

Harbor Commission Special Meeting
March 18th, 2024 5:00 PM
Presentation

1. Discrimination
2. Faulty Appraisal
3. Conflict of Interest Concerns Recently Received

Information Previously Presented

You have already heard most of our concerns in prior meetings and study sessions. These concerns have been focused on discrimination against people with moorings, and also Mr. Netzer's faulty appraisal. You have also received the CBRE independent appraisal.

New Concerns

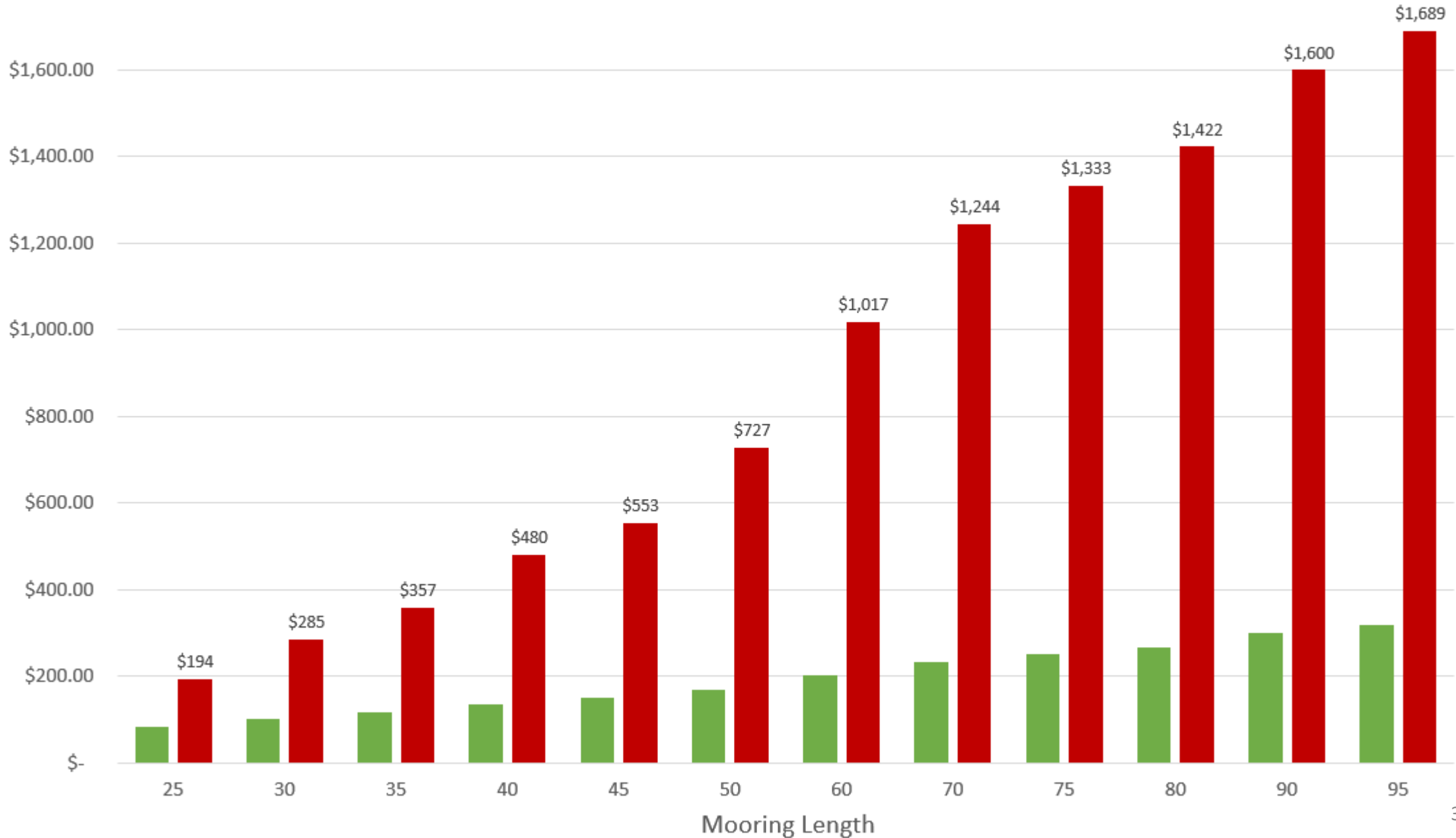
We would also like to share with the Commission recent concerns regarding possible Conflicts of Interest that has been brought to our attention by a mooring holder. These, if true, are alarming. We feel the issues need to be investigated by the Harbor Commission, the City, and us prior to any recommendation and vote.

Speakers

The first speaker is Mr. Chris Benzen who will share information he has presented to us regarding his views on conflicts of interest. He will also present slides on the discrimination issues. After that, the Appraisals will be discussed by others.

Monthly Rates - Existing vs HC Recommendation

■ Current ■ Recommendation



Discrimination

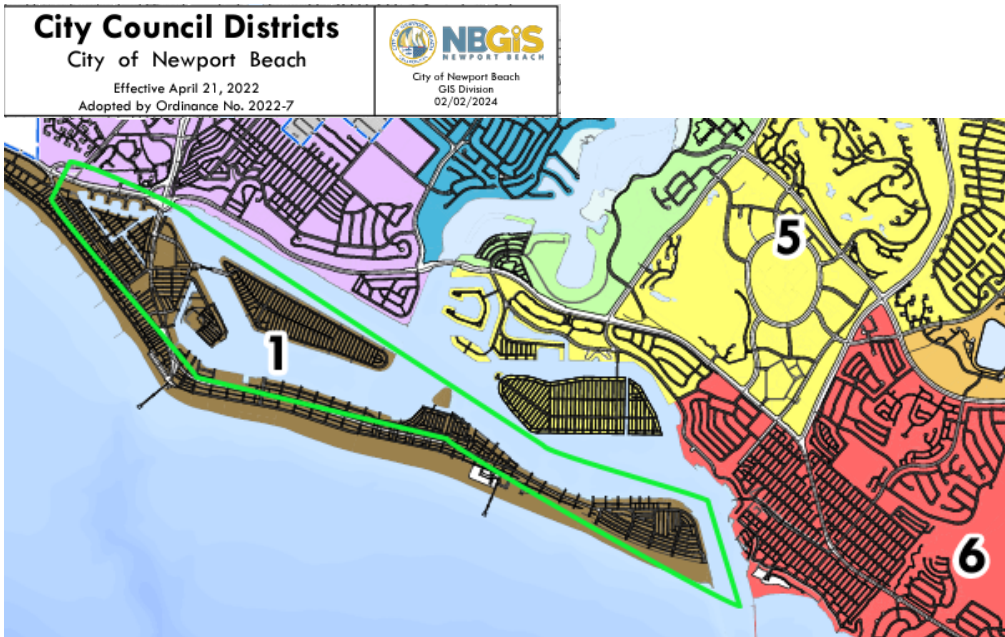
1. Political

2. USE

3. Economic

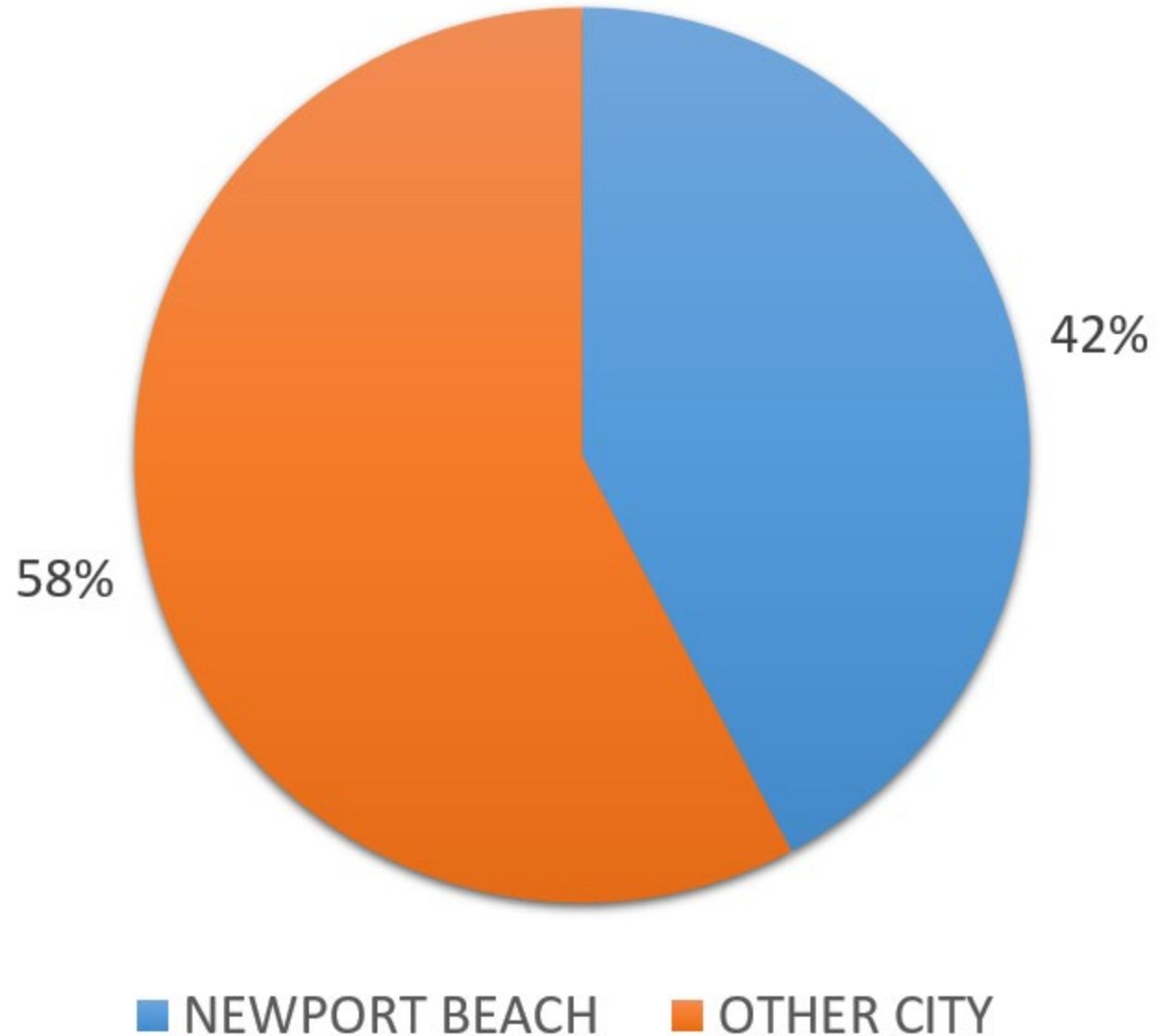
Political Discrimination

A majority of mooring permits are held by residents that cannot vote in Newport Beach



Compared to docks, a majority in the green box

Mooring Permit Holder City of Residence



Use Discrimination

The California State Lands Act

CHAPTER 74

An act relating to tide and submerged lands in the City of Newport Beach, and in this connection repealing Chapter 494 of the Statutes of 1919, Chapter 70 of the Statutes of 1927, Chapter 142 of the Statutes of 1929, Chapter 574 of the Statutes of 1929, Chapter 813 of the Statutes of 1929, and Chapter 200 of the Statutes of 1931, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with
Secretary of State April 7, 1978.]

The people of the State of California do enact as follows:

(d) In the management, conduct, operation, and control of the lands or any improvements, betterments, or structures thereon, the city or its successors shall make **no discrimination in rates, tolls, or charges for any use** or service in connection therewith.

