

CITY OF NEWPORT BEACH

City Council Minutes Study Session and Regular Meeting January 28, 2020

I. ROLL CALL – 4:00 p.m.

Present: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon

II. CURRENT BUSINESS

SS1. **Clarification of Items on the Consent Calendar – None**

SS2. **Proclamation to Barbara Sloate for Her Years of Volunteering at the OASIS Senior Center**

Council Member Dixon read the proclamation and commended Mrs. Sloate. Mayor O'Neill and Council Member Dixon presented the proclamation to Mrs. Sloate who expressed her gratitude for the opportunity to give back to the community.

SS3. **Proclamation to Laird Hayes for His Contributions to the City of Newport Beach**

The item was continued to the February 25, 2020 City Council meeting.

SS4. **Newport Heights Pedestrian and Bicycle Facility Discussion**

Mayor Pro Tem Avery noted previous public meetings on the issue, discussed the process, and expressed his gratitude for the continued public input.

Public Works Director Webb and Principal Civil Engineer Sommers utilized a presentation to review previous Council discussions; discuss contrasting community desires; highlight completed improvements in Newport Heights; display an area map, the interior street layout, existing bicycle facilities, a map of existing sidewalks and significant link streets, and a map of Cliff Drive; explain shared lane markings (sharrows), on-street bike lanes, and protected bike lanes; indicate triggers for a significant link street, sidewalk benefits and impacts, and its existing layout and conditions; and describe considerations for further discussion.

In response to questions from the Council, Public Works Director Webb and Principal Civil Engineer Sommers advised that there is no law requiring a sidewalk separate from a protected bike lane, sidewalk width is driven by the Americans with Disabilities Act (ADA), but the City can dictate sidewalk width through standard plans, the sidewalk in the presentation is eight-feet wide, the resolution regarding significant link streets was adopted in 1988 and explained significant link streets, and that reducing the width of traffic lanes on Cliff Drive so it does not intrude on residents' landscape and hardscape is a consideration, the Municipal Code allows the City to require property owners on significant link streets to make frontage improvements, not every street needs a sidewalk, Council does not require a sidewalk on every street, staff invited the Newport-Mesa Unified School District to the study session, Ensign Intermediate School will have a new entrance at the corner of Cliff Drive and Irvine Avenue, sidewalks along significant link streets are discontinuous, the purpose of the significant link streets policy was likely to gradually introduce sidewalks, Council can decide to complete sidewalks if there are enough pieces, and the preference would be to have a wide sidewalk for use by both cyclists and pedestrians.

Council Member Dixon suggested that staff create a map that shows existing and non-existing sidewalks on significant link streets and their widths, and encouraged staff to be more proactive in obtaining information from the School District.

Mayor Pro Tem Avery believed that traffic calming by narrowing the lane would be a benefit of Consideration 3.

Flo Martin provided her background, urged Council to look to the future and develop active transportation options, believed sharrows are not safe compared to having bike lanes and sidewalks, and indicated Costa Mesa developed an Active Transportation Plan and is starting to develop a Pedestrian Master Plan.

Jim Carlson stated he submitted correspondence, shared his reasons why a 10-foot sidewalk is not feasible on Cliff Drive, expressed concern for the traffic speed on Cliff Drive, and suggested that Council conduct an engineering analysis and cost estimate.

Curt Herberts expressed concern regarding Clay Street, noted 120 people previously signed a petition that they did not want what was being planned on Clay Street, thanked Mayor Pro Tem Avery for holding a community meeting on the issue, indicated the community was assured this would not come back again, believed more information is needed about the specifics of significant link streets, and asked who designated Clay Streets and the other streets as significant link streets and why the residents have not been told.

Kate Malouf stated that her children have biked to schools and extracurricular activities without incident; thanked Council and the City for their immediate response to the fatal tragedy a few years ago, installing sharrows and signage on Clay Street, and adding crossing guards for the three schools; noted the Police Department and school administrations hold annual bike safety assemblies; believed the number of reported bike accidents have been few; expressed that many Newport Heights residents are frustrated that the traffic issue keeps coming up; and suggested that Council focus on other issues and explore options such as directional time restrictions on Clay Street and Beacon Street, between Irvine Avenue and Fullerton Avenue, before spending any money.

