

NEWPORT BEACH HARBOR COMMISSION MINUTES
City Council Chambers
January 13, 2010

CALL TO ORDER 6:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Chair Karen Rhyne, Commissioners Tim Collins, John Corrough, Marshall Duffield, Don Lawrenz, Ralph Rodheim and Vincent Valdes were present.

Staff: Lorrie Arcese, Chris Miller and Shannon Levin

MINUTES: The minutes from the last meeting were approved.

PUBLIC COMMENTS ON NONE AGENDA ITEMS:

Pete Swift, who has been in business in the harbor for 27 years, wanted the Commission to be aware that Eelgrass is the biggest deterrent in maintaining the harbor. Eelgrass inspections must be done every time, which expire in 90 days, but it takes 4 to 5 months to get the permit through. So another inspection must be done. Surveys can only be done during the non-growth period, so this down time costs jobs. Now we must protect it in places where it might grow. The emphasis is no longer on the harbor. Commissioner Rodheim requested this be agendized.

ACTION & APPEAL ITEMS

ITEM #1

Subject: Introduction of the new Assistant City Attorney
Issue: Mr. David Hunt, City Attorney, introduced Ms. Leonie Mulvihill, Assistant City Attorney to the Harbor Commission. She gave her background to the Commission.

David Hunt said that Eelgrass is a priority and critical to the dredging effort. City Council is aware of this and pushing for a solution. The Irvine Company public access issue is being look at by the Office of the City Attorney.

Discussion:

Public Comments:

Action: Receive and File.

ITEM #2

Subject: Report on the Proposed Newport Harbor Water Taxi System
Issue: The Harbor Commission heard a report about a proposed Newport Harbor water taxi system from Mike McNamara, Committee Chair. He went over the designations. He went over the finance issues, fees and charges. There are three different types of systems that were looked at.

Discussion: Goals of the committee were:

1. Make harbor more user friendly for visiting boats, provide water oriented services for residents and visitors.
2. Serve special events, yacht races, Christmas event.
3. Provide service to liveaboard.
4. Provide alternate transportation system to reduce traffic and drunk driving.
5. Increase revenue to the water business.
6. Provide for the operator to make the service economically viable.

7. Make it more accessible for persons with disabilities.

Mike said that due to cost restraints and beyond our charter we were not able to conduct a market based analysis so we used demands from other area systems. They came to the conclusion that the system is conceptionally feasible, no grants are available at this time and they recommend the cities to provide in kind support, use of docks, signage, staff, etc. Staff took the lead in checking that. There are 3 different types of vessels used: 18 to 20 passengers for a loop route; 30 to 90 passengers for point to point operations; and 12 passengers for on-call service. Our recommendation is to put it out for an RFP. He asked that the Harbor Commission look over the report and send their recommendations to the City Council.

Commissioner Lawrenz asked what about the ADA requirements. He took acceptance that a financial performa could not be conducted. He feels there should be a two step RFP process, and initial one and then a final one.

Commissioner Corrough would like this recommended to City Council that we proceed with an RFP, with the ability to further examine a City position paralleling the RFP respondents position. EDC said we should move forward with an RFP. He felt he was too close to the issue to make a motion.

Commissioner Collins questioned whether an RFP saying no initial subsidy will fly, he feels it must have subsidy and will cause a hurdle that can't be overcome. Commissioner Corrough said that other areas have earmarked for subsidy for public transportation. It may be in the future if gone after. There is just none locally. We may just be a year behind starting this if we pursue a subsidy.

Commissioner Rodheim said we need a performa and everything needs to be in place before sending out an RFP. He thinks it is too early for the RFP and cannot recommend at this time. Doesn't want negative responses if we are premature but he sees how much work has been done.

Commissioner Duffield admired how thorough the report is. He questioned the finances and said there is no way anyone can make a profit with 25,000 people at \$1 to \$5 per person. It would need to be \$7 and no one would pay that amount. It must be affordable for everyone to use, so there needs to be a subsidy.

Public Comments: None

Action: No motion. Receive and File.

ITEM #3

Subject: Coastal Marina Permit Presented by Jim Sinasek and Mark Silvey

Issue: The Harbor Commission heard a presentation from Jim about the California State Water Resources Control Board's proposed Coastal Marina Permit.

