agenda item has been noticed according to the Ralph M Brown Act (72 hours in advance of the public meetings at which the Harbor Commission considers the item). The item was posted at City Hall and on the City website.

Prepared by:

Chris Miller
Harbor Resources Supervisor

Attachments: Grand Jury Response
Transferability Code – Draft

Grand Jury Report

“Newport Harbor Moorings: Are They Held in the Public Trust or Private Profit?”

RESPONSES TO FINDINGS

F-1. Private profits are being made from the current procedures used in transferring the mooring permits located on the public tidelands in Newport Harbor. Because the mooring equipment and the vessel currently assigned to that mooring must be sold to the same person, when a vessel on a mooring is sold, the new owner transfers that mooring permit into his or her name, rather than vacating the mooring and allowing the waiting list to proceed in order.

Response:

Over several decades, moorings have evolved from a no-value and no-demand way of berthing vessels in Newport Harbor to a critical means of providing vessel berthing at a reasonable cost. In April 1935, advertisements placed by the Chamber of Commerce ran in the publication *Pacific Skipper* to entice yacht owners to come to Newport Harbor. The advertisement stated “pay no rent to the City for mooring space if you maintain a private mooring.” In fact, the recently adopted Local Coastal Program Land Use Plan states, as a policy, that the City of Newport Beach should “Continue to provide shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor.”

When the Municipal Code related to moorings was formulated, several decades in the past, it was not foreseen that a mooring permit would evolve such that there was value associated with the possession of the mooring permit. An example cited in the Grand Jury Report documents that Catalina Island moorings also have a value associated with the mooring permit. In cooperation with the State Lands Commission, the Catalina Island Conservancy developed a method for transferring a mooring permit while maintaining the concept that a mooring permit has value and that the tidelands should derive a monetary benefit from the transfer of a mooring permit. In addition, Section 10-2.210 of the City of Avalon Municipal Code states: “ Unless otherwise provided in the permit, transfers of revocable permits pursuant to which permittees are assigned and hold mooring spaces in Avalon Harbor, shall be permissible provided: (a) The purchaser pays to the City a transfer fee as set by resolution of the City Council.”

A subcommittee of the City of Newport Beach's Harbor Commission has investigated mooring administration practices locally and elsewhere in the State and has developed a proposed revision (see attached) to Section 17.22.080 of the Municipal Code. This proposed revision to the Municipal Code also recognizes that a mooring permit has evolved to have an associated value and proposes a means for the tidelands to benefit from the transfer of a mooring permit.

Even in 1952, a mooring in the "C" field was reportedly transferred at a resulting net cost to the transferee of \$85, which was significant at the time. What has been lacking for decades is a means in which the Newport Tidelands benefit monetarily from the transfer of a mooring permit. The City Council will soon consider this proposed revision to the Municipal Code which is intended to be fair and equitable to all of the parties involved and at the same time provide for adjusted tidelands use fees that will assist in funding harbor maintenance projects.

Today, in Newport Harbor as well as elsewhere in the State, the intelligent order in which to become a boat owner is to find a berth or mooring first, and then buy the boat. The City is aware that boats sold with moorings have more value than those sold without a mooring or slip. A boat owner/permit holder is not required to transfer the mooring permit with the sale of a boat on the mooring; however, a majority of the people choose to follow this process. The City, through its Harbor Commission, Harbor Resources Department, and the citizenry is in the process of recommending to City Council an appropriate transfer fee for mooring permit and is reviewing the functionality and practicality of a wait list as it impacts low-cost public access to moorings in Newport Harbor.

F-2. The offshore mooring areas now extend beyond the lines originally established by the United States Army Corps of Engineers in 1941.

Response:

Relatively new technology has provided the ability to overlay aerial photography and historical mooring area delineations to a high degree of accuracy (approximately 3 feet). As a result, the City of Newport Beach found that many moorings were not within the delineated areas. A Harbor Commission Subcommittee was formed to determine the most appropriate way to deal with the situation.