Jim Kaciuba indicated the entrance to Ensign Intermediate School is located on Cliff Drive, not Beacon Street, believed placing a sidewalk on Beacon Street does not make sense and the biggest problem is the sidewalk on Cliff Drive, and that fixing the sidewalk might work regardless of where the school entrance is located.

Matt Montgomery agreed with Kate Malouf's comments and believed the suggestions would destroy the uniqueness of the area, decrease property values, and the solution should be found within the school's property.

Peter Boyd shared the National Geographic Society's definition of "urban," discussed the benefits of sidewalks, agreed this is a contentious issue, appreciated the notice and the opportunity to address Council, and stated Council should consider doing what it can to make the neighborhood safe for everyone.

Waverly Lassila provided a handout, opposed the construction of sidewalks and bike lanes on Clay Street because they would take away from the uniqueness of the neighborhood, also opposed Clay Street being designated a significant link street because it would burden the property owners with expense and even more traffic, asked if there has been a recent count of pedestrian or school children on Beacon Street, Clay Street or 15th Street, suggested time-limited parking on Clay Street, and requested that the City be more proactive with the schools to limit class sizes.

Carol Anne Dru stated that car dealers are using Cliff Drive and Kings Road for demo rides, indicated that the president of the homeowners association will be speaking with the dealers and possibly to the manufacturers, believed narrowing Cliff Drive has not done any good, indicated she has not seen any crossing guards at Ensign Intermediate School, believed another crosswalk and more crossing guards are needed, and took issue with how people drive on the roads and indicated this is a serious problem that needs to be addressed.

Steve Moore expressed concern that the proposed changes would change the unique culture and feel of Newport Heights, believed designating significant link streets may create additional traffic over time and may be considered a tax on the citizens living on the significant link streets.

Scott Berman expressed support for many of the suggestions, believed sharrows do not work well, but bike lanes and/or sidewalks are a better solution, and indicated residents on Kings Place between Cliff Drive and 15th Street and 15th Street to Newport Harbor High School should be included in any decisions.

Kevin Healy concurred with Kate Malouf's comments, believed the neighborhood is beautiful as it is and should not be urbanized, suggested more education for Costa Mesa students who attend Newport Beach schools, discussed using volunteers to direct students to the correct streets, requested more enforcement, and believed the area needs better lighting or underground utilities.

Carrie Slayback suggested that a sign be installed that flashes vehicle speed and that there be occasional police presence.

Jeff Reuter indicated he lives across from Newport Harbor High School, believed traffic changed with electric bikes and more cyclists and pedestrians, indicated sidewalks work, but the whole area may not need them, commended the crossing guards, noted the high school does not have a designated drop-off area, and believed enforcing the rules of the road would relieve the pressure.

Chris Budnik believed the City has already taken a number of steps that improved safety in the area and did not affect properties in a negative way, there is no reason to add more sidewalks on Clay Street because 15th Street has sidewalks, there should be a way not to install a 10-foot wide sidewalk on Cliff Drive, recommended continuation of the sharrows on Clay Street, east of Irvine Avenue, indicated this discussion needs to come to a close, and expressed opposition to changing residential streets to significant link streets.

Scott Barnard expressed opposition to having significant link streets on Tustin Avenue, commended the installation of sharrows, believed vehicles should not be in the same place as bikes and installing sidewalks would be more impactful to private properties.

Nancy Scarbrough noted how many Special City Trees are on Tustin Avenue, Clay Street, Beacon Street and Cliff Drive and noted they have to be removed to install sidewalks.

An unidentified speaker believed that sharrows work and sidewalks are not needed.

Jim Robinson stated he attended all the meetings about this issue and has seen all the studies, but he has not seen any evidence of the problem that the Council is addressing; and believed the improvements already done have made a difference and Council should see how the improvements play out.

Charles Klobe, Newport Heights Improvement Association President, provided his background, discussed the Newport Heights area, believed the neighborhood is not asking for any changes, took issue with designating significant link streets, noted that no study has determined that sidewalks are needed, and requested that audience members who agree with his comments to stand.

Peggy Palmer suggested that the City paint "25 mph" on the streets in bright green, indicated she liked the idea of improving safety around the 215 Riverside Avenue project, suggested deploying Police Department volunteers around the schools when schools start and end, and suggested installing crosswalk markings and stripes on Riverside Avenue and placing a crossing guard at Irvine Avenue and Cliff Drive.