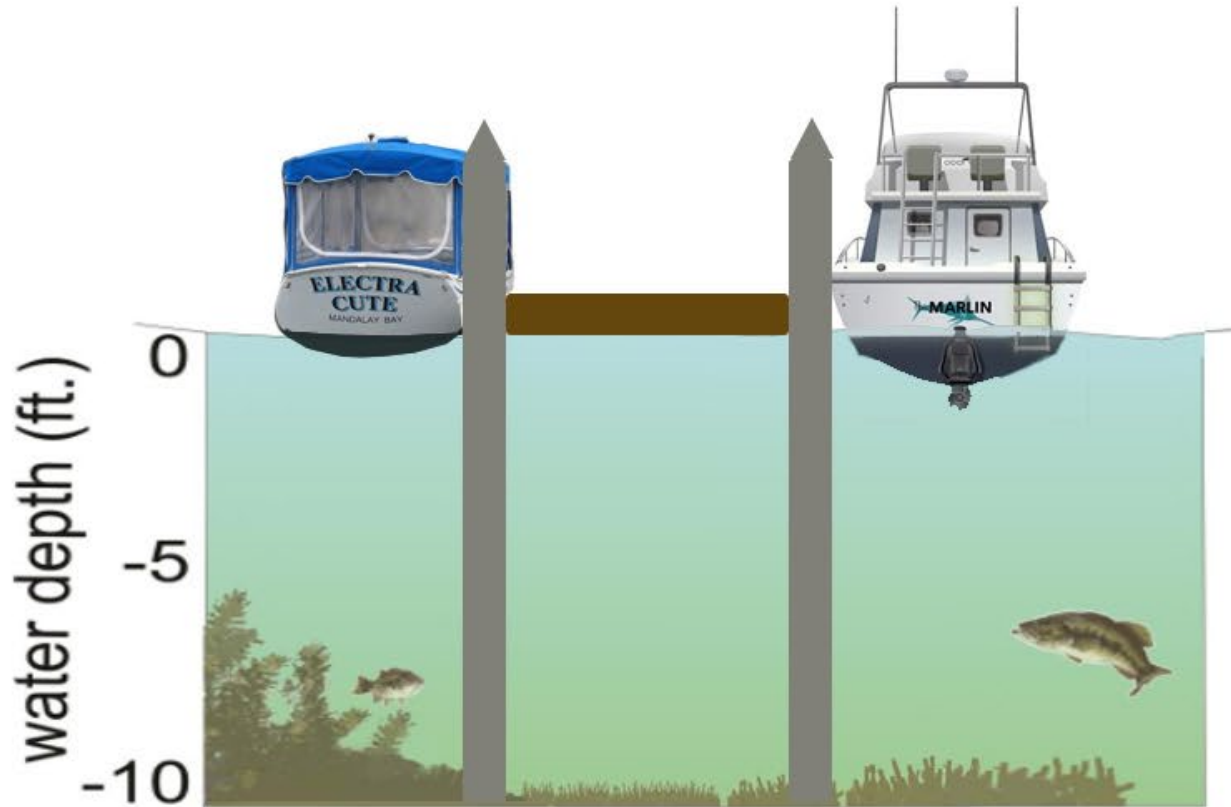
“..no discrimination in rates, tolls, or for any use..”

Why are we only looking at the Moorings? Why aren't they appraising all of the uses at the same time? This is “use” discrimination.

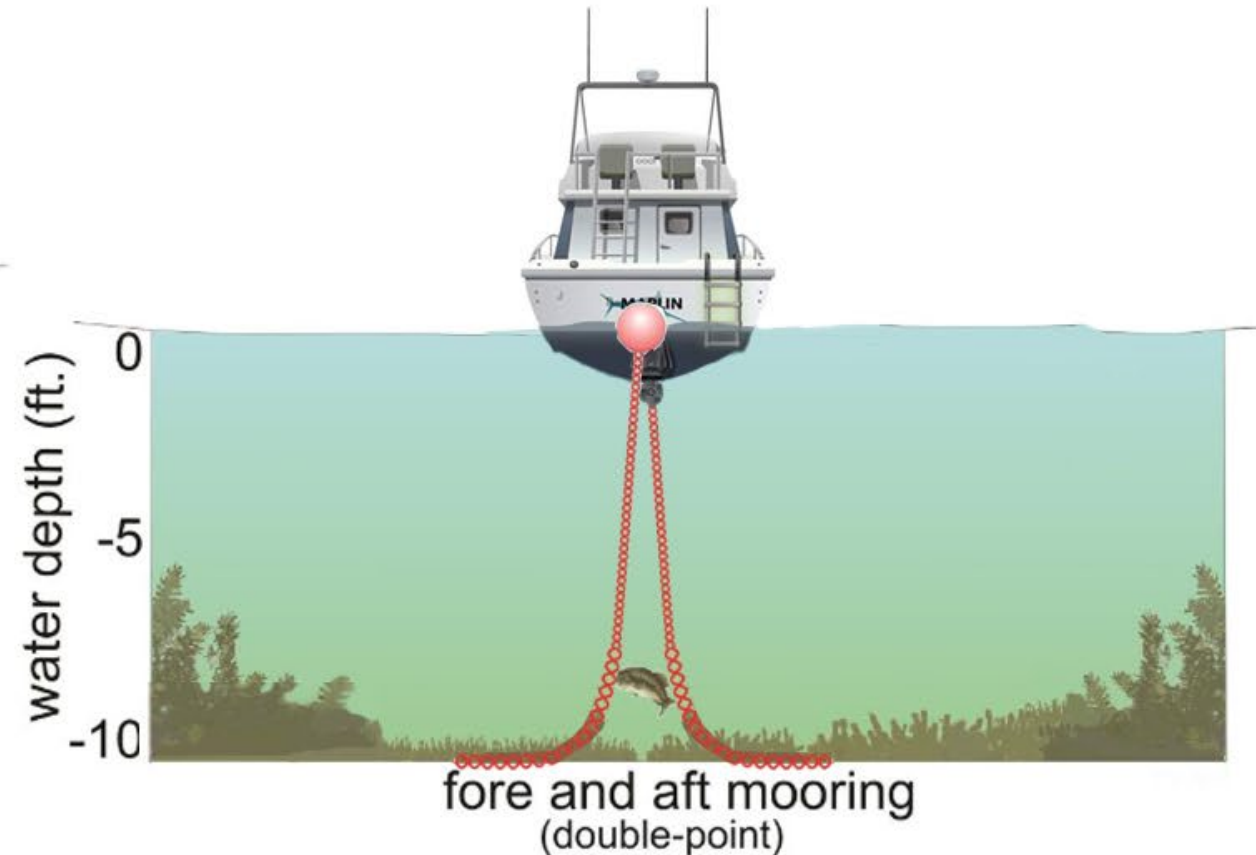
Why didn't the appraisal look at single point moorings? Why did they not look at the docks? Are the BYC and Newport Harbor Yacht Clubs, as organizations who pay the city directly for mooring rents, included in this rate increase? Why didn't the appraisal include rents charged at the Newport Aquatic Center?

“..no discrimination in rates, tolls, or for any use..”

Dock




Mooring



“..no discrimination in rates, tolls, or for any use..”

Dock

~25' Power Boat + ~19' Duffy

 Pier Permit Information
City of Newport Beach

← Residential Pier Permits (1)

☆ Residential Pier Permit

Address: 619 36TH ST
Permit Area Total Square Footage: 190

Pier is not shared by more than one resident.
on total square footage.

Permit Fee
Current Year: \$143.81

[Pier Permit Exhibit](#)



