



other than commercial fishing vessels currently occupying those slips, Mr. Coffee as a commercial fisherman should be able to keep his slip.

Ms. Leary asked if Mr. Coffee has checked the regulations on black cod yet. Mr. Coffee said it is going to be either 300 a day or 700 a week. Ms. Leary asked if it was not a limited entry. Mr. Coffee said no one knows yet what is going to happen in the open access fisheries. Mr. Ewing stated he would consider allowing a six-month period beginning in April, rather than one year, to bring in the required \$5000 in fish tickets to qualify. Chairman Anderson said he was leaning toward a one-year extension, as Mr. Coffee had met the requirements in the past, but would insist on no further variances. He said the purpose of qualifying for a commercial slip is to keep working boats in those slips. Ms. Leary asked Mr. Algert if it would bring a hardship on the Harbor Department to allow a one-year extension to Mr. Coffee. Mr. Algert thanked her for the concern, but said it would not be a hardship to the Harbor Department; although the Department does have a duty to hold fast to the rules and regulations. Mr. Doughty said he would agree to the six-month extension.

**MOTION:** Mr. Ewing moved to grant a waiver for slip qualification for Mr. Coffee for the period of six months, ending on September 30, 2007. The motion was seconded by Mr. Phillips and carried unanimously. **NOTE:** The waiver is granted for the previous year's qualifying. Staff will implement this motion waiving Mr. Coffee's qualifications for 2006 and require him to qualify for 2007 by September 30, 2007 or he will lose the slip agreement.

#### **IV-2. Review of Newspaper Racks**

Mr. Phillips reviewed this item from October. He said we become accustomed to seeing the news racks as we walk by them everyday; so he presented the photographs on the overhead projector, showing the news racks from the north to the south end of the Embarcadero. He said there are a total of 77 racks on the west side of the Embarcadero (this does not include the 2 racks on the east side of Embarcadero, and 13 racks in the State Park). Mr. Phillips presented a map of the area near Giovanni's Fish Market, showing that only 2 of the 16 racks contain newspapers, the other racks contain real estate ads and coupons booklets. He presented a map of Pacific Street end, showing only 5 of 13 racks containing newspapers; and a map of Marina Street end showing only 1 of 8 racks containing newspapers.

Mr. Phillips said in October he received information from the City Attorney stating the difficulty of putting a ban on news racks due to First Amendment rights. He said it is understandable that there is no true way to define which of those items in the racks would be covered by the First Amendment. Mr. Algert said possibly all of those items may be included in the legality of the First Amendment. Mr. Phillips said there is a way to restrict the placement of the racks or to charge permit fees for usage, rather than pursue a ban on those items.

Mr. Algert reviewed the conclusions of the working group from the March 1, 2007 Agenda Item IV-3 on the Newspaper Racks as follows:

1. Currently the number and mixed designs of these news racks do present a traffic and pedestrian nuisance, do affect negatively aesthetics/views in their current locations, and do add to the litter/clutter problems on the waterfront leading to a negative business environment and public impression.
2. The best approach would be to attempt to regulate only the Embarcadero area (and potentially the State Park Marina) at least at first and to provide designated sites with reasonable (and in many cases better than current) public access and visibility to the news racks.

3. Although it would require funding by the City (presumably by the Harbor Fund) it would be best to provide City approved and purchased “boxes” (see final attachments for sample picture). This would mean a “permit” type regulation with a small fee for use of the City provided box at City designated locations.
4. Good designated locations for City provided news racks with equal or better access to the public and publication distributors would be:
  - a) Morro Rock restroom
  - b) Virg’s/Harbor Hut area
  - c) South T-Pier Embarcadero sidewalk near dumpster enclosure on the west side and the shuttle stop on the east side
  - d) Giovanni’s parking lot moved toward street/sidewalk
  - e) Pacific Street end east side Embarcadero
  - f) Marina Street end east side Embarcadero
  - g) Tidelands Park restroom
  - h) State Park Marina (State Park property within the city limits, perhaps we should leave this out?)

The City Council would have to pass an ordinance to regulate news racks. City staff is very concerned about any proposed regulation that might end up with significant time and money in legal challenges (as has happened in so many other agencies), when we are short on both. A good process to suggest such regulations is to **prepare a rough draft ordinance** and with a memo to the Council asking them to entertain the concept and refer the proposal to the City Attorney for review and comment. This would keep the City Attorney/staff time in the project to a minimum and allow him to give the Council an assessment of the potential problems prior to them committing to any regulations.

Mr. Algert stated that preparing a rough draft ordinance to present to City Council would be the most expedient method to receive City Council approval. Mr. Doughty asked if anybody can place racks on the Embarcadero. Mr. Algert said most of those racks are placed by The Tribune, but probably anyone can put racks on the Embarcadero. Mr. Doughty stated the street ends are the most important scenic view shed on the waterfront, and it is deplorable to put up these ugly racks. Ms. Meissen said she would like to see the racks gone and have something more attractive replace them. She said it would be important to review the ordinances of cities such as Paso Robles and Santa Barbara to compare the challenged versus the unchallenged ordinances.

Chairman Anderson agreed, saying the Board should create an ordinance to present to City Council similar to one that has been tested and proven to be workable and secure in other cities in order to avoid bringing about any lawsuits. He said a source for guidance in this area would be the League of California Cities. Chairman Anderson suggested the possibility of the Harbor Fund purchasing these news racks and then charging a fee to be maintained.

Mr. Phillips said he would participate with Mr. Algert to continue to work on creating a draft ordinance to present to City Council. Mr. Algert said possibly in 2-4 months, working with Mr. Phillips on a slow bell to study other options, they can present a draft ordinance. He said Mr. Phillips has put a lot of work into this issue. Chairman Anderson said the Board supports the work of Mr. Phillips with Mr. Algert to see what they come up with as a draft ordinance to present to City Council.

**V. INFORMATION ITEMS**

**V-1. Harbor Department Status Report**

Mr. Algert reviewed the following items from the Status Report:

**Received Grant for \$6000 Reimbursement of C-MANC DC Trip from Cable Liaison Committee**

**MLPA**

**Salmon Season & Seminar – 200 People**

**Blessing of the Fleet & Opening Day of Yacht Club**

**Northern California Oceans Foundation – Reef Project**

**Summer Beach Lifeguards**

**Derelict Vessel Demolition**

**Snowy Plover**

**SLO Chamber of Commerce Lunch – National Marina Sanctuary**

**City Council Action**

**VI. ADDITIONAL COMMENTS**

Chairman Anderson thanked Mr. Algert for his C-MANC and Washington DC work, saying that he has attended those trips with Mr. Algert in the past as mayor, and knows how much effort he puts in to keeping the funding for dredging in Morro Bay. Mr. Phillips also thanked Mr. Algert for that work, and asked to pass on his best wishes for Susan's speedy recovery.

**VII. FUTURE AGENDA ITEMS**

**May Live-aboard Permits Status**

**Parking Management Plan**

**June Policy for Transfer Fee for Private Mooring Sales**

**Boatyard Conceptual Plan**

**VIII. ADJOURNMENT**

This meeting was adjourned at 8:06 PM

Submitted by,

Polly Curtis  
Harbor Department