A study was proposed due to concerns of the Newport Beach Harbor Resources Department and City officials regarding the potential legal and safety issues related to the fact that many moorings in Newport Harbor are situated outside the boundaries as seen on navigational charts.

Early investigation and analysis revealed that the majority of these fields have never been completely used as charted, but have evolved to reflect the way the harbor has historically functioned. It was found that if the moorings were placed within the charted boundaries, then the present use of the harbor would be disrupted for many of the boater and residential uses.

The ability to re-state the charted boundaries was researched. Meetings with Gerry Wheaton, West Coast Regional Manager of NOAA, Office of Coast Survey, resulted in understanding that the boundaries are under the authority of The Code of Federal Regulations, and can indeed be re-drawn with the city going through proper procedures and receiving approval of the US Coast Guard. NOAA can then incorporate the new boundaries on all subsequent charts, and inform the boating public through notices to Mariners.

The subcommittee established criteria for evaluating the current boundary conditions and has recommended changes that consider all of the various beneficial uses of the harbor. All the mooring fields and their collective role in the function of Newport Harbor were then assessed. Subsequently each field was separately studied in depth.

Through extensive outreach, the needs and desires of stakeholders (boaters, Harbor Department, USCG, bay front residents and businesses, charter boat operators, mooring permit holders, Christmas Boat Parade organizers, yacht clubs, etc.) were considered. Evaluation of the ease and safety of navigation in varied conditions was studied with the aid of the Orange County Sheriff's Harbor Patrol. The subcommittee undertook a practical and theoretical study of the mechanics of mooring gear and its relation to boat size, tides, currents and wind to develop a system of mooring spacing. Aerial views of each field with pierhead and bulkhead measurements provided by the City GIS Dept. helped to improve the accuracy and sophistication of these studies.

It was then possible to delineate new boundaries that provide an improvement over the present positioning and avoid the multiple serious problems that would occur with attempting to utilize the original boundaries. (i.e. rendering piers on the Southwest end of Lido Isle unusable, encroaching on the navigation space of the Coast Guard Cutter, interfere with navigation in the area of the Island Ferry, force change in navigation patterns around the Harbor thus adversely affecting recreational boating and water activities).

The Harbor Commission has approved the subcommittee's findings and recommended changes. The Subcommittee is currently working with the federal agencies noted above to implement the recommended changes.

F-3. Certain procedures adopted by the Newport Beach City Council regarding mooring permits are not enforceable because they are not included in the City's Municipal Code.

Response

The City of Newport Beach is currently reviewing the harbor related policies and Title 17 of the Municipal Code. The Harbor Commission established a subcommittee which reviewed the combined policy and code and submitted the revisions to the full Harbor Commission for approval. The Harbor Commission reviewed and approved the recommended changes. The City Attorney's Office is currently reviewing the recommended changes for appropriate wording and consistency with other titles of the Municipal Code. The new Title 17 is proposed for City Council consideration in August, 2007.

F-4. The last assessment of the fair market value of mooring permit fees took place almost ten years ago.

Response:

The current Municipal Code Section 17.22.050 requires fees to be set by resolution of the City Council. The City's elected officials typically set fees in accordance with an appraisal value or percentage thereof as they determine appropriate. The City has hired a consulting firm named Maximus to evaluate current fees that are based on the cost of services provided. The City has also hired Netzer and Associates to perform an appraisal of fair market rents for various uses of the submerged tidelands in Newport Bay. Two University of California economists will review the results of both studies and recommend tidelands use fees to the City Council for consideration in September, 2007.

The recommended mooring permit fees will be based on factors considered appropriate by the consultant team and not based on just a percentage of the cost of a slip.

It is important to note that in 1952 the mooring permit fee was \$0.20 per foot. Today the mooring fee is \$20.00 per foot, or 100 times greater. The average consumer price index in 1952 was 26.5; the index for March 2007 was 216.7 or an increase of 8.2 times. So, although mooring fees have not directly increased in recent years, they have significantly increased more than the CPI in fifty years. In addition, in recent years, the method of calculating the mooring fee has changed from being based on the size of the boat registered to the mooring to the maximum size vessel the mooring would accept. This resulted in a fee increase for most permittees. Also, the cost of the annual residential dock permit fee and the marina slip rental fee are quite disparate and are both difficult to compare to the mooring permit fee.