~\$12.00 / Month

Mooring

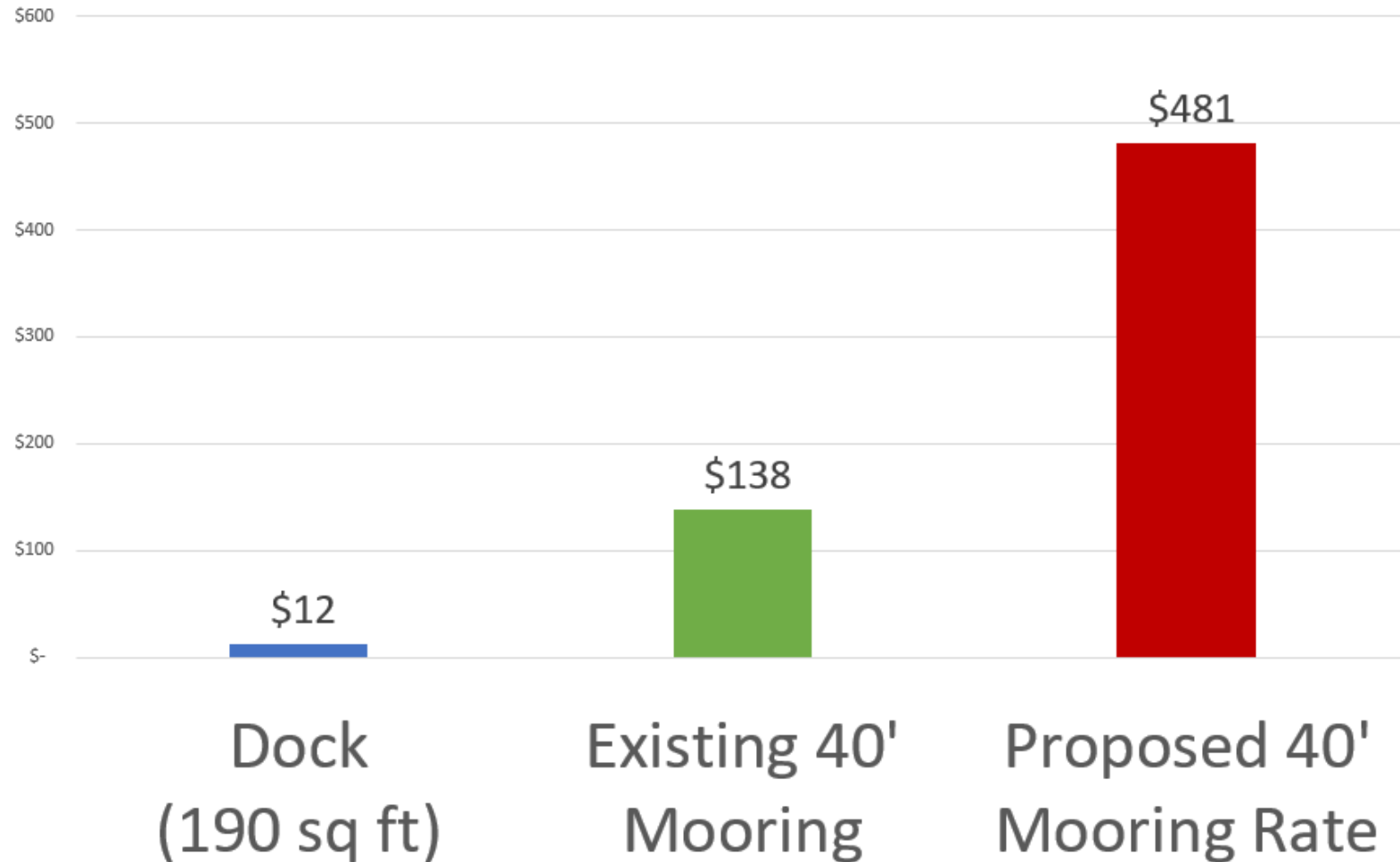
~34' Sail boat



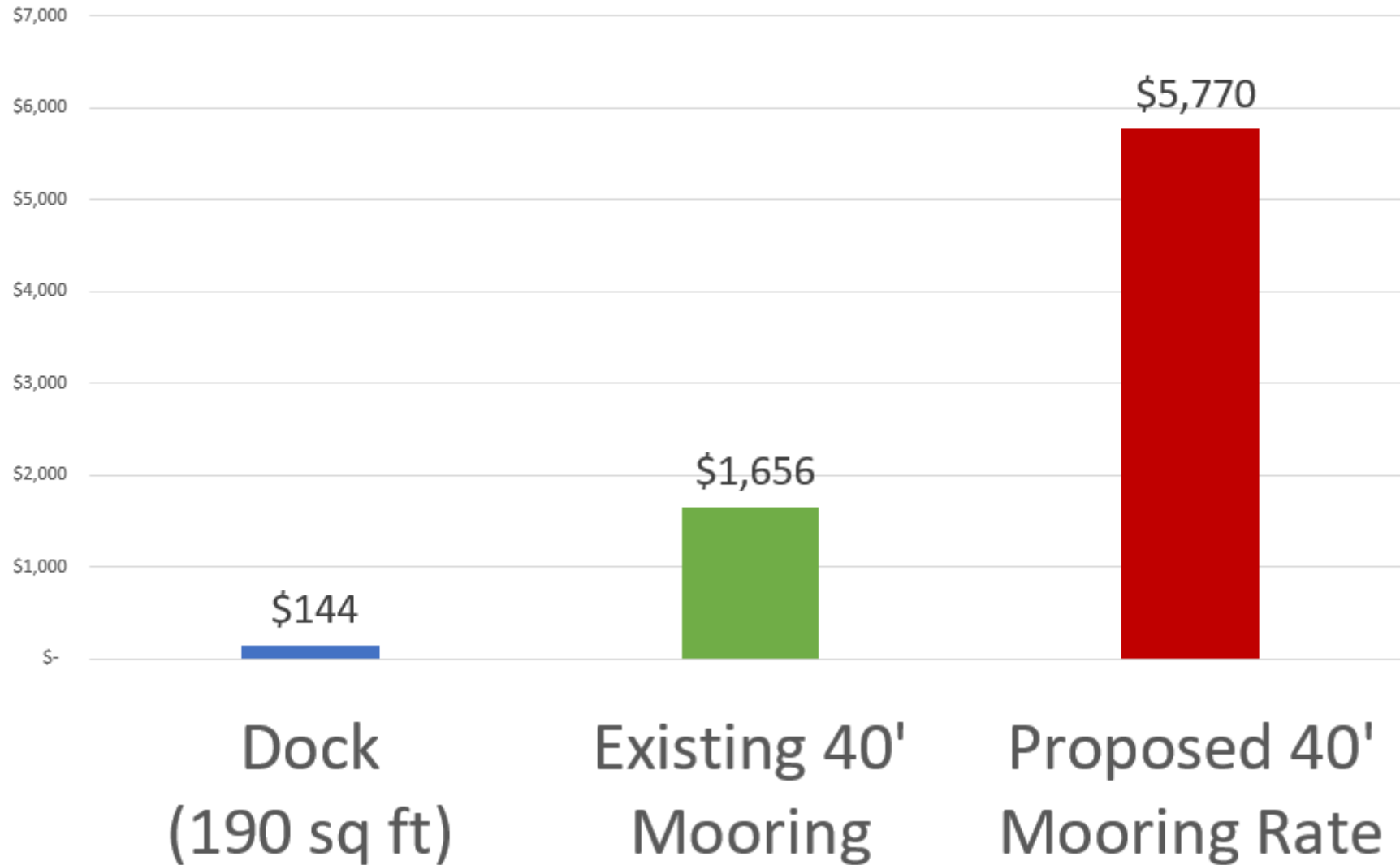
\$138.00 / Month

Economic Discrimination

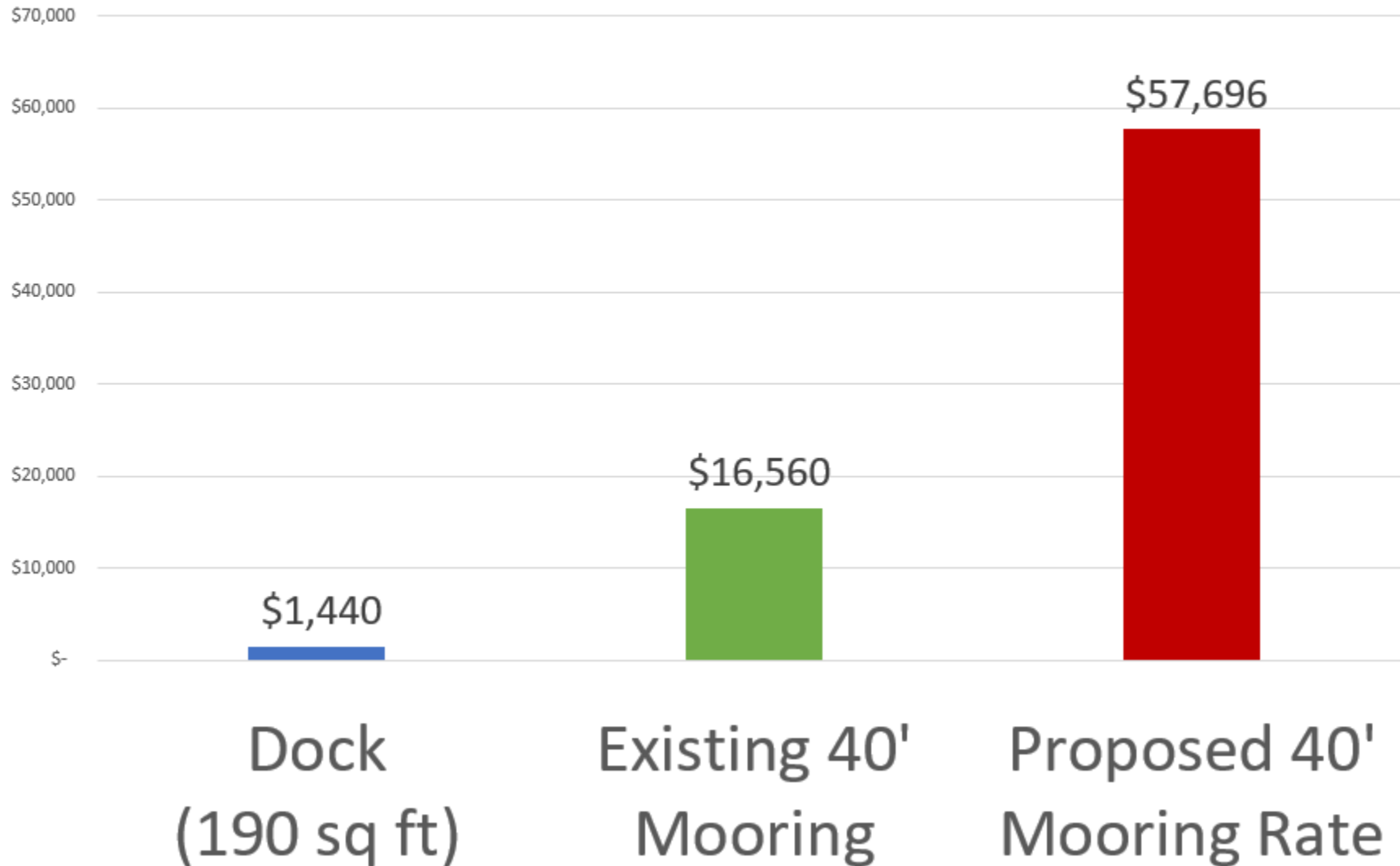
Monthly Rate Dock v Mooring



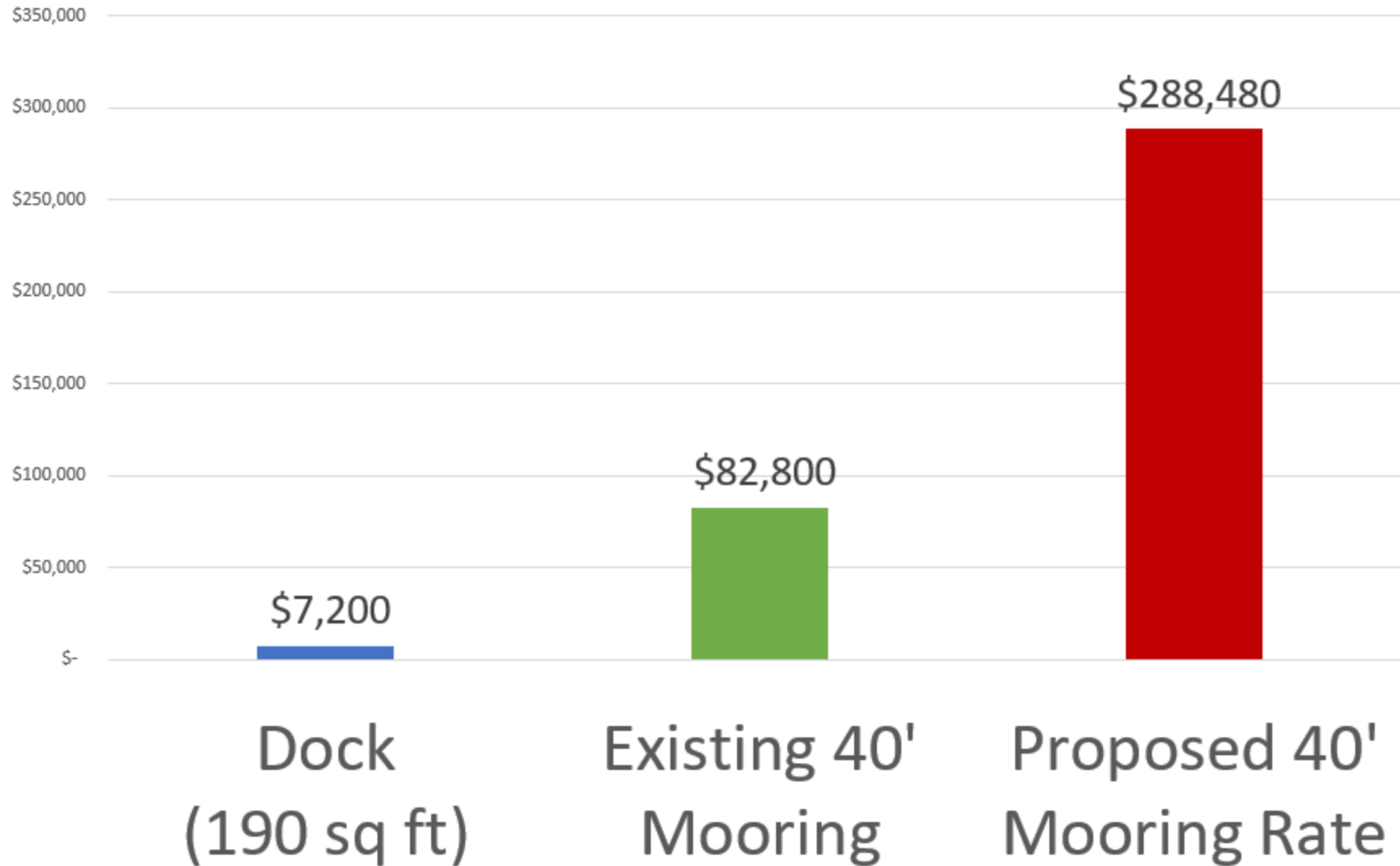
Annual Dock v Mooring



Ten Years Dock v Mooring



Fifty Years Dock v Mooring



What would be fair?

Let's just apply the current dock system (resolution 2015-10) to moorings. Eliminate the "use" discrimination

RESOLUTION NO. 2015-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADJUSTING THE RENTAL CALCULATION AND APPROVING A REVISED MODEL PERMIT TEMPLATE FOR RESIDENTIAL PIERS LOCATED UPON TIDELANDS

WHEREAS, on January 27, 2015, the City Council considered, at its regularly scheduled study session, the current status of the City's tidelands regulations and rents for moorings, commercial piers and residential piers and directed staff to bring back certain amendments contained in this resolution to improve the tidelands rent process;

AYES: Council Member Peotter, Council Member Petros, Council Member Muldoon, Mayor Pro Tem Dixon
NAYS: Council Member Curry
RECUSED: Council Member Duffield, Mayor Selich

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of February, 2015.

Harbor Fees: Mooring, Commercial Piers, Residential Piers

Residential Pier Fees

- Pre-2013
 - Residential Piers were charged a flat rate (\$100) regardless of size.
 - Rentals prohibited
- 2013 Forward
 - Residential Pier Permittees charged proportionate to dock size.
 - Rentals allowed. If a person rents out his/her dock, they pay the Small Marina Rental Rate (13 do so now)
 - Average permit fee applied to piers over Public Trust Lands (City) only.

