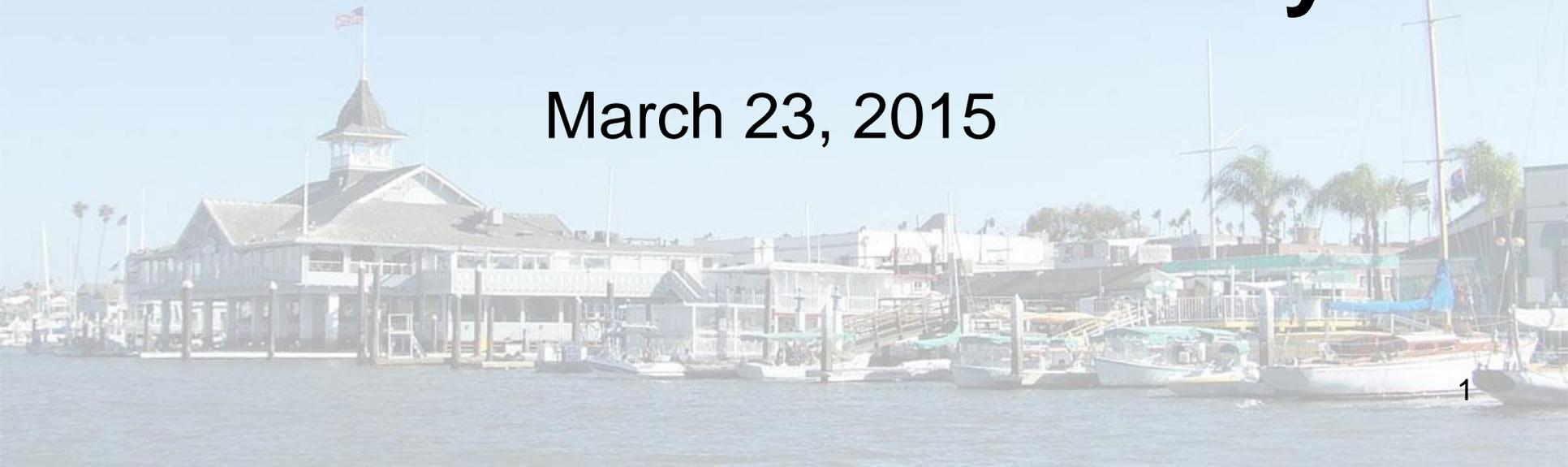


# **Presentation to Harbor Commission Regarding Newport Harbor Mooring Fees and Transferability**

March 23, 2015



# Decision Parameters

- FAIR outcome for *all* tidelands users
- Based on the relevant facts & market information
- Consistent with tidelands grant requirements
- Capable of providing sufficient funds to maintain and protect the tidelands environment

# Annual Mooring Fees

- **The current fee of \$55 per linear ft. is unreasonable and out of line by several measures**
- **A reasonable fee is \$25 per linear foot:**
  - **Appraised values of Tidelands useable for residential piers is 50 - 55 cents per square foot**
  - **Adjusted Comparable San Diego is \$26/ft.**
  - **CPI based adjustment would be \$25/ft.**
- **How do we compensate permittees for the years overcharged?**

# History on Permit Transfers

- Historical policy supports transfers
  - Early boaters were encouraged by Government to set up moorings
- Changing the long established policy on transfers was unfair
- Permit holders for other public resources are allowed to transfer permits
  - Radio & TV networks on public airwaves
  - Oil & Gas exploration
  - Grazing rights
  - Commercial Fishing

# Transferability

- Transferability Promotes Affordable Access
  - Limitations on amounts received and high transfer fees hamper affordability and access
  - Auctions would hamper affordability and access
- Transferability Means Responsibility
- Transferability Promotes Transparency
- Transferability Does Not Result in Windfall Profits