F-5. Although a mooring permit can be held in the name of one (1) person only and the permit cannot be placed in a company name, exceptions have been made for certain private yacht clubs. Additionally, vessels and moorings are now registered in family trusts. After a principal's death, the intent of a trust is to follow the vessel; however, there is an unjustified perception that this also includes the mooring permit.

Response:

Yacht Club Issues

The yacht clubs in Newport were instrumental in the early development of the City of Newport Beach. As noted above, there is documentation that the public was invited to install their own moorings in Newport Harbor, free of charge, if people would simply do so. Many did so, naturally choosing convenient locations, some close to clubs which in turn created fields that were close to the services a yacht club offers. The city fathers at the time must have felt that this activity was of long term benefit to the city and the tidelands since they provided in Section 17.22.030 of the Municipal Code that yacht clubs were an exception to the requirement that the vessel owner and mooring permittee were required to be the same individual. Section 17.22.030 (B-1) states that: "When a permit is issued to a yacht club in a single point mooring area, the club shall be permitted to assign the mooring to one of its members. The club shall keep a record of the person and the vessel to which the mooring has been assigned." The City has determined that the administration of certain mooring fields in Newport Harbor is appropriately done by the clubs and the City considers the custom and practice of allowing the yacht clubs to possess and manage multiple moorings within their assigned area appropriate for reasons discussed in following paragraphs.

In addition, the yacht clubs pay the same mooring permit fee to the City Tidelands as other mooring permittees and it is recognized that they do charge their members a monthly use fee in excess of this base fee. The City of Newport Beach considers this additional charge to the end user justifiable based on the added value that yacht clubs provide to the community as described below.

The yacht clubs do most of the community's heavy lifting when it comes to creating organized sailing and boating opportunities. For instance, the First Team Regatta for the Hoag Cup is hosted by the Balboa Yacht Club and the Newport Harbor Yacht Club. This charitable event will raise considerable money to benefit the hospital, thereby benefiting the entire community, including the non-boaters.

There are many other examples of the existing public/private partnership which benefit the entire community. Not every sailing event is a fund raiser for local

charities. Most sailing events are held to promote sailing as a sport, from casual to national, world or Olympic caliber.

One element of the newly adopted City General Plan is to enhance Newport Harbor's functionality as a preeminent small boat recreational harbor. Clubs host safe boating and regatta management seminars and from a community support perspective, the Newport Harbor High School sailing team trains out of the Newport Harbor Yacht Club, Balboa Yacht Club hosts the Sage Hill High School, Mater Dei High School and Corona Del Mar sailing teams and Bahia Corinthian Yacht Club hosts Corona Del Mar sailing team (alternate years). Sailors from throughout the community are welcome to participate in club races regardless of whether they are affiliated with a club. These events and achievements serve a public purpose; they include the community and they bring prestige to—and enhance recognition of—both Newport Harbor and the City of Newport Beach.

Focusing on club mooring utilization, clubs are able to offer a value added service to their mooring users in the mooring field. Besides offering fellowship and camaraderie, clubs provide dock access, shore boat service, food service, off street parking, bathrooms, showers, water, trash collection, superior mooring maintenance, electricity, ice, and many other services. After business hours, clubs offer mooring tenants dinghies that they can use to access their moorings, eliminating the difficulty a typical private mooring holder experiences in car-topping and launching a dinghy to access his boat. Being able to offer these value added services enhances the clubs' ability to retain members and contributes to its ability to serve the community.

