

**CITY OF NEWPORT BEACH**  
**CITY COUNCIL STAFF REPORT**

Agenda Item No. 20  
July 27, 2010

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** City Manager's Office  
Dave Kiff, City Manager  
949/644-3002 or dkiff@newportbeachca.gov

**SUBJECT:** **Resolution 2010-\_\_:** **Creation of an Ad Hoc Committee on Updating Harbor Charges**

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**ISSUE:**

Consider designating an *ad hoc* committee to participate in an updating of Newport Harbor charges, including fees for service and fees based on the fair market value use of public property.

**RECOMMENDATION:**

1. Adopt Resolution 2010- \_\_ relating to the City Council Ad Hoc Committee on Updating Harbor Charges.
2. Appoint \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ to the Committee.

**DISCUSSION:**

The role of this ad hoc committee would be to work with staff, stakeholders, and other interested parties to update various fees and charges levied for Newport Harbor-related activities to (where applicable) Fair Market Value or Cost of Service and set in place a process to ensure that these fees and charges are routinely and regularly updated.

There are at least two categories of Harbor activities subject to fees or charges. Arguably, each should be approached differently. They are:

1. **Use of Tidelands Property** which should be based on the Fair Market Value of such property, which may include, but not be limited to:

<b>Charges Based on Use of Property</b>	
<i>Description</i>	<i>Amount per Year</i>
Commercial Pier - Over City Tidelands	\$0.36/SF
Commercial Pier - Not Over City Tidelands	\$ 26.70
Onshore Moorings	\$10/LF
Offshore Moorings	\$20/LF

2. **Fees based on the cost of providing a service** (most of which are in the Master Fee Resolution that the City Council adopts annually), which may include, but not be limited to:

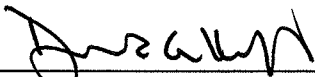
Fees Based on Cost of Service	
Description	Amount per Year
Commission Appeal Hearing	varies
Harbor Structures Permit - Dredging	\$500.00
Plan Check Fee - New Construction	\$180.00
Plan Check Fee - Maintenance	\$ 41.80
Non-Commercial Pier Permit - Transfer	\$460.00
Commercial Pier Permit - Transfer	\$500.00
Marine Preserve Tours	\$ 36.10
BYB Wait List	\$ 34.10
Live-Aboard Permits	\$190.00
Live-Aboard Wait List	\$ 60.00

Because changes to harbor fees have been controversial in the past – and will remain controversial – I have requested the assistance of a Council *ad hoc* committee to provide guidance in this matter.

Environmental Review: None required.

Public Notice: This agenda item has been noticed according to the Ralph M. Brown Act (72 hours in advance of the public meeting at which the City Council considers the item).

Submitted by:



\_\_\_\_\_  
Dave Kiff  
City Manager

Attachment: Resolution 2010-\_\_\_\_

**RESOLUTION 2010-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWPORT BEACH  
FORMING THE CITY COUNCIL AD HOC COMMITTEE  
ON UPDATING HARBOR CHARGES**

**WHEREAS**, the City's tidelands trust, also known as the Beacon Bay Bill (Chapter 74 of the Statutes of 1978), dedicates certain harbor lands and waterways are held in trust by the City on behalf of the people of California; and

**WHEREAS**, the Beacon Bay Bill directs that the City manage these lands as follows:

(1) For the establishment, improvement, and conduct of a public harbor; and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce and navigation.

(2) For the establishment, improvement, and conduct of public bathing beaches, public marinas, public aquatic playgrounds, and similar recreational facilities open to the general public; and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses.

(3) For the preservation, maintenance, and enhancement of the lands in their natural state and the reestablishment of the natural state of the lands so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area; and

**WHEREAS**, the City believes that effective management and conduct of a public harbor obligates us to charge appropriate and non-discriminatory rates for the use of tidelands, without conferring a benefit to private individuals for the use of public property in violation of the California Constitution's prohibition on gifts of public funds; and

**WHEREAS**, there are at least two types of fees or charges in the Harbor – fees based on the cost of providing a service (such as processing a regional general permit) and charges based on the Fair Market Value use of a public asset (such as some commercial pier charges, marine charter activities, and mooring charges); and

**WHEREAS**, the City Council believes that any increase or adjustment in Harbor Charges should result in a greater contribution to a protected fund where dollars within it are expensed on Harbor projects, such as dredging, eelgrass, amenities, and more; and

**WHEREAS**, the City Council desires that future updates in harbor-related charges and fees be done on a routine and analytical basis, instead of being done infrequently or not at all; and

**WHEREAS**, the City Council desires to have an open, public, and participatory process relating to any increase or other adjustment in harbor charges; now, therefore be it

**RESOLVED** by the City Council of the City of Newport Beach that it hereby establishes the City Council ad hoc Committee on Updating Harbor Charges per the attached Membership, Term, Purposes and Responsibilities.

**ADOPTED** this 27<sup>th</sup> Day of July, 2010.

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**KEITH CURRY**  
Mayor of Newport Beach

**ATTEST:**

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**LEILANI BROWN**  
City Clerk

**CITY COUNCIL AD HOC COMMITTEE  
ON UPDATING HARBOR CHARGES**

**AUTHORIZATION:** Established by Resolution No. 2010-\_\_ adopted on July 27, 2010.

**MEMBERSHIP:** Three members of the City Council, appointed by the Mayor. City staff support shall come from the City Manager's Office.

**TERM:** Through March 31, 2011.

**PURPOSE & RESPONSIBILITIES:**

- A. To provide guidance to staff regarding the adjustment (up or down) of Harbor-related fees and charges based upon cost of service and based upon the fair market value for use of tidelands property (the latter including the Balboa Yacht Basin, commercial piers over City tidelands, commercial piers not over City tidelands, onshore moorings and offshore moorings, including setting in place a system or methodology to regularly update these fees and charges.
- B. To convene and guide public meetings with stakeholders and other interested parties in this matter.
- C. To develop a recommendation to the full City Council as to adjustments (up or down) in Harbor-related fees and charges and as to any new restricted fund relating to any incremental increase in revenue resulting from fee or charge increases.