Murphy McCann thanked the City for trying to make Newport Heights safer; expressed support for the proposals due to recent deaths and near misses on Clay Street; discussed traffic, sidewalk issues, traffic counts, and bike routes; provided suggestions for stop sign locations; and noted that the National Association of City Transportation Officials (NACTO) provides recommendations for combining bicyclists, pedestrians, and cars on crammed roadways.

Sandra Ayres agreed with Council Member Dixon's suggestion to be more proactive with the School District and indicated that she wanted her representative to work on that before significantly changing the neighborhood.

Roberta Kennedy believed the City's improvements over the last two years have vastly improved the situation, noted there are still drivers and bicyclists that do not follow the laws, and asked who is pushing the issue when the neighborhood does not want it and who will pay for this.

Council Member Muldoon explained significant link streets and the party responsible for paying for sidewalks, Clay Street cannot be expanded without going into the rights-of way, provided a suggestion for a one-way guarded bike lane, indicated he was not interested in installing sidewalks or removing trees, stated it may be time for the City to install the sidewalks on the existing significant link streets, and emphasized that his concern is for children's bike safety to school.

Council Member Dixon asked if staff has considered making Clay Street or Beacon Street one-way, noted that one-way streets would not expand into public rights-of-way and would be a traffic calming measure, pointed out that new housing laws have eliminated parking requirements, suggested that staff consider placing stop signs on Beacon Street, Tustin Avenue, and El Modena Avenue, and indicated having traffic incident data to support what is being discussed would be helpful.

Council Member Herdman indicated the amount of children attending the schools will continue to populate the streets and asked about the process to get more crossing guards.

Police Chief Lewis discussed the crossing guard locations, indicated the City has a contract for crossing guards, and reviewed the process to get additional crossing guards.

Mayor O'Neill noted that crossing guards are located at all three schools.

Mayor Pro Tem Avery believed that the neighborhood consensus is to do everything to improve safety without tearing up the neighborhood or taking away parking; stated the City should continue trying to make the area safer, requested that staff look at Cliff Drive in a way that would not change residents' current improvements, and noted that residents may communicate their suggestions to the Council and staff.

Council Member Duffield thanked everyone for attending the meeting and expressed hope that the car dealer test drives through the neighborhood can be alleviated.

Ara Zareczny, Administrative Director for Newport-Mesa Unified School District, reported the School District has received approval for the parking lot reconfiguration at Ensign Intermediate School, reviewed the timeline and project, and discussed the benefits of the parking lot reconfiguration and parent drop-off area.

In response to Council Member Brenner's questions, Public Works Director Webb explained that the City only reviewed the project for encroachment permits, and Ms. Zareczny discussed the site security fencing and notification process, noted the Police Department has been invited to public meetings, stated the last public meeting was held in September 2019, and explained that the School District and City staff have coordinated elements that will encroach into the public right-of-way, and the contractor will submit a formal permit request. Public Works Director Webb added that Traffic Engineer Brine has been working with School District staff on a limited basis, Council has limited off-site input and has limited input on School District projects.

Mayor O'Neill suggested staff reach out to the School District to obtain as much information as possible about the plan.

Council Member Brenner expressed concern about removing trees on Cliff Drive, believed the School District and the City should be partners on anything that is going on in the community, pointed out that Council has the responsibility of planning for the future, expressed concern that drivers from new Mariners Mile developments will drive through Newport Heights, emphasized that she wants to make sure the streets are as safe as possible for bicyclists and pedestrians, indicated she is unsure about significant link streets, and stated she would like to see the sidewalks improved in the future. She reported that she wanted to move forward with traffic calming measures on Cliff Drive.

Council Member Dixon requested to see a map depicting the crossing guard locations and their hours, stated Council may want to designate safety streets, reduce speed limits, and increase enforcement, and asked if the trash collectors are abiding by all the rules in the school zone.

Mayor O'Neill agreed with the majority of Kate Malouf's comments, stated that the neighborhood needs traffic enforcement, and encouraged the community to ask questions of the School District and to attend their meetings.

Mayor Pro Tem Avery asked if the City could change the speed limit in the neighborhood. City Traffic Engineer Brine reported the City could reduce the speed limit to 20 mph in certain circumstances, but a typical school zone is 25 mph.