The Newport Harbor Yacht Club was founded in 1916 and BYC was founded in 1922. Since the City's earliest days, private individuals, including club members and others, have worked hand in hand with City officials, and this partnership built the City. A hallmark achievement of this public/private partnership was winning federal government support for the harbor's dredging. Since then, clubs and their boats, as well as individual mooring permittees, have had a place to call home. Since the 1938 founding of the State Lands Commission, there have been a number of other examples where tidelands held in public trust have been leased or permitted to non-individual entities, when such use serves a public purpose.

Clubs do their best to efficiently manage their moorings, regularly patrolling them, maintaining them, communicating with owners, coordinating with City and County officials, monitoring for potential environmental hazards, and seeing that their moorings are used in best practice fashion. While the Harbor Patrol has professionally responded to boaters harbor-wide at all hours of the day and night, clubs provide substantial private first response management of their moored boats in storm and wind events, thereby unloading much of this overhead from the publicly funded Harbor Patrol.

The mooring fields managed by clubs, and the boats in them, are well maintained. These fields are not only derelict-free; they are home to some of the best maintained boats in the harbor. Clearly the club moorings complement the City's goals to continue its seventy year tradition as a preeminent small boat recreational harbor. In contrast, some private moorings, and the boats on them, generally speaking, are not well maintained, secure thankfully fewer and fewer derelicts and do less to further the City's goals to maintain a preeminent small boat recreational harbor. The Grand Jury report notes that the current ordinance encourages placement of derelict boats which sell at inflated prices for the purpose of mooring transfer. This activity simply does not happen on club moorings.

Clubs promote active use of the tidelands: club mooring users must actively use their boats or risk losing the use of their mooring. The clubs' mooring fields allow the clubs to continue their mission to promote sailing and thereby serve the community. Maintaining a reasonably sized contiguous mooring field adjacent to its shore side facility allows clubs to defray the expenses of a boatyard staff and shore boat economically for the mooring tenants and minimizes environmental impact to the bay. When mooring users change, the clubs do not charge any transfer fees. In addition, yacht clubs provide reciprocal privileges including use of available moorings to transient visitors.

Trust Issues

The proposed revision to Section 17.22.080 of the Municipal Code (attached) recognizes that many families hold assets such as land, homes and vessels in trusts. It also recognizes that a mooring permit is not an asset that can be held by a family trust but a living person named in the trust must also be named in the mooring permit.

F-6. The County (1) follows State statutes and regulations concerning mooring and buoy permits and (2) along with the City of Newport Beach shares financial responsibility for funding the Harbor Patrol to provide management services; however, the County performs no oversight of the City's regulations and procedures on a regular basis.

No response from the City is required.

F-7. The Harbor Patrol follows the regulations and procedures set down by the City; however, they have begun re-enforcing certain, but not all, regulations, e.g., the derelict boat rule is being enforced but abandoned moorings are allowed. The result of this is that the harbor now seems cleaner; however, permittees are allowed to maintain moorings without vessels.

Response:

The removal of derelict boats from the harbor is a high priority health and safety issue. The practice of using a “place holder” boat on a mooring contributes greatly to the derelict boat issue. Enforcement of the occupancy regulation would have exacerbated the derelict problem and with the concurrence of the Harbor Commission Mooring Subcommittee, the Sheriff’s Harbor Patrol has allowed moorings to remain vacant for more than 90 days. The Title 17 Review Subcommittee, Harbor Commission and the City Attorney have recommended removal the occupancy clause from the proposed Title 17 revision document. In addition, the Harbor and Bay Element of the General Plan contains a goal that states the City should “Foster public access to moorings by enforcing and refining the derelict boat ordinance and regulating transfers by permit holders.”

In the short-term, non-enforcement of this regulation has resulted in other immediate benefits such as reduction of the sea lion haul out locations and availability of moorings for short-term rental to transient and local vessels.

In the rare case that a mooring is abandoned, it is returned to the city and assigned to the next person on the waiting list. The benefit of long-term rental has been studied and the recommended amendments to MC 17.22.080 propose a mechanism that may be instituted in the near future to enhance public access.

F-8. The mooring waiting list has not been reviewed or updated for years.