Newport Beach Approach

- Permit Area:
 - The footprint of the pier and gangway.
 - Doesn't include the water
 - Unless a "U" dock
- Permit Rate:
 - \$0.525/SF/year (by 2017)
- Choice of annual or longer-term permit

Current Terms

1. Simplified Permit (1 page)
2. HOAs classified as residential unless they rent to non-members
3. Rental to 3rd parties allowed
4. 10 Year permit available
5. Annual Fee: Ramps up to \$0.525 per square foot over tidelands

Residential Pier "Footprint"



Note: These are average ramp-up rates...

2013	\$0.129 per sq/ft
2014	\$0.228 per sq/ft
2015	\$0.327 per sq/ft
2016	\$0.426 per sq/ft
2017	\$0.525 per sq/ft

How would that look?

40' Mooring "Footprint"



Total Area of one Mooring Ball = 3 sq. ft.

Total Area of two balls = $3 \times 2 = 6$ sq. ft.

Total Area of stringer line = $40' \times \text{floats } 4'' = 13$ sq. ft.

Round the decimals to equal 20 sq. ft.

Multiply the 20 sq. ft. by the 0.525 per sq. ft. = \$10.50

Apply the mooring to slip ration of 24% \times \$10.50 = \$2.52

This is the annual rent for a 40' mooring: \$2.52

Common Rebuttals

1. Property Taxes

2. Maintenance

3. No other use

Property Taxes

Bayfront Property with Dock

Peninsula Home without Dock



[Edit](#) [Save](#) [Share](#) [More](#)

3 bd | 1 ba | 1,079 sqft

509 36th St, Newport Beach, CA 92663

● Off market

Zestimate®: **\$2,875,800** | Rent Zestimate®: **\$4,749**

Est. refi payment: \$18,565/mo [Refinance your loan](#)

[Home value](#) [Owner tools](#) [Home details](#) [Neighborhood details](#)

Price history

Price history is unavailable.

Public tax history

Year	Property taxes	Tax assessment
2023	\$6,247 +1.8%	\$566,669 +2%



[Edit](#) [Save](#) [Share](#) [More](#)

2 bd | 1 ba | 721 sqft

506 Clubhouse Ave, Newport Beach, CA 92663

● Off market

Zestimate®: **\$4,344,900** | Rent Zestimate®: **\$13,264**

Est. refi payment: \$28,048/mo [Refinance your loan](#)

[Home value](#) [Owner tools](#) [Home details](#) [Neighborhood details](#)

✓ [Show more](#)

Public tax history

Year	Property taxes	Tax assessment
2023	\$18,538 +36.4%	\$1,716,273 +37.9%

We all pay property taxes, so it's irrelevant to the discussion, due to Prop 13, taxes paid relevant to the assessed value at time of sale

Maintenance

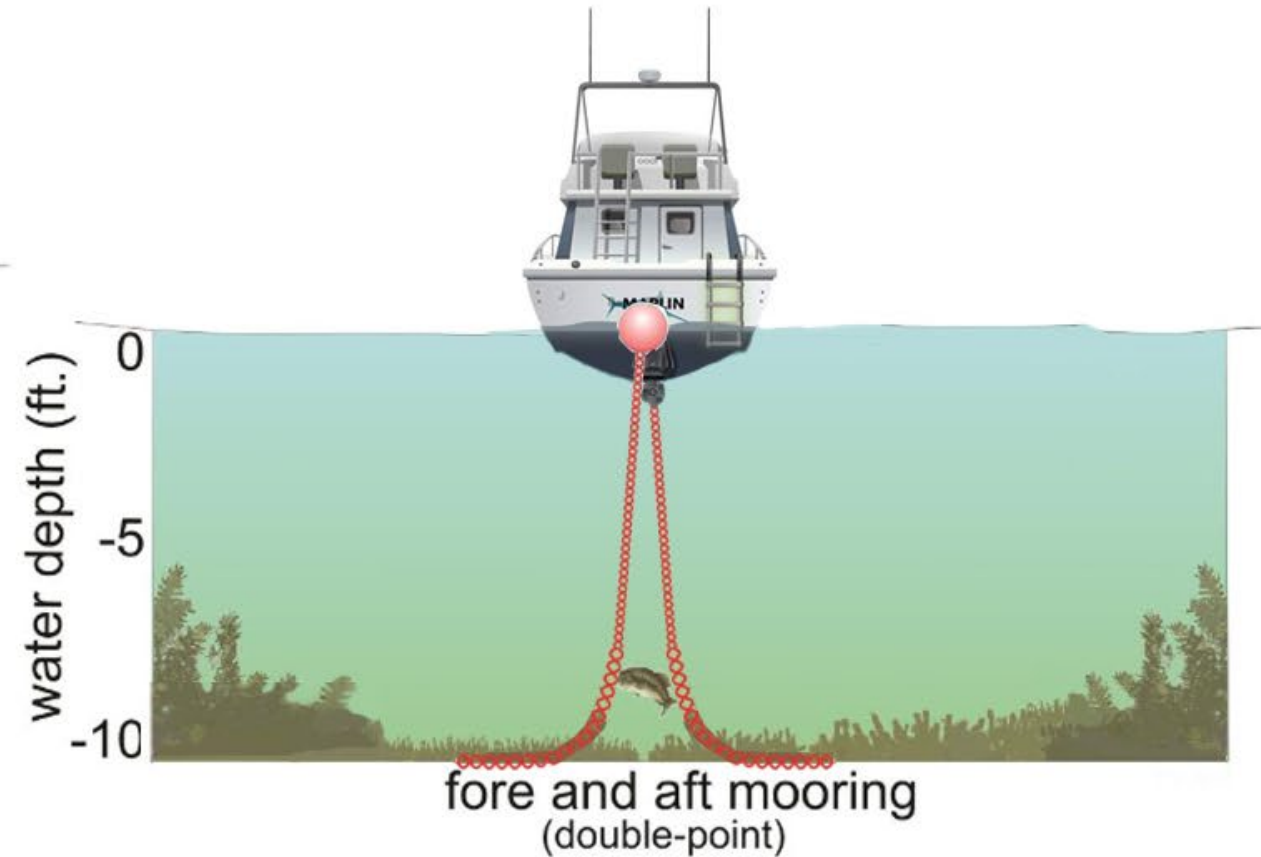
Maintenance (50 Years): \$10,000

Total: \$10,000

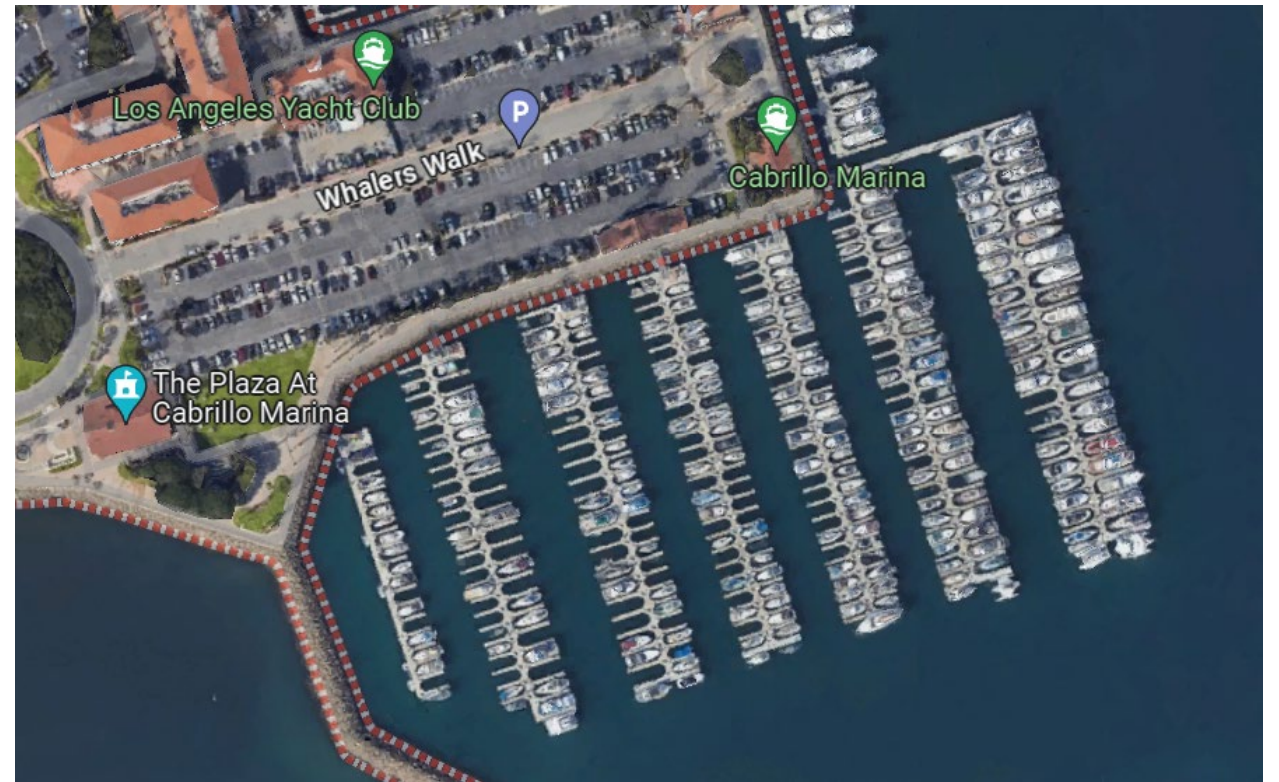


Req. Biannual Maintenance (50 Years): \$50,000

Total: \$50,000



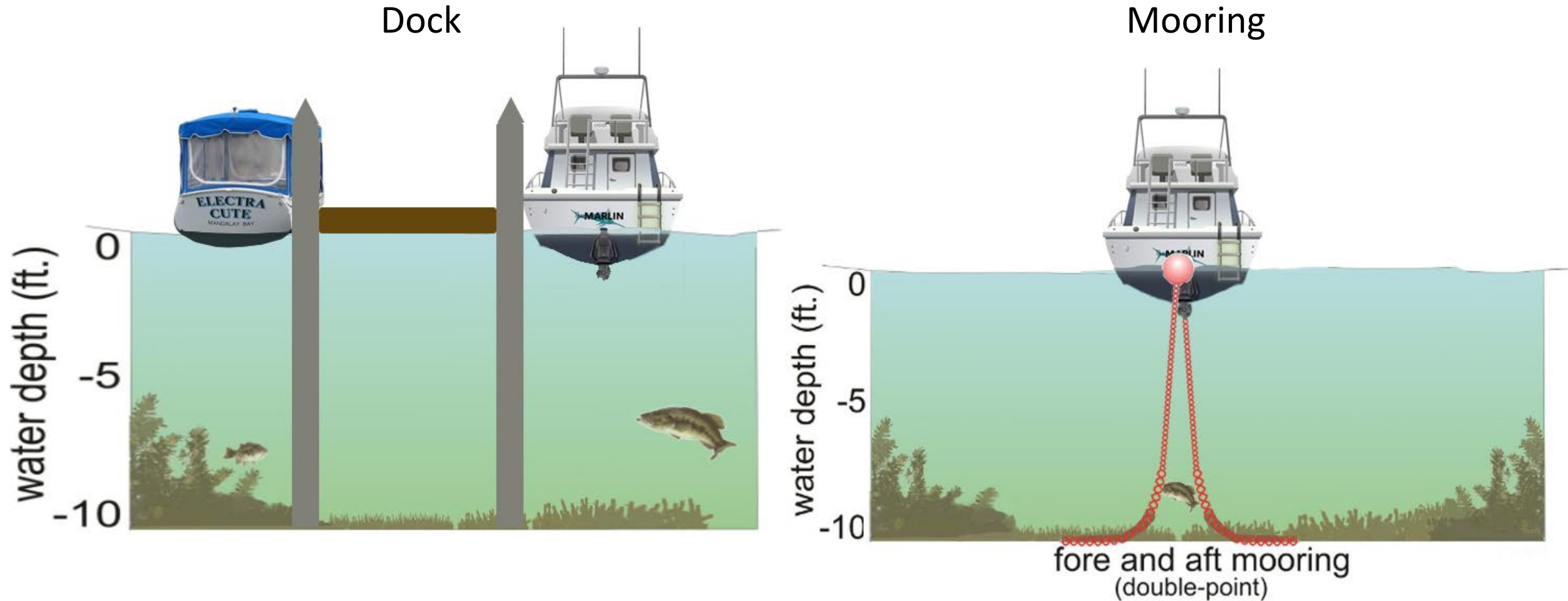
No Other Use



Yes, you can easily construct marina style slips in front of private property as seen in the above images. Entranceways, can be constructed on public property at the street ends

These are the same USE..