# Public Benefit

- Mooring transfers are not illegal...but value must be given back to the public.
- Mooring Permittees give back to the public in several ways:
  - Annual fees paid into the Tidelands Fund are the highest of any user group
  - Vacant moorings are used by visiting yachts and the fees paid go to the Tidelands fund
  - Permittees maintain the mooring tackle to ensure the harbor is a safe haven and safe for navigation
  - Yacht clubs sponsor races & regattas, education, youth programs and community fund raising activities

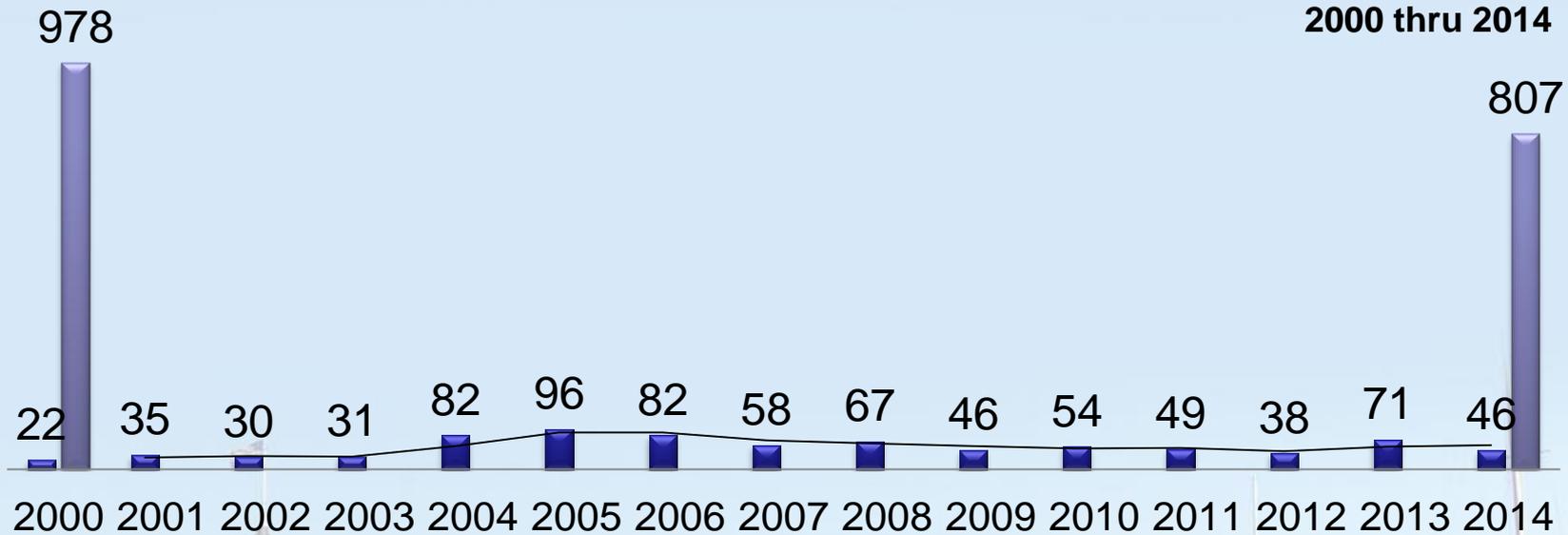
# Public Policy and Tidelands

- The transfer of mooring permits is a policy question to the Council, not a legal question. (per Aaron Harp)
- Administration of the Tidelands should be equitable for all using the Tidelands for essentially the same purpose, in this case boat storage.
- Mooring fees and charges should be on a par with residential pier permittees.
- Mooring permit transfers should be allowed as residential pier permits are allowed to transfer freely with the sale of property.