Response:

The proposed Section 17.22.080(E) of the Municipal Code provides a recommended method of updating the waiting list.

F-9. The majority of the current mooring permit fees fall below the Orange County Minimum Value Ordinance.

No response from the city is required.

RESPONSES TO RECOMMENDATIONS

R-1. Tighten the regulations and procedures involved with Newport Harbor mooring permits and their transfers to ensure that all monies received which rightly belong to the public, stay within the public arena.

Response:

We believe that our proposed update of Title 17 and the inclusion of a Mooring Transfer fee will achieve the intent behind this recommendation.

R-2. Consider public access to available moorings through adopting a more effective waiting list.

Response:

It has been recognized by all parties involved that the mooring wait list is not effective. As a result, the revision to MC Section 17.22.080 proposes that the existing waiting list should be phased out and no free moorings will be offered to waiting list participants. However, long and short-term rentals will be made available from vacant moorings and waiting list participants will have priority for the use of these rental moorings. The process noted in Subsection E requires biannual update of the waiting list information which will also assist in developing a more effective list.

R-3. Reestablish the original mooring boundaries.

Response:

We believe that re-establishing the original mooring boundaries would be unwise, as stated in our response to Finding F-2 above. As such, we will not pursue this recommendation.

R-4. Independently analyze and reestablish the City's Municipal Code concerning the Harbor Regulations on moorings; have new procedures match corrected regulations rather than codifying, without review, what has become embedded as established practice.

Response:

A Subcommittee of the Harbor Commission is independently reviewing all Municipal Code, County Ordinances, Regulation and established procedures and

practices to ensure they are consistent and provide proper administration of the tidelands. The Subcommittee will produce revised code sections and recommend approval by the Harbor Commission and the City Council. The City may retain the services of an attorney with experience in marine and government affairs to provide a second independent evaluation before submittal to the Commission and Council. It is expected that this multi-tiered review process will be complete by June 2008.

R-5. Review the Municipal Code on a regular basis to be sure that it incorporates the revised ordinances and procedures to allow uniform enforcement.

Response:

We intend to review the Municipal Code on a regular basis, as recommended.

R-6. Establish a regularly scheduled independent appraisal for the fair market value of mooring permit fees, e.g., based on a percentage of the cost of a slip.

Response:

We intend to schedule regular valuations (not necessarily appraisals, but it may include appraisals) of moorings and mooring transfers, as recommended.

R-7. Review the inclusion of yacht clubs and trusts as mooring permittees.

Response:

We have reviewed this practice as noted in our response to Finding F-5 above and have found that the system works well today.

R-8. The City of Newport Beach and the County of Orange should review their ordinances to make sure that they are consistent with each other.

Response:

Recommendation accepted.

R-9. Review and update the mooring waiting list.

Response:

We intend to review and update the waiting list as envisioned by our update of Title 17, and as discussed in our response to Finding F-8 above.

R-10. The Assessor Department should coordinate with the city to review the value of mooring permit fees on a regular basis to see if they rise above the Orange County Minimum Value Ordinance.

Response:

No response from the City is required.

Transferability Code - Draft

Existing 17.22.080 - Transfer of Permit

No permittee shall transfer a permit for a mooring or buoy granted under the provisions of this chapter without the prior written approval of the Harbor Resources Manager. No permittee shall retain any right to use the mooring or buoy after having divested himself of the ownership of the vessel to be moored thereto. Upon such divesting, the ownership in such mooring or buoy shall remain with the permittee, but the right of use thereof shall vest in the City until such time as the City shall grant a permit for such mooring or buoy to another person. The permittee shall remove the mooring or buoy within thirty (30) days after divesting himself of ownership of the vessel to be moored thereto or, upon failure to remove the mooring or buoy, titles shall vest in the City. The City may, thereafter, sell the mooring or buoy. (Ord. 2002-18 (part), 2002)