Council Member Herdman advised that the use of parents or volunteers to supervise children crossing streets is not allowed for liability reasons.

Mayor O'Neill noted that some of the issues may be handled during the Circulation Element process.

III. PUBLIC COMMENTS

Scott Barnard reported he has met with three School District trustees to understand the plan for Ensign Intermediate School, expressed concern with having all drop-off occurring at a single gate and the entrances to the sports fields not being accessible to the public, except to sports leagues. He asked the City to have a staff person available on weekends to open the fields to the public.

Peter Boyd noted the great literacy program at the library.

IV. RECESSED – 6:35 p.m.

V. RECONVENED AT 7:00 P.M. FOR REGULAR MEETING

VI. ROLL CALL

Present: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon

VII. INVOCATION – Reverend Mary Scifres, Corona del Mar Community Church

VIII. PLEDGE OF ALLEGIANCE – Council Member Dixon

Mayor O'Neill expressed condolences for the loss of seven Newport Beach residents on Sunday and each Council Member paid tribute to each of the passengers of the January 26, 2020 helicopter accident: John Altobelli, Keri Altobelli, Alyssa Altobelli, Kobe Bryant, Gianna "Gigi" Bryant, Sarah Chester, Payton Chester, Christina Mauser, and Ara Zobayan. The Council Chambers then observed a moment of silence.

Mayor O'Neill recessed the meeting at 7:14 p.m. and reconvened at 7:20 p.m.

IX. NOTICE TO THE PUBLIC

X. CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Council Member Herdman:

- Announced that staff and he finished two Town Hall meetings regarding future infrastructure projects on Balboa Island
- Attended a Corona del Mar Residents Association meeting, a Newport Beach Chamber of Commerce Government Affairs meeting, and Aviation Committee and subcommittee meetings

Council Member Dixon:

- Attended and reported on the Association of California Cities-Orange County (ACC-OC) meetings in Sacramento
- Announced a Town Hall meeting on February 3, 2020, at 6:30 p.m. at Marina Park

Council Member Brenner:

- Attended the Witte Lecture Series with Doris Kearns Goodwin and the State of the County
- Announced a mental health discussion on January 29, 2020, in the Council Chambers at 6:00 p.m.

Council Member Duffield:

- Reported on his visit to Washington DC last week with Harbor Commissioner Cunningham and Mayor Pro Tem Avery to try to acquire funding for the dredging project

Mayor Pro Tem Avery:

- Attended the National Association of Mayors Conference in Washington DC and, while there, reported that he also represented the City in trying to acquire funding for the dredging project, with Harbor Commissioner Cunningham, Council Member Duffield, Public Works Director Webb, and Public Works Administrative Manager Miller

Mayor O'Neill:

- Attended the Muth Center Volunteer Day event with Council Member Herdman, a ribbon cutting for City of Hope with many Council Members, the CalPERS stakeholders meeting with Council Member Dixon and Finance Director Matusiewicz, an Eagle Scout ceremony, several vigils in the community for the helicopter victims, and award ceremonies for the Community Emergency Response Team (CERT) and Christmas Boat Parade

XI. PUBLIC COMMENTS ON CONSENT CALENDAR

Regarding Resolution No. 2020-8 (Item 7), Dave Tanner commended Council for implementing the earthquake early warning system and summarized information from the "Shake Alert" video, which is online. He recommended that Council consider the forecasts in the General Plan Update, provide the Southern California Association of Governments (SCAG) with the video and information regarding liquefaction, and offer to coordinate a presentation for SCAG and legislators. He asked the City to consider whether the legislators have followed the law in enacting housing stimulus laws and if amendments or modifications are warranted.

Regarding Item 7, Bruce Bartram, Stop Polluting Our Newport (SPON), stated SPON wishes to work with the City to reach reasonable housing numbers and consensus for the Housing Element and retain the goals of the existing General Plan. He noted that the Banning Ranch Conservancy recently received a \$50 million donation to purchase Banning Ranch as open space.

Regarding Ordinance No. 2020-3 (Item 4), Phil Greer raised issues concerning attorney confidentiality and enforcement.

XII. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the January 14, 2020 City Council Meeting [100-2020]

Waive reading of subject minutes, approve as amended, and order filed.