A boat occupies the same space above the tidelands regardless of it's position in the Harbor



Our Story

We are everyday people: veterans, teachers, postmen, pastors, captains, fishermen, sailors, and recreational boaters.

Increases to mooring fee's will have dramatic impacts on the many users of the Harbor. This will force many liveaboards to become homeless. Other neighboring Harbors will not be able to accommodate the mass migration of boats that will be forced out of Newport Harbor.

There are many retiree's that are living on a fixed income and to raise rates by 400-500% would absolutely decimate any money they set aside for mooring rent.

Netzer

Is there a conflict of interest?



The Fundamentals of a Conflict of Interest Code

A conflict of interest code must:

- Provide reasonable assurance that all foreseeable potential conflict of interest situations will be **disclosed** or prevented;
- **Provide to each affected person a clear and specific statement of his or her duties under the conflict of interest code; and**
- Adequately differentiate between designated employees with different powers and responsibilities.



11 / 75 [Navigation icons] Fit width [Print/Share icons] View plain text

Re: Seeking Clarification/Additional Information

From: Jon Van Cleave (jvclaw@sbcglobal.net)

To: meredithcagle@sbcglobal.net

Cc: vets4pets@aol.com; seskinner@me.com; bruce.ibbetson@gmail.com; jamesbnetzer@aol.com; gcollins@craigrealtygroup.com; findstevepatterson@gmail.com; djwarwick@roadrunner.com; billy@newportaquaticcenter.com

Date: Sunday, October 1, 2017, 5:17 PM PDT

RESPONSE #2

Meredith,

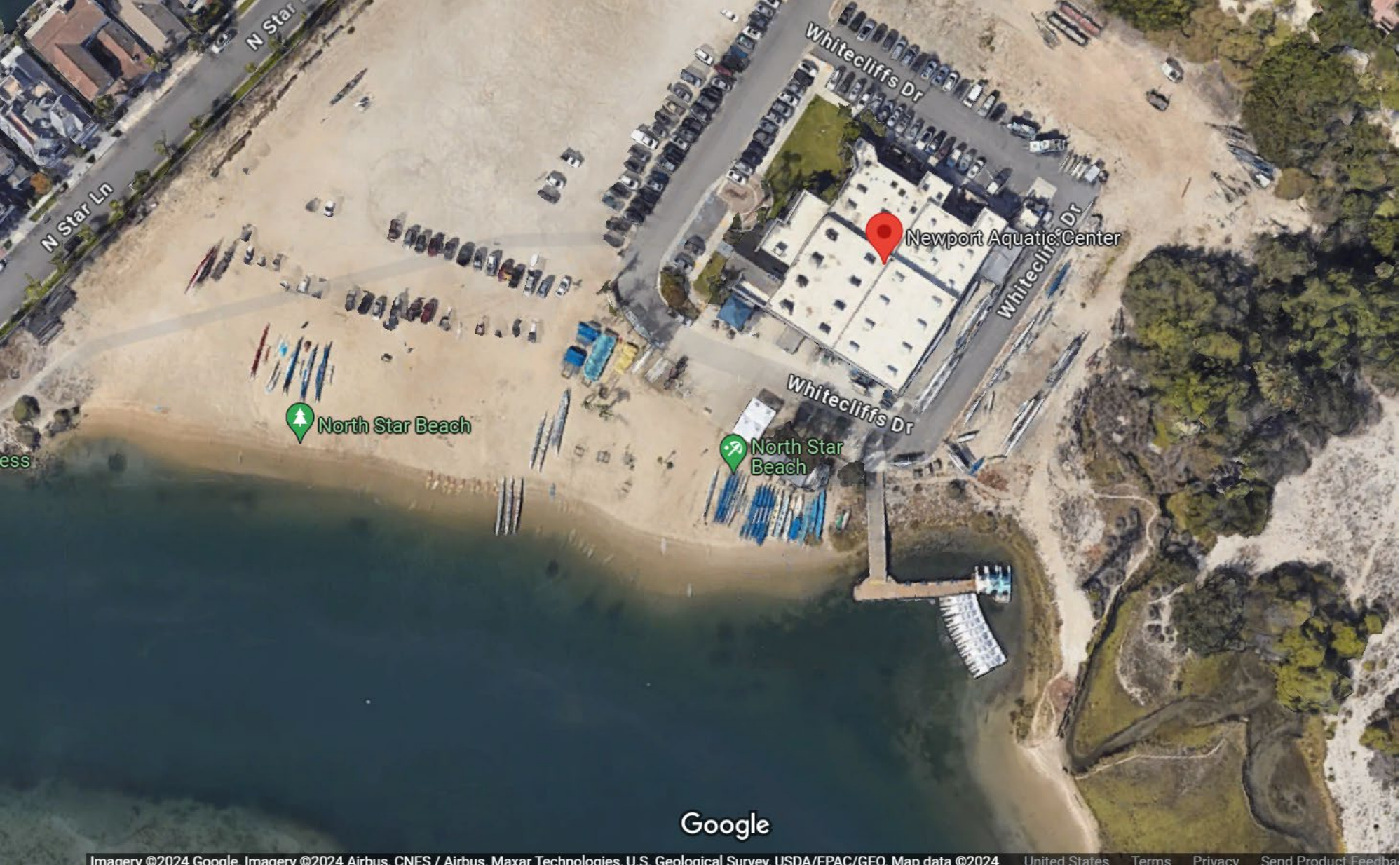
I have received your additional request and comments.

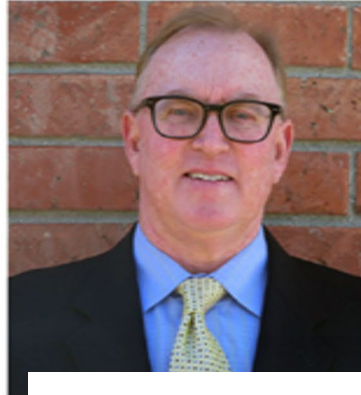
Due to the current atmosphere surrounding the NAC Board of Directors activities, a response to you will necessarily need to come from a lawyer representing the NAC since it involves an investigation into what occurred and how those facts are interpreted based on the law in this area. There has been push back from other Board members regarding my plan to have Snell and Wilmer respond to you on behalf of the NAC. Therefore, a response will have to wait until the Board can agree on what lawyer will be authorized to prepare the response. This would be the only way to make sure we get the analysis right the first time.



- 1
- 2
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- 5

What is the NAC? Newport Aquatic Center





James Netzer – Secretary

Principal Netzer and Associates Real Estate Appraisal and Consulting

Jim’s wife is a member of the NAC Women’s Outrigger Team and both his son and daughter were members of the NAC Junior Rowing Team. His daughter went on to be an assistant coach in the Junior Rowing program.

jamesbnetzer@aol.com

Entity Details

Corporation Name	NEWPORT AQUATIC CENTER
Entity No.	1067402
Formed In	CALIFORNIA

Street Address of California Principal Office of Corporation

Street Address of California Office	1 WHITECLIFFS DR NEWPORT BEACH, CA 92660
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Mailing Address of Corporation

Mailing Address	1 WHITECLIFFS DR NEWPORT BEACH, CA 92660
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Attention

Officers

Officer Name	Officer Address	Position(s)
James Netzer	306 ESTHER ST COSTA MESA, CA 92627	Secretary

California Secretary of State website. Filing date 1/2/24

**MINUTES OF A SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE NEWPORT AQUATIC CENTER, INC.,
a California non-profit Corporation**

Date: January 18, 2016

Time: 6:30 pm

Place: Conference Room at the NAC

Board Members Present:

Dr. William A. Grant, II

Jon Van Cleave

Greg Collins

Dave Girling

Susan Skinner

Jim Netzer

Linda Hay

Bruce Ibbetson

NAC Board Meeting Minutes – 1/18/16

**NEWPORT AQUATIC CENTER
MINUTES OF BOARD OF DIRECTORS MEETING
2-16-16**

NAC Board Meeting Minutes

Meeting was called to order at 6:43 pm by Bill Grant.
Quorum met, Susan Skinner is on her way.

Roll Call

Bruce Ibbetson

Jim Netzer

Greg Collins

Jon Van Cleave

Bill Grant

Dave Girling via speaker phone

Susan Skinner – 7:34 arrived

Jim is added to the Finance Committee

Since the State rules are that the Members of the Finance Committee and the Audit Committee must not overlap, all agree that Dave is therefore removed from the Finance Committee and **Jim is added as a member of the Finance Committee.**

NAC Board Meeting Minutes
February Meeting

**NEWPORT AQUATIC CENTER
MINUTES OF BOARD OF DIRECTORS MEETING
2-16-16**

Meeting was called to order at 6:43 pm by Bill Grant.
Quorum met, Susan Skinner is on her way.

Roll Call

Bruce Ibbetson

Jim Netzer

Greg Collins

Jon Van Cleave

Bill Grant

Dave Girling via speaker phone

Susan Skinner – 7:34 arrived

Jim is added to the Finance Committee

Since the State rules are that the Members of the Finance Committee and the Audit Committee must not overlap, all agree that Dave is therefore removed from the Finance Committee and **Jim is added as a member of the Finance Committee.**

Jim is also the Chair of Facilities Management

Facilities Management – chair: Jim

current members: Jim, Greg, Bruce

Jim will add to the Facilities Mission Statement that “non-board members” added to the Committee require approval by the Board.

Jim is providing updates on the NAC soon to
Be expiring Ground Lease with the City of
Newport Beach

Jim’s update on ground lease... Draft ready for review the end of this week, then to **planning and attorney,** a couple of weeks and then back ... ~30 days.

**NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 3-15-16
LOCATION: NAC
MEETING AGENDA**

6:30 pm Call Meeting to Order

Meeting was called to order at 6:43
Quorum met.

Roll Call

Bruce Ibbetson

Jim Netzer

Greg Collins

Jon Van Cleave

Bill Grant

Dave Girling

YaYa Hav

Facilities Management – chair: Jim

current members: Jim, Greg, Bruce

Bill Netzer reported on parking lot progress. Stripe the handicap spaces and install signs. Slurry will be scheduled based on weather. 79 regular spaces, 4 handicap spaces.

Question was raised on speed bump by the stop sign. Billy would like to reinstall the speed bump close to stop sign, but it might be city property. Contact Shawn at the city to see what the recommendation would be as far as speed bump placement.

Ground Lease has been drafted and in approval process with the City. Lease is for 55 years. Still up in the air for how to submit for council approval.

As the months go by, Jim Netzer continues to provide updates to the progress of renewing the no-fee ground lease with the city.

**NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 4-20-16
LOCATION: NAC
MEETING AGENDA**

6:30 pm Call Meeting to Order

Roll Call

Meeting was called to order at 7:10 pm by Bill Grant .
Quorum met.

Roll Call

Bill Grant
Bruce Ibbetson
Greg Collins
Jim Netzer
Jon Van Cleave
Linda Hay (YaYa)
Susan Skinner – Call In

Next month, another update. Who is Lauren Wooding?

Facilities Management – chair: Jim

current members: Jim, Greg, Bruce

Jim gave update from Lauren Wooding on lease. Tom, a contact of Jim's, will take a look at the extension to review.