Purpose

This Municipal Code Section recognizes that vessel moorings are intended to provide a low-cost alternative to boat slips in Newport Bay and to provide boating accessibility to a larger segment of the population. Historically, mooring transferability was intended under the Municipal Code to allow an individual mooring permit holder to convey the existing mooring hardware, in designated areas of the Newport Harbor tidelands, and the associated permit, to another individual in conjunction with the sale of a vessel assigned to the mooring. When this system was developed, demand for moorings was minimal. Initially, an individual could request permission to install mooring equipment and would be assigned a location and a mooring number. After two decades a wait list was established in practice, but not established in code. However, as the demand increased over several decades, a significant value was associated with possession of a mooring permit that was far in excess of the value of the mooring hardware. As the value of the permit increased, the ability to acquire a permit from the wait list decreased significantly. In addition, derelict vessels or dinghies were moved to moorings to serve as placeholders because municipal code section 17.22.100(f) stated that moorings left unused would revert back to city ownership for reassignment to another permittee after 90 days of disuse. Such derelict vessels, and even well-found vessels, came to be sold far in excess of their value to implement a mooring transfer and meet the letter but not the intent of the code. The mooring transfer process noted below accepts that a value is associated with possession of a mooring permit and provides for a revised process that is fair and equitable to the parties involved and provides for tidelands use fees that assist in funding harbor maintenance projects.

Proposed Revision - Transfer of Permit

A permittee shall be allowed to transfer a permit for a mooring or buoy granted under the provisions of this chapter with the prior written approval of the Harbor Resources Manager and compliance with the rules and procedures established in the City of Newport Beach Municipal Code and/or the County of Orange Ordinances.

A. The Harbor Resources Manager shall approve the transfer of a mooring permit provided:

1. The permittee has divested himself of the ownership of the vessel moored thereto, or
2. The permittee has retained ownership of the vessel and has permanently vacated the mooring, and
3. The permittee has not transferred a mooring permit in Newport Harbor more than *(twice –per the recommendation of the MMPSC; once –per Dave Kiff)* during the previous twelve (12) months and/or the mooring in question has not been transferred more than *(twice –per the recommendation of the MMPSC; once –per Dave Kiff)* during the previous twelve (12) months (additional mooring transfers may be allowed at the discretion of the Harbor Resources Manager provided there is no indication of mooring speculation), and
4. The proposed permit recipient is not currently named to more than two (2) other mooring permits (additional mooring transfers may be allowed at the discretion of the Harbor Resources Manager provided there is no indication of mooring speculation). More than two moorings may be permitted for special consideration to providers of harbor infrastructure construction and repair services, and
5. The permittee provides the appropriate transfer fee per Section G of this Chapter to the City of Newport Beach for deposit in the Newport Harbor Maintenance Reserve Fund (NHMRF).

B. A mooring permit may be issued to the following provided that there is one person named to the mooring permit who maintains legal responsibility for all activities related to the permit:

1. A natural person, surviving legal spouse, or life partner on file with the Secretary of State.
2. A family trust with a natural person named to the trust that is also named to the ownership of the vessel,
3. A documented partnership.
4. A marine contractor that provides harbor infrastructure services (such as dredging),

5. The Balboa Yacht Club and Newport Harbor Yacht Club within their respectively assigned mooring areas,
6. The Lido Isle Community Association (assigned shore moorings on Lido Island),

C. A mooring permit may be transferred upon the purchaser's presentation of the following documents and satisfaction of the following conditions by the times noted:

1. A copy of either the California Department of Motor Vehicles current registration; or the U.S. Coast Guard document within 60 days of the mooring transfer form submittal date; or,
2. If the mooring permittee is unable to secure a vessel within 60 days, permittee must provide written notification, to the City of Newport Beach and the County of Orange, of intent to not occupy the mooring. The mooring will be utilized for long-term rental and will be made available to the mooring permittee following submittal of the document from C-1 and a 30 day notice of intent to occupy.
3. Completed mooring transfer form at time of submittal.
4. Annual mooring permit fees due to the City are current; periodic mooring inspection is current; and no derelict vessel remains on, or is placed on, the mooring.