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

ORDINANCES FOR INTRODUCTION

3. Ordinance No. 2020-2: Amending Chapter 14.12 of the Newport Beach Municipal Code to Comply with SB 998, the Water Shutoff Protection Act [100-2020]

- a) Determine this action to be exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Introduce amended Ordinance No. 2020-2, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 14.12 of Title 14 of the Newport Beach Municipal Code Relating to Water Service Discontinuation for Nonpayment*, and pass to second reading on February 11, 2020.

4. Ordinance No. 2020-3: Introduction of Ordinance Establishing Lobbyist Registration, Reporting and Disclosure Requirements [100-2020]

- a) Determine this action to be exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Introduce Ordinance No. 2020-3, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 1.12.020, Subsection J, and Adding Chapter 1.28 to Title 1 of the Newport Beach Municipal Code to Increase Transparency in Government Operations and Establish Lobbyist Registration, Reporting and Disclosure Requirements*, and pass to second reading on February 11, 2020.

ORDINANCE FOR ADOPTION

5. Ordinance No. 2020-1: Amending Chapter 12.24 of the Newport Beach Municipal Code Regarding Speed Limits [100-2020]

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Ordinance No. 2020-1, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Sections of Chapter 12.24 of the Newport Beach Municipal Code Regarding Increasing and Decreasing State Speed Limits*.

RESOLUTIONS FOR ADOPTION

6. Resolution No. 2020-7: Accepting a Grant from the State of California, Division of Boating and Waterways for the Surrendered and Abandoned Vessel Exchange (SAVE) Program (C-7252-1) [38/100-2020]

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Adopt Resolution No. 2020-7, *A Resolution of the City Council of the City of Newport Beach, California, Accepting a Grant from the State of California, Department of Parks and Recreation, Division of Boating and Waterways for the Surrendered and Abandoned Vessel Exchange Program*; and

- c) Approve Budget Amendment No. 20-028 recognizing \$175,000 in grant revenue from the California Division of Boating and Waterways (13501-431385-20H11) and appropriating \$175,000 to Account No. 13501-980000-20H11 (Abandoned Watercraft Abatement).
- 7. **Resolution No. 2020-8: Opposing the Modified RHNA Allocation Methodology Approved by the Southern California Association of Governments Regional Council [100-2020]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
 - b) Adopt Resolution No. 2019-8, *A Resolution of the City Council of the City of Newport Beach, California, Opposing the Modified Regional Housing Needs Assessment Allocation Methodology Approved by the Southern California Association of Governments Regional Council.*
- 8. **Resolution No. 2020-9: Formation of an Ad Hoc Committee to Explore Opportunities for Private Funding of the Proposed Central Library Lecture Hall [100-2020]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
 - b) Adopt Resolution No. 2020-9, *A Resolution of the City Council of the City of Newport Beach, California, Creating an Ad Hoc Committee to Explore Opportunities for Private Funding of the Proposed Central Library Lecture Hall Project;* and
 - c) Appoint Mayor Will O'Neill and Mayor Pro Tem Brad Avery to serve on said Ad Hoc Committee.

Council Members Duffield and Muldoon voted "no" on Item 8.
- 9. **Resolution No. 2020-10: Formation of an Ad Hoc Committee to Explore Opportunities for Private Funding of the Proposed Newport Beach Junior Lifeguard Building [100-2020]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
 - b) Adopt Resolution No. 2020-10, *A Resolution of the City Council of the City of Newport Beach, California, Creating an Ad Hoc Committee to Explore Opportunities for Private Funding of the Proposed Newport Beach Junior Lifeguard Building Project;* and
 - c) Appoint Mayor Will O'Neill and Council Member Diane Dixon to serve on said Ad Hoc Committee.
- 10. **Resolution No. 2020-11: Investment Policy Update [100-2020]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
 - b) Adopt Resolution No. 2020-11, *A Resolution of the City Council of the City of Newport Beach, California, Finding Consistency with Stated Investment Objectives and Amending City Council Policy F-1 to Add Clarifying Language that is Consistent with Government Code Section 53600, et seq.*

CONTRACTS AND AGREEMENTS

- 11. **Approval and Award of On-Call Professional Project Management Services Agreements with DMS Consultants Civil Engineers, Inc. and DMc Engineering (C-8621-1 and C-8621-2) [38/100-2020]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
 - b) Approve On-Call Professional Project Management Services Agreements with DMS Consultants Civil Engineers, Inc., and with Derek J. McGregor, Inc. DBA DMc Engineering; with each agreement being for a term of three-years and a total not-to-exceed amount of \$300,000, and authorize the Mayor and City Clerk to execute the agreements.