Discussion: Mark Silvey said that the Coastal Marina Permit will be up for vote in November. The feeling is that they really want no boating to happen. There is no scientific proof that copper damages the water. There must be some alternative legislation that is not as restrictive. California Green Marina program is trying to show that the marinas can govern themselves. The Marina Recreation Association will be taking an opposing stand. The items will be agendized.

Public Comments:

Action: Receive and File

ITEM #4

Subject: Harbor Patrol/Marina Operations Update
Issue: The Harbor Patrol gave an update the Harbor Commission on various department activities and programs including: the Harbor Patrol headquarters seawall project; Harbor Patrol budget; and Homeland Security.
Discussion: Commission Rodheim said that the Harbor Patrol is doing a fine job recently and they need the Commission's support.
Public Comments:
Action: Receive and File

SUB-COMMITTEE REPORTS:

Shannon has submitted the mooring changes to the 4 agencies as needed.

HARBOR RESOURCES UPDATE – Chris gave a PowerPoint presentation on harbor updates. *The update is posted at <http://www.newportbeachca.gov/index.aspx?page=462> (under Harbor Resources Updates).* Chris mentioned the sand replenishment project and he is apprehensive about put too much sand on the beaches because then the residents will claim that the City needs to dredge because we added the sand and it drifted under their dock. Commissioner Rodheim will bring it up at the BIIA that the City needs their backing.

RECOMMENDED TOPICS FOR FUTURE AGENDAS:

- Sea Lions – Preventative measures and possibly tighter controls
- Harbor Patrol Task Force
- Eelgrass Issue
- Harbor Patrol needs authority to impound vessels during special events. It will need to go into the City code.

DATE OF NEXT MEETING: February 10, 2010

ADJOURNMENT

DRAFT HARBOR ISSUES

October 29, 2009

1. Welcome to Newport sign
 2. Visitor guest docks
 3. Visitor welcoming and mooring registration procedures
 - a. Length of stay
 - b. Payment method
 - c. Informing visitors about moorings and tackle
 - d. Communicating with visitors renting a mooring
 - e. Public dock designation and information for visitors
 4. Corona del Mar anchorage and regulations
 5. Turning basin anchorage and regulations
 6. Long term rental procedures
 7. Lack of public docks
 8. Dingy docks
 9. Seals
 10. Noise i.e. charter boats/ private vessels
 11. Bay fishing
 12. Overhang and enforcements
 13. Special events and event permits
 14. No discharge harbor enforcement
 15. Public safety/ harbor department open house
 16. Derelict boat procedures and enforcement
 17. Yacht Club coordination
 18. Citizens harbor advisory committee
 - 19.
 - 20.
-

Ralph Rodheim

From: MCCORMICK, STEVEN R [SMcCormick@ocsd.org]
Sent: Thursday, November 12, 2009 11:38 AM
To: Ralph Rodheim
Cc: LONG, MARK E
Subject: Response to Questions
Attachments: BOS Resolution.pdf; BOS Resolution 1.pdf

Ralph,

The following are responses to the questions you had posed to Lt. Long during your meeting on October 29th, 2009.

- Update on the Lower Newport Harbor Bulkhead Replacement Project
 - The project has completed the permits process
 - The County will be accepting bids January 13th, 2010
 - Projected construction start date of March – April 2010, with a construction run time of approximately 260 days
- Does the Harbor Patrol advise renters that mooring equipment may be needed to secure to a mooring can. (Boat Hooks / Lines / Whisker Poles)
 - If asked, a full rundown of equipment associated with the Off-Shore and On-Shore Moorings is provided along with proper tie-up methods and practices.
 - Normally, renters are advised that the cans may or may not have Spreader Lines or Bow and Stern Lines and they are given maps to assist in locating their rental position.
 - If it appears that the boater is new to the harbor or unfamiliar with the tie-up methods additional information is given including the offer to have one of our patrol boats proceed to the specified mooring can and assist the renter in securing his/her vessel.
- C-1 Anchorage (Turning Basin Anchorage) Regulations compared to Corona Del Mar Anchorage Regulations
 - For C-1 Anchorage Regulations see attachments
 - This Board of Supervisors Resolution governs the anchorages within the County of Orange
 - Lists the 6 current regulations
 - Main Regulations governing Corona Del Mar Anchorage Area
 - Must remain onboard continuously between the hours of dusk to dawn