Google

Lauren Wooding

All Images News Videos Shopping More

Tools

About 537,000 results (0.23 seconds)



LinkedIn

https://www.linkedin.com › lauren-wooding-whitlinger-4...

Lauren Wooding Whitlinger - Real Property Administrator

Irvine, California, United States · Real Property Administrator · City of Newport Beach

17 years of experience in asphalt and concrete repair, high tide damage prevention, and beach maintenance. Anaheim, CA.

**NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 5-17-16
LOCATION: NAC**

6:30 pm Call Meeting to Order

Roll Call

Meeting was called to order at 7:13 pm by Bill Grant .
Quorum met.

Roll Call

Bill Grant
Bruce Ibbetson
Greg Collins
Jim Netzer
Jon Van Cleave
Linda Hay (YaYa)
Susan Skinner

Facilities Management – chair: Jim

current members: Jim, Greg, Bruce

Jim reviewed letter from city. Sean said once the proposed lease reaches the City Attorney, doesn't take that long. Sean and Laura will be at the meeting. Will be on Consent Calendar. If it gets pulled, it would go to a Study Session first.

**NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 8-16-16
LOCATION: NAC**

6:30 pm Call Meeting to Order

Roll Call

Meeting was called to order at 7:13 pm by Bill Grant .
Quorum met.

Roll Call

Bill Grant
Greg Collins
Jim Netzer
Jon Van Cleave
Donna Warwick
Steve Patterson
YaYa Hay (call in)



The screenshot shows a Google search interface with the search term 'newport beach city attorney'. The search results display a link to the City of Newport Beach website, specifically to the management team page. The name 'Aaron Harp | City of Newport Beach' is highlighted in blue. A red arrow points from the search bar area down to the name 'Aaron Harp'.

Google newport beach city attorney

City of Newport Beach (.gov)
https://www.newportbeachca.gov › management-team

Aaron Harp | City of Newport Beach

Aaron Harp was appointed **city attorney** for **Newport Beach** in 2011, having previously served as its assistant **city attorney** from 2005 to 2009.

Facilities Management – chair: Jim

current members: Jim, Greg, Bruce

Jim reported that the ground lease has been approved by the County and it **is now being reviewed by the City Attorney.**

NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 10-18-16
LOCATION: NAC
MEETING MINUTES

Call Meeting to Order

Meeting was called to order at 6:40 pm by Bill Grant .
Quorum was met.

Roll Call: Bill Grant, Bruce Ibbetson, Greg Collins, Donna Warwick, Jim Netzer, Jon Van Cleave, Steve Patterson, Susan Skinner, YaYa Hay

Facilities Management - Jim

Report submitted Facilities Management via e-mail for BoD review. The Re-draft of the Ground Lease has made it through the City Attorney's office. Have been getting complaints about parking after hours in the public parking lot. See Jim's e-mailed report. Jim is working with Laura Detwieler on the "sea to mountain" bill. Bill designed to create more open space and passive use of land. Doesn't look like it will change any of the current uses relating to the NAC.

NEWPORT AQUATIC CENTER
BOARD OF DIRECTORS MEETING on 11-22-16
LOCATION: NAC
MEETING MINUTES

Call Meeting to Order

Meeting was called to order at 6:44 pm by Bill Grant .
Quorum was met.

Roll Call

Bill Grant
Bruce Ibbetson
Donna Warwick
Jim Netzer
Jon Van Cleave
Steve Patterson
Susan Skinner
YaYa Hay

Note: This is early stage discussion only. Dredging (RPG54) blanket permit. Contractor that is doing major projects (like Bay Club) is looking for a site to deposit good sand. Have a conversation to 'have a new beach' with the reclaimed dredging sand. Jim Netzer working on this project.

Newport Aquatic Center
Board of Directors Meeting Minutes
1/17/2017

All Directors in attendance.

Facility Management

- Sign that faces the parking lot that says “Respect our neighbors, drive the speed limit, thank you from NAC”
- City is still working on the bollard by the entrance gate to close off the entrance but not the exit
- Water Wheel – proposing one in NB, getting flack from environmentalist because they want to put it up by Jamboree
 - Jim is going to meeting about maybe getting it by NAC instead and get a new dock
 - My Recycler – 14 year old from CdM, Jim meeting with him to get recycling bins at NAC
 - Met with member about possibly increasing boat storage

Newport Aquatic Center – Minutes of Board of Directors Meeting

DATE: 3/28/2017

TIME: 7:00 pm

ATTENDEES

Members Present: Bill, Greg, Kirsten, Susan, Jim, Bruce, Donna, Steve

Members Not Present: Jon

Staff: Billy, Malia

FACILITIES MANAGEMENT

- Ground Lease – should have something in 2-3 weeks
- Bollard will be put in May 8-9
- Recycling – they are picking up every weekend, will try to get a couple more bins
- Property assessment report – Greg, Jim and Bruce will meet

What are we talking about here folks?

Daily Pilot

NEWS

Schism over finances and leadership makes for troubled waters at Newport Aquatic Center

BY HILLARY DAVIS | STAFF WRITER

SEPT. 25, 2018 6:05 PM PT

Search

Newport Aquatic Center faces questions of financial mismanagement

Scott M. Reid

PUBLISHED: October 5, 2018 at 5:22 p.m. | UPDATED: November 16, 2018 at 4:38 p.m.

Olympics, Sports





CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3131 | 949 644-3139 FAX
newportbeachca.gov/cityattorney

April 19, 2019

SENT VIA CERTIFIED U.S. MAIL
RETURN RECEIPT REQUESTED

Board of Directors
Newport Aquatic Center
One Whitecliffs Drive
Newport Beach, California 92660

RE: Newport Aquatic Center Ground Lease – Notice of Default

To the Board of Directors:

As you are aware, the City of Newport Beach ("City") is deeply concerned regarding the management of the Newport Aquatic Center. In our letter dated February 14, 2019, the City Attorney's Office asked the Board of Directors for the Newport Aquatic Center, Inc. ("NAC") to respond to the allegations of mismanagement. Our office has now reviewed the March 15, 2019 correspondence from the NAC ("NAC Letter"), which responds to these allegations, as well as information provided by third parties.

Unfortunately, the NAC Letter has not relieved the City of its concerns regarding the management of the Newport Aquatic Center. In fact, based on all of the information available, it is our opinion the NAC has violated the terms of the ground lease between the City and the NAC ("Ground Lease"). Based thereon, the City is formally putting the NAC on notice it is in default of the terms of the Ground Lease. As set forth below, the NAC must immediately correct the violations or the City will be forced to take action, which could include termination of the Ground Lease.

Furthermore, the City is troubled by the fact that the NAC is unwilling to immediately take steps to comply with City Council Policy F-7. As you are aware, the City recently modified Council Policy F-7 to require non-profits, such as the NAC, who lease City property, at less than the market rate, to provide for election of directors in an open, democratic, and transparent process.

In the NAC Letter, the NAC contends that Council Policy F-7 does not apply to the NAC. Our office has reviewed the NAC Letter and we disagree with your analysis regarding the applicability of Council Policy F-7 to any renewal or extension of the Ground Lease.

Newport Aquatic Center Ground Lease – Notice of Default
April 19, 2019
Page: 2

However, debating whether Council Policy F-7 is applicable to the NAC is somewhat pointless given that the City does not have to renew or extend the Ground Lease. Based thereon, you are hereby advised that the City will not be entering into negotiations with the NAC to renew or extend the Ground Lease.

Notice of Default

Pursuant to Section 23 of the Ground Lease, **the City is hereby putting the NAC on notice that the NAC is in default** in the performance of material covenants and conditions of the Ground Lease, as set forth below. Failure to immediately comply with all terms and conditions of the Ground Lease will force the City to take action, **which could include termination of the Ground Lease.**

Prohibited Business Activities

As you are aware, Section 15 of the Ground Lease states that "no business" shall be conducted on the Property in violation of the terms of the Ground Lease. Section 14 of the Ground Lease states that NAC is "prohibited from using, or permitting others to use, the facility in any manner which is not authorized by, or inconsistent with, the approved [Facilities Management Plan]." Furthermore, Section 14 of the Ground Lease provides that "failure of [NAC] to comply with the provisions of this paragraph after written notice by [City] shall be considered a material breach of this lease."

- Allegation that **NAC Board of Directors issued loans, or delivered money, to the NAC, in exchange for interest from the NAC;**
- **Allegation** that Executive Director Whitford made personal use of funds derived from a loan to the NAC, issued by NAC Board Member **Jim Netzer;**

Respectfully,

CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

cc: City of Newport Beach City Council Members
Carol Jacobs, Assistant City Manager
David B. Dimitruk, Esq.

NAC Response Letter to Aaron Harp



CITY OF NEWPORT BEACH
RECEIVED BY *SM*

MAR 18 2019

OFFICE OF THE
CITY ATTORNEY

March 15, 2019

Mr. Aaron Harp
City Attorney
100 Civic Center Drive
Newport Beach, California 92660

Dear Mr. Harp:

This letter is in response to your letter dated February 14, 2019.

We also decided to not bombard you with all of the documentation that supports our positions. If there is any particular matter that you would like to see, please identify it for us.

On behalf of the NAC, we desire to perpetuate the long history of its relationship with the City and in accordance with the mission formed in 1982 to serve the public -- all of the public and not some segment of it. We remain ready, willing and able to meet with such City officials to lay the groundwork for the next 25 years because that is what the public deserves.

A handwritten signature in blue ink that reads "William A. Grant, II".

Dr. William Grant, President

A handwritten signature in blue ink that reads "Billy Whitford".

Billy Whitford, Executive Director

b. The Loan by Mr. Netzer.

In early 2015 Mr. Whitford was concerned about the reliability of the white truck used to trailer boats to the regattas and indicated that the NAC needed a new truck. During this time period the bathroom/locker room renovation was in full swing and with all of the required change orders, the NAC cash flow was being affected. As a result, Mr. Netzer offered to make a 3-year loan to the NAC that was secured by a Promissory Note so that a reliable truck could be purchased without having to apply for an auto loan and make principal and interest payments. This arrangement was discussed at the April 21, 2015 Board meeting and approved. According, the loan was made. At each of the three annual dates when payments were due, Mr. Netzer donated the interest payment to the NAC. The loan was repaid in October 2018.

The loan was a valid transaction and is no longer reflected on the books and records of the NAC.

C-8339-1

ccu

**ON-CALL PROFESSIONAL SERVICES AGREEMENT
WITH JAMES B. NETZER DBA NETZER & ASSOCIATES FOR
PROPERTY APPRAISAL SERVICES**

THIS ON-CALL PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of this 23rd day of December, 2016 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and JAMES B. NETZER A SOLE PROPRIETOR DOING BUSINESS AS ("DBA") NETZER & ASSOCIATES, ("Consultant"), whose address is 170 E. Seventeenth Street, # 206, Costa Mesa, California 92627, and is made with reference to the following:

**2016 – On-Call Professional
Appraisal Agreement**

Signed by Jim Netzer
and City Attorney Aaron Harp

24. CONFLICTS OF INTEREST

24.1 Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

24.2 If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Date: 12/20/16

By: [Signature] (for)
Aaron C. Harp
City Attorney
Nov 12 20 16

CITY OF NEWPORT BEACH,
a California municipal corporation

Date: 12-20-16

By: [Signature]
Kimberly Brandt, AICP
Community Development Department
Director

ATTEST: 1.4.17
Date: _____

By: [Signature]
Leilani I. Brown
City Clerk

CONSULTANT: James B. Netzer, a sole proprietor doing business as ("DBA") Netzer & Associates
Date: 12/28/2016

By: [Signature]
James B. Netzer, MAI
Sole Proprietor



[END OF SIGNATURES]

APPRAISAL REPORT

FAIR MARKET RENT
OFF-SHORE & ON-SHORE MOORINGS
NEWPORT BEACH, CALIFORNIA

DATE OF VALUE
JANUARY 6, 2016

PREPARED FOR

CHRIS MILLER
HARBOR MANAGER
CITY OF NEWPORT BEACH, HARBOR DEPARTMENT
829 HARBOR ISLAND DRIVE
NEWPORT BEACH, CALIFORNIA 92660

PREPARED BY

NETZER & ASSOCIATES
170 E. SEVENTEENTH STREET, SUITE 206
COSTA MESA, CALIFORNIA 92627
FILE NO. 2015-024

Scope of Experience

During the period in which Mr. Netzer has been engaged as a real estate appraiser and analyst, he has been involved in most aspects of the field having completed assignments for multiple purposes, including: estate planning; bankruptcy; **conflict-of-interest analysis** (Political Reform Act of 1974); construction defects litigation; soil subsidence; dissolution of marriage; ground lease re-valuation; leasehold & sub-leasehold valuation; property tax appeals; lease and ground lease arbitration; easement/access/encroachment/title disputes (based on *Overholtzer v. Northern Counties Title*); soils contamination litigation; mortgage lending; construction financing; portfolio valuation; market and feasibility analysis; fractional interest valuation; and, due diligence.