12. Approval of Landscape Maintenance Agreement with the California Department of Transportation for West Coast Highway Improvements (C-8622-1) [38/100-2020]

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (c) (minor alterations of existing facility involving negligible or no expansion of capacity) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment; and
- b) Approve the Landscape Maintenance Agreement within State Highway Right of Way on Route 1, and authorize the Mayor and City Clerk to execute the Agreement.

13. Approval of Agreement with Newport Bay Naturalists and Friends, d.b.a. Newport Bay Conservancy, for the Fostering interest in Nature (FiiN) Program (C-7581-2) [38/100-2020]

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Award a five (5) year agreement for the Fostering interest in Nature Program to Newport Bay Naturalists and Friends, d.b.a. Newport Bay Conservancy, for a total not-to-exceed amount of \$520,403 (\$100,000 each year with a 2% cost increase adjustment after year one), and authorize the Mayor and City Clerk to execute the contract agreement.

MISCELLANEOUS

14. Planning Commission Agenda for the January 23, 2020 Meeting [100-2020]

Receive and file.

15. Grants and Donations Report for the Quarter Ending December 31, 2019 [100-2020]

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Receive and file.

Motion by Mayor Pro Tem Avery, seconded by Council Member Muldoon, to approve the Consent Calendar; and noting the “no” votes by Council Members Duffield and Muldoon on Item 8, and the amendments to Items 1 and 3.

The motion carried unanimously.

XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR – None

XIV. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Dennis Bress noted that the Aviation Committee is making progress, requested that Aviation Committee meetings be videotaped, requested that the Board of Supervisors conduct a feasibility study of connecting transportation among John Wayne Airport (JWA), the Anaheim Regional Transportation Intermodal Center (ARTIC), and Ontario, stated that Santa Ana wants to expand the Orange County Streetcar Project, and believed that high-density housing may be possible around JWA with these transportation connections.

Ryan Reza Farsai expressed condolences to the Altobelli, Bryant, Chester, Mauser, and Zobayan families, believed that everyone should be thankful for their lives, shared his thoughts about the meaning of life, and provided a list of things in order to have a good life.

XV. PUBLIC HEARING

16. Ordinance No. 2020-4: Introduction of a Cottage Preservation Ordinance (PA2019-181) [100-2020]

Community Development Director Jurjis and Principal Planner Murillo utilized a presentation to discuss public comments during the Planning Commission hearing, the Planning Commission's comments, and staff's rationale regarding increasing the size of cottages and the relationship of the proposed ordinance to Accessory Dwelling Units (ADU).

Mayor O'Neill opened the public hearing.

Charles Klobe reported he has attended all the public outreach meetings, expressed support for the ordinance, and agreed with increasing to 750 square feet because it would be incentive for cottage owners to remodel their homes.

Dennis Bress concurred with increasing to 750 square feet so people could remodel their cottages.

Jim Mosher asked if State rules allow ADUs to be added to nonconforming structures, noted the concern about parking, believed allowing 750 square feet could be contingent upon the property owner providing some type of parking, and suggested a change to the ordinance.

Hearing no further testimony, Mayor O'Neill closed the public hearing.

City Attorney Harp recommended changing "residential dwelling" to "single-unit residential dwelling" throughout the ordinance and correcting the typographical errors that Mr. Mosher pointed out.

Principal Planner Murillo advised that existing space may be converted to an ADU, whether the space is conforming or nonconforming.

In response to Council Member Muldoon's questions, Principal Planner Murillo explained the exception that limits additions to structures that are nonconforming due to parking and the reason for using "single unit residential dwelling."