D. Moorings that are vacant, for any reason, may be utilized by the City of Newport Beach or County of Orange for short or long-term rental purposes based on the following:

1. The City of Newport Beach and County of Orange may rent vacant moorings (without the assigned vessel tied up for more than 30 days) at their discretion. However, this section does not apply to yacht clubs or community associations which independently manage their moorings.
2. The mooring permittee may not sub-rent the mooring.
3. Mooring permittees without a vessel on the assigned mooring for more than 30 days must notify the City/County of availability of the mooring for rent.
4. Mooring permittee must notify the City/County 30 days prior to returning from a long (for purposes of this section, "long" shall be defined as greater than 60 days) absence.
5. Upon return of the permittee to the assigned mooring, the City or County will reassign the renter to another mooring.
6. A mooring renter must enter into a sub-rental agreement with the City/County and provide insurance (including evidence of marine pollution coverage), registration or documentation, a non-

refundable contribution to an equipment damage repair fund and agree to be responsible for damage to mooring equipment.

7. The long-term mooring renter shall provide mooring lines which shall be removed at the end of the rental period.
8. The sub-rental agreement is renewable based on availability. Having rented a mooring for any length of time does not entitle a renter to a renewal anywhere in Newport Harbor.
9. Long-term rental of moorings will be offered to those persons currently on the wait list, as a priority.
10. Persons not currently on the wait list may rent a mooring on a long-term basis, if available after offering open moorings to the wait list.
11. Persons on the wait list who do not accept a rental offering do not lose their position on the wait list.
12. No more than 75% of the moorings available for rent can be assigned to long-term rental.
13. The remaining 25% of the moorings available for rent will be rented to transient vessels on a short-term basis.
14. The rental fee will be based on a rate established by the Newport Beach City Council and delineated in the Master Fee Resolution.
15. The rental fee will be deposited in the NHMRF.
16. No live boards shall be allowed on long-term rental moorings.

E. The existing mooring wait list will be phased out of use and no “free” moorings will be offered to wait list participants:

1. No additional names will be placed on the wait list effective December, 31 2007.
2. All persons on the wait list will be sent two notices (providing 30 day response time for each) requesting updating of current contact information.
3. If there is no response to the 30 day notices, then the person will be dropped from the wait list.
4. Biannual requests for contact information updates will be sent to wait list participants. Persons not responding to the two notice process, as noted above, will be dropped from the wait list.
5. A nominal fee adopted by the City Council in the Master Fee Schedule will be required to remain on the wait list.
6. Revoked, cancelled, returned or abandoned moorings will be offered to persons on the wait list based on a mooring permit reallocation fee established by the Newport Beach City Council and delineated in the Master Fee Resolution.
7. The mooring permit reallocation fee will be deposited in the NHMRF.

8. The mooring permit reallocation fee will be calculated based on 50% of the current market value per linear foot assigned to mooring permits in the most recent harbor fee appraisal survey.
9. If no person on the wait list accepts a mooring permit according to the reallocation process noted above, then the City/County may auction the mooring permit and assign the mooring permit to the highest sealed-bid submitted.

F. Moorings not in use by the permittee may be returned to the City/County:

1. Mooring permittees or heirs that are not interested in following the mooring permit transfer process in 17.22.080 (A) above may return the permit to the City/ County and are entitled to a mooring permit return credit.
2. The mooring permit return credit shall be established by the Newport Beach City Council and delineated in the Master Fee Resolution.
3. The mooring permit return credit will be withdrawn from the NHMRF.

G. Mooring Permit Transfer Fees

1. The transfer fee shall be equal to one year's current mooring permit fee (adjusted annually with the City Council's adoption of the Master Fee Schedule) for the mooring being transferred, and
2. Exemption to the transfer fee is allowed for transfers among the immediate family (husband, wife, and children), estates and family trusts.

H. Appeals

1. Decisions of the Harbor Resources Manager resulting from the Manager's administration of this Chapter may be appealed per the requirements of Chapter 17.42.