Further in the document, he certifies that he has no conflict of interest

**Newport Harbor Moorings
Newport Beach, California**

January 6, 2016

NETZER & ASSOCIATES

CERTIFICATION

To the best of my knowledge and belief, **I certify that:**

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and have no personal interest or bias with respect to the parties involved.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of the this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved in the assignment.

E-Filed
03/01/2024



GOVERNMENT

I AM A...

HOW DO I...

TRENDING

STATEMENT OF ECONOMIC INTERESTS (SEI) FORM 700

Go to Search for E-Filed Transaction Data

Search for Filed Statements

Filing Date

Filer Name	Filed	Statement Type	Position	View	Paper Amds	Efiled Amds
Netzer, James	3/1/2024	Annual	CDD - Netzer & Associates	View		
Netzer, James	2/16/2023	Annual	CDD - Netzer & Associates	View		
Netzer, James	3/8/2021	Annual	CDD - Netzer & Associates	View		
Netzer, James	3/5/2020	Annual	CDD - Netzer & Associates	View		
Netzer, James	2/25/2019	Annual	CDD - Netzer & Associates	View		
Netzer, James	2/26/2018	Annual	CDD - Netzer & Associates	View		

051700175-NPH-0175

CALIFORNIA FORM 700
FAIR POLITICAL PRACTICES COMMISSION
A PUBLIC DOCUMENT

STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

Date Initial Filing Received
Filing Official Use Only

E-Filed
02/25/2019
09:49:57
Filing ID:
177076406

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)
Netzer, James B.

1. Office, Agency, or Court
Agency Name (Do not use acronyms)
City of Newport Beach
Division, Board, Department, District, if applicable
Your Position
Consultant CDD - Netzer & Associates
► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)
Agency: _____ Position: _____

2. Jurisdiction of Office (Check at least one box)
 State Judge or Court Commissioner (Statewide Jurisdiction)
 Multi-County _____ County of _____
 City of Newport Beach Other _____

3. Type of Statement (Check at least one box)
 Annual: The period covered is January 1, 2018, through December 31, 2018 Leaving Office: Date Left _____ (Check one circle)
-or-
The period covered is _____, through December 31, 2018
 Assuming Office: Date assumed _____
 Candidate: Date of Election _____ and office sought, if different than Part 1: _____
 The period covered is January 1, 2018, through the date of leaving office.
 The period covered is _____, through the date of leaving office.

4. Schedule Summary (must complete) ► Total number of pages including this cover page: 1
Schedules attached
 Schedule A-1 - Investments - schedule attached Schedule C - Income, Loans, & Business Positions - schedule attached
 Schedule A-2 - Investments - schedule attached Schedule D - Income - Gifts - schedule attached
 Schedule B - Real Property - schedule attached Schedule E - Income - Gifts - Travel Payments - schedule attached

None - No reportable interests on any schedule

Of the Form 700's not one mentions a conflict

2023 Off-shore Appraisal

APPRAISAL REPORT

FAIR MARKET RENT
OFFSHORE MOORINGS
NEWPORT BEACH, CALIFORNIA

DATE OF VALUE
DECEMBER 26, 2023

PREPARED FOR
LAUREN WOODING WHITLINGER
REAL PROPERTY ADMINISTRATOR
COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF NEWPORT BEACH
100 CIVIC CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660

PREPARED BY
NETZER & ASSOCIATES
170 E. SEVENTEENTH STREET, SUITE 206
COSTA MESA, CALIFORNIA 92627
FILE NO. 2023-025

Doesn't mention the NAC, No-Fee 50 Year Ground Lease
"no interest or bias"

Newport Harbor Offshore Moorings
Newport Beach, California

December 26, 2023

NETZER & ASSOCIATES

CERTIFICATION

To the best of my knowledge and belief, I certify that:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and have no personal interest or bias with respect to the parties involved.

I performed an appraisal of the "onshore" moorings in December 2021 and an appraisal of the "City owned offshore moorings" in 2023. I have provided no other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved in the assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice*.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

I have made a personal inspection of a representative sampling of the properties that are the subject of this report.



CITY OF
NEWPORT BEACH
City Council Staff Report

October 10, 2023
Agenda Item No. 12

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: Sean Levin, Recreation and Senior Services Director - 949-644-3151, slevin@newportbeachca.gov
PREPARED BY: Lauren Wooding Whitlinger, Real Property Administrator, lwooding@newportbeachca.gov
PHONE: 949-644-3236
TITLE: Joint Powers Agreement with County of Orange, and an Amended and Restated Ground Lease with Newport Aquatic Center, Inc. for North Star Beach Located at 1 Whitecliffs Drive

RECOMMENDATIONS:

- c) Authorize the City Manager and City Clerk to execute the Amended and Restated Ground Lease between the City of Newport Beach and Newport Aquatic Center, Inc., for continued use of the property known as North Star Beach located at 1 Whitecliffs Drive, in a form substantially similar to the amendment attached to the staff report; and
- d) Approve a waiver of City Council Policy F-7 – *Income and Other Property* based on the findings contained in this staff report and the Lease, that conducting an open bid process or changing the tenant would result in excessive vacancy, and the use of the property provides an essential or unique service to the community and is of a public benefit, and might not otherwise be provided where an open bid or full fair market value of the property be required, and based on the unique services provided by tenant, its board members are appointed through a process that ensures board members maintain the requisite experience and contributions to the tenant's operations.

Amended and Restated Ground Lease

The proposed terms of the Lease are summarized below:

1. The initial term is 30 years, with two, 10-year extension options, for a total possible term of 50 years, unless terminated earlier as provided by the Lease.

History

NAC approached the City in 2016 requesting a new lease for the Premises in consideration of its recent renovation to the restroom and locker rooms, and in anticipation of further renovations to the facility and the fleet of vessels. After negotiating a new lease and JPA, the documents were submitted to the County Board of Supervisors and the JPA was approved by the County on November 20, 2018. Additional negotiations between the City and NAC delayed bringing the new agreements forward until this time.

NEWS

Newport Beach City Council approves extension of ground lease for Aquatic Center



Paddlers get ready to head out into the water at the Newport Aquatic Center in March 2023. The city of Newport Beach, through a joint powers agreement with the county, recently approved an extended land lease for the center. (Don Leach / Staff Photographer)

BY LILLY NGUYEN | STAFF WRITER

OCT. 11, 2023 6:06 PM PT



The Newport Aquatic Center will continue to operate at its current location for at least a 30-year term, thanks to approval given Tuesday by the Newport Beach City Council to extend its existing ground lease.

The agenda item to approve the new lease was originally folded into the council's consent calendar but was pulled by Councilman Brad Avery for discussion.

The terms of the amended contract provide an initial 30-year term with two 10-year extension options for a total possible term of 50 years. It maintains past points of agreement, such as being a no-fee lease for the continued operations of the center at no cost to the city, being held to a city-approved facilities management plan and abiding by all entitlements and permits issued by the city, county, state and federal agencies.

The city's real property manager Lauren Wooding Whitlinger said the newly-approved agreement requires the Newport Aquatic Center to spend 3% of its gross revenues on repairs, maintenance and refurbishments to the facility. It also requires inspections, includes internal control language, and specifically defines the period of time that the center will have to ameliorate any identified issues.

Council members spoke highly of the Newport Aquatic Center, though Avery noted he pulled the item so the council could more fully discuss the nonprofit's way forward.

Avery said he was in favor of the new agreement and described it as "far more robust" than the existing document but did raise concerns about some of the legal troubles the Newport Aquatic Center faced in 2018 and 2019, including allegations of financial misconduct, harassment and retaliation. Court records indicate deliberations in some of those lawsuits continued until early 2023.

"I have no idea what has transpired in those, but it just, to me, when you see that, it makes you wonder what was going on there," Avery said.

On Wednesday, Chris Blank, president of the Newport Aquatic Center's board of directors, said officials there were "very pleased" with the extended agreement.

CITY OF NEWPORT BEACH



**REQUEST FOR PROPOSAL NO. 21-53
ON-SHORE & OFF-SHORE MOORING APPRAISALS
AND
ON-CALL TIDELANDS APPRAISAL SERVICES**



SCOPE OF SERVICES

Area Description

Newport Harbor is formed by the Balboa Peninsula on the south and the mainland on the north and extends inland to Jamboree Road and the north end of the Upper Newport Bay (Back Bay). The primary focus of this assignment is the Lower Newport Bay, which is generally defined as the water area south of the Coast Highway Bridge near the intersection of Coast Highway and Dover Drive. Traditionally, most of the boating activity within the harbor is concentrated in the Lower Bay as most of the Back Bay is an ecological preserve with limited boating facilities (Newport Dunes, Newport Aquatic Center, UC.I. Rowing base, Bayside). The harbor consists of all the contiguous land and water areas including the jetty at the mouth of Newport Harbor and the sandy beaches on the Pacific Ocean along the southern perimeter of Newport Harbor.

Objective and Project Scope

The purpose of this study is to investigate and provide appropriate analysis to determine the Fee Simple Interest in the City owned on-shore and off-shore moorings, and the resulting Fair Market Rent to charge mooring permittees. Boaters within Newport Harbor have a variety of options to store their boats close-to or on the waters of Newport Harbor. The City's on-shore and off-shore moorings should be compared to all other options around the harbor, with adjustments made in consideration of the amenities that may be offered at moorings versus other locations. Locations to review for comparison include marinas, yacht clubs, dry docks, on land dinghy storage, the Newport Aquatic Center and the Dunes Waterfront Resort.

The RFP, 21-53, for the appraisal of offshore moorings, even mentions the NAC as a location in Newport harbor to use as comparison.



**Appraisal Report Review
of
Fair Market Rent
for
Offshore Moorings**

January 10, 2024

Presented By: Ira Beer, Harbor Commissioner

Were the professional appraisals truly independent?



Fair Market Rate Considerations

Harbor Commission Subcommittee Fair Market Rates Considerations:

- The long history of below-market rental rates for mooring permits in Newport Harbor
- What is relative to the rates charged for other uses of City tidelands
- What is relative to the rates charged for slips in Newport Harbor
- The extensive analysis presented in the recent offshore and onshore **independent professional appraisals**

From: Scott Cunningham
To: Jim Netzer
Cc: Wooding, Lauren
Subject: 45" Newport Offshore Mooring in D Field - boats - by owner - marine sale - craigslist
Date: September 20, 2023 1:03:50 PM
Attachments: 45" Newport Offshore Mooring in D Field - boats - by owner - marine sale - craigslist.png

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content.

Nice tidy profit...

Scott Cunningham
scott12159@icloud.com
949-877-9563

Subject: Appraisal Kick-Off Call - Off-shore Moorings
Location: Microsoft Teams Meeting
Start: Thu 10/26/2023 2:00 PM
End: Thu 10/26/2023 3:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Wooding, Lauren
Required Attendees: James Netzer; Beer, Ira; Scully, Steve; Scott Cunningham; Blank, Paul

Microsoft Teams meeting

From: Cunningham, Scott
To: Jim Netzer
Cc: Wooding, Lauren
Subject: Fwd: alert: Newport Mooring
Date: June 09, 2022 10:17:32 AM

Hi Jim,

Probably going to move forward with offshore appraisal towards end of Summer but wanted you to keep this for your records. Check out last sentence.