Motion by Council Member Herdman, seconded by Council Member Brenner, to a) find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment; b) waive reading, read by title only, introduce amended Ordinance No. 2020-4, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Code Amendment No. CA2019-006 to Amend Title 15 Entitled "Building and Construction" and Title 20 Entitled "Planning and Zoning" of the City of Newport Beach Code Related to Cottage Preservation (PA2019-181)*, and pass to second reading on February 11, 2020; and c) adopt Resolution No. 2020-12, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission to Amend Title 21 Entitled "Local Coastal Program Implementation Plan" of the City of Newport Beach Municipal Code and the City of Newport Beach Local Coastal Program Coastal Land Use Plan Related to Cottage Preservation (PA2019-181)*.

The motion carried unanimously.

XVI. CURRENT BUSINESS

17. Ordinance No. 2020-5: Proposed Changes to the Newport Beach Municipal Code, Title 17 – Harbor Code [100-2019]

Council Member Duffield thanked Public Works Director Webb and Public Works Administrative Manager Miller for their work on the dredging project, and recused himself from Item 17 due to business interest conflicts.

Mayor O'Neill thanked Harbor Commissioner Kenney for the subcommittee's efforts in amending Title 17 and the time spent in the public meetings.

Harbor Commissioner Kenney stated that he, Harbor Commissioners Blank and Yahn were on the ad hoc committee that reviewed Title 17 of the Municipal Code and recommended modifications and updates to the Harbor Commission after taking into account current users and usage of the harbor and the responsibilities of the Harbor Department; reported that the Harbor Commission recommended that Council approve the modifications and updates; noted the review process and number of public meetings that were held; indicated that the proposed modifications are exclusive of Section 17.10, Marine Activities Permit (MAP); and thanked Assistant City Manager Jacobs, City Harbormaster Borsting, and Assistant City Attorney Summerhill for their dedication to the collective goal of getting Title 17 right.

City Harbormaster Borsting utilized a presentation to review public participation and input, key topics, and recommendations regarding general provisions, berthing, mooring, storage, harbor development, live-aboards, number of overnight stays, harbor permits and leases, mooring extension requests, water quality, and appeals or calls for review.

Council Member Muldoon thanked the Harbor Commissioners for their hard work. In response to his questions, City Harbormaster Borsting explained how City staff conducts vessel sanitation system inspections and reviewed the requirements to rent City moorings.

Mayor Pro Tem Avery noted this is a huge moment for the harbor. In response to his questions, City Harbormaster Borsting and Commissioners Kenney, Blank and Yahn discussed how Title 17 has been interpreted over the years, discussed live-aboards, explained why 7% is being proposed for live-aboards in commercial marinas.

Council Member Brenner thanked the Commissioners for the extensive public outreach, indicated that she will be supporting the recommendations as proposed, unless there is a compelling reason to make an adjustment, and believed this is an example of why she is advocating for a traffic commission that has expertise and is not political.

Council Member Dixon expressed her gratitude and appreciation for the hard work of the Harbor Commission, indicated she did not want to close the City's ability to look at live-aboards as a form of housing, and suggested that Council recommend that the Harbor Commission look at the commercial marina access aspect when discussing the MAP. Mayor O'Neill indicated that Council may need to send a letter to the California Department of Housing and Community Development (HCD).

Council Member Herdman thanked the Harbor Commission ad hoc committee and indicated he will be supporting the recommendations.

Mayor Pro Tem Avery concurred with Council Member Dixon's suggestion for the Harbor Commission to look at commercial marina access, believed Council should allow people the opportunity to live on their boats and let the marina determine its number, with a cap imposed by the City, and indicated that the Harbor Commission could survey facilities needed for live-aboards and propose a cap.

Harbor Commissioner Kenney noted that City Harbormaster Borsting conducted a simple survey of most of the marinas and indicated that the Harbor Commission could look at the percentage when it finalizes its work on MAPs.

Following a discussion relative to live-aboards, the number of live-aboards currently in the harbor, and how not limiting the number may impact City services, City Attorney Harp recommended the motion exclude the second sentence of Section 17.40.110 and all references to live-aboard permits in commercial marinas.

Mayor Pro Tem Avery wanted to make sure that live-aboards are secure where they are right now.

In response to Council Member Herdman's inquiry, Harbor Commissioner Kenney indicated neither the Regional Housing Needs Assessment (RHNA) nor affordable housing entered into the consideration.

Jim Mosher acknowledged that the process was well-intentioned and thorough, stated that people tended to focus on the details rather than the big picture, believed Title 17 is not user-friendly, discussed how Title 17 has changed over the years, and noted he submitted written comments.