- Must remain onboard continuously during any Small Craft or greater weather advisory
- 72 hours anchorage restriction
- One shore excursion daily no to exceed 3 hours
- The County of Orange is currently rewriting the resolution the governs anchorages
 - During the rewrite the possibility does exist to change the rules governing the C-1 Anchorage
 - Possible changes to C-1 could include
 - Must remain onboard between the hours of 10:00pm to 06:00am
 - Must remain onboard continuously during any Small Craft or greater weather advisory
 - 5 day limit would remain the same
 - One shore excursion daily not to exceed 4 hours (Shore excursion may shall not be allowed if it is in conflict with bullets 1 or 2)
- Overhang Enforcement
 - The governing section is no longer in Harbor Permit Policy Appendix H. It has been imbedded in Title 17 of NBMC. The highlighted area covers the violation, I believe, you were addressing.

17.25.020 Anchorage, Berthing and Mooring Regulations.

A. Location. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within the designated areas. Any vessel which is berthed, moored or anchored at a place not designated for such vessel shall be moved as directed by the Harbor Resources Manager. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space. No vessels shall be moored or anchored in any part of any turning basin or channel unless secured both fore and aft except as provided in subsection (l) of this section. Every vessel moored or anchored in any part of the harbor outside of any turning basin or channel shall be so moored or anchored as to prevent such vessel from swinging or drifting into any turning basin or channel.

(1) It is unlawful and a public nuisance for any person owning, leasing, occupying or having charge or possession of any vessel to: (a) berth or anchor the same in Newport Harbor except within the designated areas; or (b) anchor a vessel at any location on the open waters of the Pacific Ocean within five hundred (500) yards of a designated protected swimming area for a cumulative period of time that exceeds seventy-two (72) hours within any thirty (30) calendar day period. The Harbor Resources Manager or his designee may authorize an extension to the seventy-two (72) hour time limit if the Harbor Resources Manager determines that given the particular circumstances an extension of time is reasonable and warranted.

(2) Any vessel which is berthed, moored or anchored at a place in Newport Harbor not designated for such vessel shall be moved as directed by the Harbor Resources Manager. In the designation of mooring areas and anchorage areas in Newport Harbor, consideration shall be given

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to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space.

B. Application of Chapter. The terms of this chapter, as they relate to moorings and buoys, shall apply to "on-shore moorings" which are moorings located landward of the pierhead line and to "offshore moorings" which are located bayward of the pierhead line, with equal force and effect.

C. Berthing.

1. Boats berthed at private or public piers shall not extend beyond the projection of the property lines of the property to which the pier is connected in accordance with Section 17.35.020.

2. Any boat berthed at a pier or slip shall not extend bayward a distance of more than the maximum width of its beam beyond the end of the pier, or slip. Between Bulkhead Station 256, beginning at Collins Avenue to Bulkhead Station 255, boats moored at a pier or slip shall not extend more than fifteen (15) feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less.

- o Now that the section has been imbedded in Title 17 of the NBMC it is technically a citable section, but there are a few reasons as to why a criminal citation is not the best course of action.
 - We have spoken to Chris Miller at the Harbor Recourses Office and he has informed us that the City of Newport Beach has traditionally utilized NB Code Enforcement to address overhang or extension violations.
 - Chris Miller stated that the City of Newport Beach has granted exemptions to the overhang or extension rule and the Sheriff's Department does not have access to those records.
 - Without those records the Sheriff's Department would not be able to determine if a violation existed or if the overhand was legally permitted.
 - If the Sheriff' Department issued a citation and it was later learned that the City had allowed the overhang or extension, the citation would be issued in error.
 - As a result of conversations with Chris Miller, he believes that the best course of actions would be for the Sheriff's Department to notify the Harbor Recourses Department of any reported violation and the City's Code Enforcement would investigate and take action if necessary.

If you have additional question please let me know.

Thanks,

Sergeant Steve McCormick

Administrative / Training Sergeant
 Orange County Sheriff's Department
 Newport Harbor Patrol
 (949) 673-0933