# Mooring Permit Transfers & Transparency

Total Moorings

Cumulative Transfers  
2000 thru 2014



Permit transfers moorings average is 54 annually  
Establish an online listing site for transparency to ensure Ordinance requirements are met

# Tidelands Funds

2015 estimated contributions based on current fees

|  |              |           |              |
|--|--------------|-----------|--------------|
| <b>Moorings</b>                        | \$ 1,678,947 | \$ 80,000 | \$ 1,758,947 |
| <b>Residential<br/>Docks</b>           | \$ 589,200   | \$ -      | \$ 589,200   |
| <b>Commercial<br/>* actual 2011</b>    | \$ 566,000   | \$ -      | \$ 566,000   |
| <b>Yacht Clubs<br/>&amp; Lido C.A.</b> | \$ 308,638   | \$ -      | \$ 308,638   |

# Tidelands Funds

2015 estimated contributions based on recommended fees

|  | <b>Annual Fees</b> | <b>Rental Income<br/>for Fund</b> | <b>Total<br/>Contributions</b> |
|--|--------------------|-----------------------------------|--------------------------------|
| <b>Moorings</b>                        | \$ 757,238         | \$ 80,000                         | \$ 837,238                     |
| <b>Residential<br/>Docks</b>           | \$ 589,200         | \$ -                              | \$ 589,200                     |
| <b>Commercial<br/>* actual 2011</b>    | \$ 566,000         | \$ -                              | \$ 566,000                     |
| <b>Yacht Clubs<br/>&amp; Lido C.A.</b> | \$ 129,425         | \$ -                              | \$ 129,425                     |

# Tidelands Doctrine

- Inconsistent Policies for Administration of Boat Storage
- Equal treatment is required under Tidelands Trust

|                                    | Permit Transfer Allowed                                   | Permit Transfer Fee             | Profit Allowed                                 | Rental Income Allowed | Rental Income To Tidelands Fund | Annual Fee Adjustment |
|------------------------------------|---|---------------------------------|--|-----------------------|---------------------------------|-----------------------|
| <b>Moorings</b><br>(assume 40')    | Two times until 2021 and Intrafamily and Trust ONLY after | \$1,100<br>(50% year fee - 40') | None after 2021 mooring tackle reverts to City | No                    | \$80,000 per year               | YES                   |
| <b>Residential Docks</b>           | YES   | \$285                           | YES  | YES to Third Parties  | None                            | NO                    |
| <b>Yacht Clubs &amp; Lido C.A.</b> | YES (from members to club)                                | N/A                             | N/A  | YES                   | None                            | YES                   |

# Unfair Treatment For Tidelands Users

- Marina Index Fee is neither justified nor reasonable
- Most permit holders will be hurt financially with the loss of transfer rights
- Harming many to stop a very few is a poor cure
- In five years only **1** person from the Wait List has taken a permit from **5** available
- Discriminatory pricing and administration is bad public policy and a violation of the Tidelands Trust

# Recommendations

- **Set annual permit fee at \$25 per foot**
  - Based on 3 methods; CPI, Comparable & 2013 Tidelands appraisal
  - Consider ways of compensating for the overcharges 2011 – 2015
  - Is it reasonable to index the fee annually?
- **Allow mooring permit transfers & preserve market driven process**
- **Flat Fee for transfer administration**
  - 25% to 50% of annual fees
- **Establish Web based listing for mooring permit transfers for transparency including listing price and actual selling price**

# Impact

- **Moorings Fees 25% increase over 2010 vs. 177%**
- **Tidelands Contributions from moorings more in line with Trust doctrine**

|                                      | Permit Transfer Allowed | Permit Transfer Fee                           | Profit Allowed   | Rental Income Allowed | Rental Income To Tidelands Fund | Annual Fee Adj. |
|--------------------------------------|-------------------------|---|--|-----------------------|---------------------------------|-----------------|
| <b>Moorings</b><br>(assume 40')      | YES                     | \$250 -\$500<br>(25% - 50%<br>ann. fee - 40') | Speculation<br>limited by<br>transparency &<br>frequency | No                    | \$80,000 per<br>year            | TBD             |
| <b>Residential<br/>Docks</b>         | YES                     | \$285   | YES  | YES                   | None                            | NO              |
| <b>Yacht Clubs<br/>and Lido C.A.</b> | N/A                     | N/A   | N/A  | YES                   | None                            | TBD             |