Jim Harper, representing Port Calypso Marina, expressed support for discussing the live-aboard matter when commercial marinas are brought back to the Harbor Commission, but believed live-aboards are not a major issue.

Motion by Council Member Dixon, seconded by Mayor Pro Tem Avery, to a) determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and b) waive reading, read by title only, exclude the second sentence of Section 17.40.110 and all references to live-aboard permits in commercial marinas, and introduce amended Ordinance No. 2020-5, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 17 (Harbor Code) and Other Related Provisions of the Newport Beach Municipal Code Making Comprehensive Revisions Including, but not limited to, Updating Definitions, Regulating Marine Sanitation Devices to Protect Against Discharge of Waste in Newport Harbor, Amending Requirements for Mooring Sub-Permits, Adding a Procedure to Allow Mooring Length Extensions and Modifying and/or Adding Procedures for Issuance of Permits, Appeals/Calls for Review and Revocations*, and pass to second reading on February 11, 2020.

With Council Member Duffield recusing himself, the motion carried 6-0.

18. Approval and Award of On-Call Maintenance and Repair Services Agreement with RAMCO General Engineering Contractors for Balboa Island Wooden Bench Maintenance & Refurbishment Services (C-8624-1) [38/100-2019]

Council Member Herdman recused himself due to real property interest conflicts.

Deputy Public Works Director Martin utilized a presentation to discuss the history and inventory of Balboa Island benches, bid results for maintaining the benches, typical costs for benches and trash receptacles, and recommendations.

In response to Council Member Dixon's questions, Deputy Public Works Director Martin advised that Exhibit B of the staff report reflects the cost of refinishing, repairing, and maintaining the wooden benches, and reported that refinishing the benches one more time would cost about \$148,000.

Mayor Pro Tem Avery believed the City needs to move toward having benches that do not need to be refinished and are appealing, questioned the need for so many benches, and indicated he would not support spending more money on refinishing the existing benches.

Council Member Muldoon believed the artificial wood benches look great and the current benches could eventually be replaced with a durable model.

Council Member Duffield agreed with Mayor Pro Tem Avery's comments.

Mayor O'Neill questioned whether 109 benches are needed on Balboa Island. Public Works Director Webb suggested the City not replace all the benches. Mayor O'Neill asked that staff make sure families receive their plaques if they want them, stated he wants input from the Balboa Island Improvement Association (BIIA), and believed maintaining the current benches is unfeasible.

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Council Member Brenner pointed out that trash can replacement is also included in the cost and indicated she has been requesting that the plastic tubs be replaced in Corona del Mar because they are not appealing.

Council Member Dixon stated that she prefers the artificial wood benches and trash cans, suggested that the Parks, Beaches and Recreation Commission decide on the replacement benches, hoping that the new benches replicate as closely as possible to the current bench. Deputy Public Works Director Martin added that the Infinity Bench's life expectancy is ten years.

Mayor Pro Tem Avery noted refinishing wood takes a lot of hours of labor and believed the Infinity Bench or something similar is a good choice.

Dennis Bress agreed with receiving community input from Balboa Island and indicated the Urban Workshop in Costa Mesa may work with the City to fix the benches in the short term.

Max Johnson asked if the same considerations could be made in District 1, agreeing that the plastic trash cans are not aesthetically pleasing; indicated that the City may want to repair a section of destroyed concrete at Wedge Park; and indicated he is in favor of using artificial material.

Council Member Dixon agreed with replacing the blue trash cans on the Peninsula.


Motion by Council Member Muldoon, seconded by Council Member Dixon, to a) refer the issue to the Parks, Beaches and Recreation Commission; and b) direct the Parks, Beaches and Recreation Commission to determine what to do with the current benches and develop a replacement program.

With Council Member Herdman recusing himself, the motion carried 6-0.


XVII. MOTION FOR RECONSIDERATION – None

XVIII. ADJOURNMENT – Adjourned at 9:15 p.m. in memory of Stan Troutman and the passengers of the January 26, 2020 helicopter accident

The agenda was posted on the City's website and on the City Hall electronic bulletin board located in the entrance of the City Council Chambers at 100 Civic Center Drive on January 23, 2020, at 4:00 p.m.



Will O'Neill
Mayor



Leilani I. Brown
City Clerk