Thanks,

Scott

Scott Cunningham

Begin forwarded message:

From: CL Search <alerts@alerts.craigslist.org>
Date: June 9, 2022 at 9:36:41 AM PDT
To: scott12159@icloud.com
Subject: alert: Newport Mooring

1 new result for search terms: Newport Mooring, sort: relevant, as of 2022-06-09 09:36:37 AM PDT

- [Newport Mooring - \\$48,000 \(Newport Beach\)](#)

[View all the results.](#)

[Unsubscribe from this alert.](#)

From: jamesbnetzer@aol.com
To: [Wooding, Lauren](#); [Blank, Paul](#)
Subject: Offshore Mooring Appraisal Question
Date: December 05, 2023 4:08:15 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Lauren & Paul,

I am trying to get the draft appraisal completed but I have a question about the size of a "typical" mooring and the square feet of tidelands that it encumbers. On methodology I apply the "land value" to the square footage and convert it to a rental rate. In the onshore mooring appraisal I based the value on an onshore mooring encumbering an area of 288 square feet (36' x 8') based on the "typical" area from the point of attachment (seawall) to the mooring buoy/ball and an 8' beam. **What dimensions and square footage should I use for the offshore mooring?**

Thanks for your assistance!

Regards,

Jim Netzer

From: jamesbnetzer@aol.com <jamesbnetzer@aol.com>
Sent: Wednesday, December 27, 2023 10:15 AM
To: [Wooding, Lauren](mailto:LWooding@newportbeachca.gov) <LWooding@newportbeachca.gov>
Cc: [Scully, Steve](mailto:sscully@newportbeachca.gov) <sscully@newportbeachca.gov>; [Beer, Ira](mailto:lbeer@newportbeachca.gov) <lbeer@newportbeachca.gov>; [Cunningham, Scott](mailto:Scunningham@newportbeachca.gov) <Scunningham@newportbeachca.gov>; [Blank, Paul](mailto:PBlank@newportbeachca.gov) <PBlank@newportbeachca.gov>
Subject: DRAFT - Offshore Mooring Appraisal w/ Tiered rates

Lauren,

On the basis of my meeting with the commissioners and the harbor master I have attached a DRAFT (the watermark did not scan) of the offshore mooring appraisal with the inclusion of an analysis and conclusion based on the mooring lengths (5-foot increments for 25-49 feet & 10 foot increments for 50 to 70+ feet). There were a couple other typo/edits, but no other substantive changes.

From: jamesbnetzer@aol.com
To: [Wooding, Lauren](#)
Subject: Offshore Mooring Phase-In
Date: January 17, 2024 2:41:46 PM
Attachments: [Offshore Mooring Phase In.pdf](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Lauren,

The phase in we discussed is attached. Let me know if have any comments or questions.

Regards,

Jim Netzer

From: [Scully, Steve](#)
To: jamesbnetzer@aol.com
Cc: [Beer, Ira](#); [Cunningham, Scott](#); [Blank, Paul](#)
Subject: Re: DRAFT - Offshore Mooring Appraisal w/ Tiered rates
Date: December 27, 2023 2:37:13 PM

Jim, just some housekeeping - the "Table of Contents" needs some formatting work to all be symmetrical.

Additionally you have your page number 2 in this draft twice. Just a FYI.

I like the table with the broken out rates better than just one rate.

Thank for the quick turn.

Regards,

Steve Scully

Newport Beach Harbor Commission

sscully@newportbeachca.gov

909-322-2893

Ira,

I'll wait for your comments or for you to give me the go-ahead to finalize.

Regards,

Jim Netzer

James B. Netzer, MAI
Netzer & Associates

From: [Beer, Ira](#)
To: [Scully, Steve](#); jamesbnetzer@aol.com
Cc: [Cunningham, Scott](#); [Blank, Paul](#)
Subject: Re: DRAFT - Offshore Mooring Appraisal w/ Tiered rates
Date: December 27, 2023 2:50:07 PM
Attachments: [image001.png](#)

Agreed, unless there are any other comments from Paul or Scott, please move fwd with the final report as you see fit. Thank you and have a Happy New Year!

Best regards,



Ira Beer
Harbor Commissioner
ibeer@newportbeachca.gov
(949) 702-6900

From: [Wooding, Lauren](#)
To: [Beer, Ira](#); jamesbnetzer@aol.com
Cc: [Blank, Paul](#); [Scully, Steve](#); [Cunningham, Scott](#)
Subject: RE: DRAFT - Offshore Mooring Appraisal w/ Tiered rates
Date: January 04, 2024 12:28:00 PM
Attachments: [image001.png](#)

Hi Ira,

[Jim and I met](#) this morning to review [some additional comments I had to the report](#). I should have the final draft from him tomorrow to attach to the staff report and will share with the subcommittee at that time.

Let me know if you need anything else in the meantime.

Thank you!

Lauren



Lauren Wooding Whitlinger
Real Property Administrator
Community Development Department
CA Broker License #01943711
Office: 949-644-3236

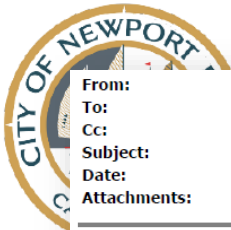
100 Civic Center Drive
Newport Beach, CA 92660

From: [Blank, Paul](#)
To: jamesbnetzer@aol.com
Subject: RE: DRAFT - Offshore Mooring Appraisal w/ Tiered rates
Date: December 27, 2023 10:23:00 AM
Attachments: [image001.png](#)

Great work!!

Thank you.

Have a great New Year.



Paul Blank
Harbormaster

From: [Blank, Paul](#)
To: jamesbnetzer@aol.com
Cc: [Wooding, Lauren](#)
Subject: Re: Offshore Mooring Appraisal Question
Date: December 05, 2023 4:48:06 PM
Attachments: [PastedGraphic-2.png](#)

The cool thing about onshore moorings is they are essentially all the same size.

Offshore moorings are of a variety of sizes (25', 30', 35', 40'...90'). Any dimensions I give you will be subject to critique as "not representative of the variety of sizes, configurations and conditions" actually out there.

That disclaimer out of the way, the biggest population of moorings out there are 40' moorings. A typical 40' boat on one of those moorings would be 40' long x 14' wide but the mooring takes up much more space than that.

The distance from the boat to each mooring float is approximately 10' - so the space taken up on the surface is approximately 60'. Then there is the placement of the weights on the sea floor. The distance from the float to the weight adds at least 7' and up to as many as 15' to each end of the mooring depending on the depth where the mooring is placed.

If you want to go with just the surface dimensions consumed by the typical mooring on Newport Harbor, go with 60' x 20'.

If you want to go with the dimensions of the entire mooring including what's below the surface, go with 80' x 20'.

Best,



Paul Blank
Harbormaster

From: [Wooding, Lauren](#)
To: ["jamesbnetzer@aol.com"](mailto:jamesbnetzer@aol.com)
Subject: RE: DRAFT APPRAISAL - Offshore Moorings - Fair Market Rent
Date: December 20, 2023 5:18:00 PM
Attachments: [image001.png](#)

Hi Jim,

Thanks very much for getting this draft in to me before the end of the year. I will be sharing internally and will be in touch after the new year with any comments or changes before we have you finalize the report and take it out of draft mode.

I hope you have a very Merry Christmas and Happy New Year and get to spend time with your family in the next few weeks!

And I look forward to catching up with you in the new year.

Thank you,
Lauren



Lauren Wooding Whitlinger
Real Property Administrator
Community Development Department

On Wednesday, January 3, 2024, 4:56 PM, Wooding, Lauren <LWooding@newportbeachca.gov> wrote:

Hi Jim,

I'm going through the report and have some additional comments and questions that I'd like to address before we publish this, **since I know it will be reviewed very closely.**

Do you have time tomorrow morning to review with me?

Thank you,
Lauren



Lauren Wooding Whitlinger
Real Property Administrator

From: jamesbnetzer@aol.com
To: Wooding, Lauren
Subject: Re: Appraisal Summary
Date: January 19, 2022 12:03:20 PM
Attachments: [image003.png](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you trust the sender. This content is safe.

Lauren,

This looks good, with one change. In the "Tidelands Market Rent Analysis" I used an 8.0% annual rate of return not a 9.0% rate of return.

I'm trying to get a report wrapped up today or tomorrow, so I will address the questions in your other e-mail on Friday.

Regards,

Jim Netzer

James B. Netzer, MAI
Netzer & Associates
170 E. Seventeenth Street, Suite 206
Costa Mesa, CA 92627

-----Original Message-----

From: Wooding, Lauren <LWooding@newportbeachca.gov>
To: James Netzer (jamesbnetzer@aol.com) <jamesbnetzer@aol.com>
Sent: Tue, Jan 18, 2022 5:53 pm
Subject: Appraisal Summary

Hi Jim,

I was asked to prepare a short executive summary of the appraisal report, for internal purposes. Paul would like to share it with the Harbor Commission as well, but I didn't feel comfortable doing so unless you had a chance to review it first and make sure my laymen's interpretation is not over simplifying.

Let me know if you would suggest any changes.
Thanks in advance!
Lauren

LAUREN WOODING WHITLINGER
Community Development Department
Real Property Administrator
lwooding@newportbeachca.gov

-----Original Message-----

From: Wooding, Lauren <LWooding@newportbeachca.gov>
To: James Netzer (jamesbnetzer@aol.com) <jamesbnetzer@aol.com>
Sent: Mon, Jan 31, 2022 10:35 am
Subject: FW: Shore Mooring Rental Rate Increase

Hi Jim,
Thanks for answering all of the questions I submitted to you. I am reviewing them with Paul and will let you know if we have any further questions.
In the meantime, can you review the email below and let me know when you have some time to chat. I think this should be considered in our valuation, but I think it is mostly a matter of administrative capacity. I want to get your take on it before I discuss further with Paul.
Thank you,
Lauren



LAUREN WOODING WHITLINGER
Community Development Department

Howdy Jim:

Thanks for taking the meeting this morning.

Upon further inspection of that one 25' mooring in the BYC field, I noticed that an individual holds it and therefore needs a rate set by the City.

I don't think you need to perform some extensive analysis just for that one mooring. Please just apply the 30' rate you determine to that mooring but definitely add an entry in the report that includes the 25' category.

Sorry for my previous inaccurate or incomplete statement.



Paul Blank

Harbormaster

On March 2nd, 2024 Paul Blank emails a concerned resident stating he has to recuse himself from the matter due to a conflict of interest determined by the City Attorney and City Manager. After all these years of working on the matter with Netzer, City Staff, and the Harbor Commission. Is this too little too late? The appraisal (RFP 21-53) was awarded to Jim Netzer on August 3rd, 2021

From: "Blank, Paul" <PBlank@newportbeachca.gov>
Date: March 2, 2024 at 3:36:07 PM PST
To: [REDACTED]
Subject: RE: CBRE appraisal.

The City Manager and City Attorney have determined I have a conflict of interest related to this matter and can no longer contribute to the discussion or proceedings.

Aloha,



Paul Blank
Harbormaster
Harbor

Conclusion

- Why didn't Netzer make any disclosures of his affiliation with "parties involved" in the Harbor?
- Why did the City choose Netzer as the appraiser? Surely, the City Attorney knew about the loan? Surely, the City Real Property Administrator knew about the NAC lease agreement. So why would they choose Netzer when there were three other proposals submitted to RFP 21-53
 - Other Proposers: Lea Associates, R. P. Laurain, The Doré Group
- Why did the Harbor Commission repeatedly state this was an INDEPENDENT appraisal?
- Why did the Staff, Harbormaster, and Harbor Commissioners attempt influence and steer the Appraiser and final Appraisal?