

CITY OF NEWPORT BEACH

City Council Meeting Minutes Study Session and Regular Meeting July 9, 2024

I. ROLL CALL – 4:00 p.m.

Present: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar – None

SS2. Presentation of the Okazaki Sister City Delegation

Truly Boring, President of the Newport Beach Sister City Association, provided a description of the Sister City program and the art installation, named *Indivisible*, by Pierce Meehan.

Takumi Nuto, Okazaki City Hall's Diversity Promotion Division and member of the Okazaki Citizen Delegation, expressed his gratitude for the warm welcome to Newport Beach, introduced the members of the Japanese delegation, and noted their continued cooperation to further strengthen the relationship between the cities.

Councilmember Grant expressed that it is a great honor to share a Sister City relationship with Okazaki and invited the delegates to enjoy the wonderful experiences in Newport Beach.

Mayor O'Neill read the proclamation recognizing the 40th anniversary of the Newport Beach-Okazaki relationship, Council was presented with a gift from the delegation, and the City Council, Ms. Boring, and the delegation unveiled the artwork.

SS3. Implementation of the Housing Element and Charter Section 423

Deputy Community Development Director Murillo and Principal Planner Zdeba utilized a presentation to discuss the City's Regional Housing Needs Assessment (RHNA) assignment, the 2020 Housing Action Plan, the 6th Cycle Housing Element (HE), importance of an income category buffer, example of No Net Loss, HE preparation outreach and engagement, the roadmap to maintain compliance and retain local control, implementation outreach and engagement, a tentative schedule, City Charter Section 423, arguments in support of not holding a vote, the HE Amendment needed if no vote is decided, if the City moves forward with a vote and it fails, consequences of noncompliance, including loss of local control, builder's remedy, and pending legislation, and key takeaways.

Councilmember Blom expressed the importance of maintaining local control, recounted the City's approach to the HE, and questioned the option of relinquishing control to the State.

In response to Councilmember Weigand's question, Deputy Community Development Director Murillo stated that AB1893 is working its way through the legislation and has a January 1st effective date. Councilmember Weigand inquired about projects in the pipeline, the buffer, unit counts, and next steps if the vote fails. He noted receiving a considerable amount of phone calls on the matter due to confusion. In response, Deputy Community Development Director Murillo explained the intention of the buffer and reviewed the final housing plan. Councilmember Weigand expressed the opinion that the builder's remedy is bad for the City and expressed concern for a failed vote.

Councilmember Grant restated how the pipeline projects are reflected in the unit count and how the sunset provision will be applied. Deputy Community Development Director Murillo concurred.

Councilmember Avery expressed optimism and thought, with education, the citizens would understand the voting implications.

In response to Mayor Pro Tem Stapleton's question, City Attorney Harp stated that the City Council would be free to reassess the process if a vote were to fail. Mayor Pro Tem Stapleton shared the sentiments of his colleagues regarding not wanting to lose local control.

Mayor O'Neill thanked contributors of the HE development and General Plan Update Steering Committee (GPUSC) and asked if public commenters who are in support of the vote to state if they would be willing to participate in public outreach and education efforts on the matter.

Jim Mosher expressed his doubt that the California Department of Housing and Community Development (HCD) would decertify the City's HE while the City is working on a second vote, and emphasized the need for an accurate understanding about the buffer, stated that Newport Beach has been vulnerable to the builder's remedy for one year, clarified that negotiations would take place with the people of Newport Beach to get a better measure if the vote fails, and suggested it include a measure that meets the affordable housing RHNA quota or delay the vote until such a measure is reflected.

Charles Klobe, President of SPON, concurred with Mr. Mosher and supported a resident vote with changes.

Nancy Scarbrough concurred with Mr. Mosher, supported a delayed resident vote to make changes, and offered to help educate residents.

Gary Cruz asked if development would return to its current state once the housing obligations are met.

An unidentified speaker shared her willingness to participate in public outreach and supported a resident vote.

Adam Leverenz thought the City Council should not take any action that increases homelessness in Newport Beach.

Dennis Baker expressed concern for scare tactics, referenced the final housing plan slide, supported a resident vote, and opposed participating in public outreach.

Heath Clarke, President of the Bayside Village Homeowners Association, supported a resident vote, and agreed to recommend a "yes" vote to the community.

Bruce Bartram supported a resident vote.

An unidentified speaker supported a resident vote.

Lynn Hackman, General Plan Advisory Committee Member (GPAC), supported a resident vote and agreed to participate in public outreach.

Chuck Fancher urged Council to consider including a stipulation in the resolution that states that Council will vote it up if the vote fails.

Shawna Schaffner, Chief Executive Officer at CAA Planning, stated that the buffer is the key to maintaining local control, thanked staff for disseminating information, noted numerous opportunities for public engagement, discussed comment letters and public comments, and

urged Council to return at the July 23, 2024 City Council meeting to take action to protect local control.

Larry Tucker asked why the land use element is being changed and if Council thinks the residents have the right to vote to avoid State law while other agencies that do not have a Greenlight provision must comply with State law.

Councilmember Blom stated that Council represents the will of the people, Yorba Linda is at the beginning of their HE process, and mentioned Measure B. He asked who benefits if the vote fails, relayed that Council is embracing many perspectives and trying to maintain the sanctity of Newport Beach, and supported Council approving the HE.

Councilmember Kleiman stated that the City's objections and appeal to the State RHNA mandates were denied, acknowledged staff's work to produce the HE, noted a possibility to restore local control from SB 9, relayed the City's reasonable, calculated, and prudent approach with the least amount of risk, and expressed her unwillingness to circumvent the process laid out by the City Charter or the people who voted the process into place.

In response to Councilmember Weigand's concerns, City Attorney Harp stated that the City has not asked the Attorney General for an opinion about the voting requirement in Charter Section 423 and thought the item could be brought back to Council with both options.

Councilmember Blom thought the matter did not require a straw poll and recommended bringing the item back at the next meeting.

Mayor O'Neill suggested the matter return to the next meeting with alternative options of 1) removing the references of holding an election before it goes to HCD and 2) adopting the Land Use Element before February 2025.

Councilmember Weigand polled interest to send a letter from the Council to the Attorney General for his feedback on City Charter 423. Mayor O'Neill recommended against it because it will not be binding and could have negative consequences on Greenlight, reserved his position until the next meeting and encouraged everyone to be thoughtful during this time, shared the legal implications of Huntington Beach adding to their Charter a requirement for voter approval for any RHNA approvals made by the City Council, and discouraged placing attention on Newport Beach.

Councilmember Grant expressed concern for inaccurate public knowledge, concurred that this is a Study Session that does not require a vote and a pause is needed, and suggested a process be developed in the next two weeks for the Community Development Department to work with a contingent of people to educate the public on the vote.

Councilmember Weigand clarified that the intent of his suggestion to contact the Attorney General was to ask if the vote is precluded in the mentioned Charter section. Mayor O'Neill understood his intent and remained concerned about the effectiveness of Greenlight by involving the Attorney General and preferred advice to come from the City Attorney and a decision from the City Council.

Mayor O'Neill called for a straw vote on whether the City should submit a letter to the Attorney General as per Councilmember Weigand's comments. The straw vote revealed Councilmember Weigand was in favor and all other Councilmembers opposed (1-6).

Mayor O'Neill announced that Closed Session Item IV.B will be removed from the agenda.

III. PUBLIC COMMENTS

Samantha McDonald relayed the implications to her and her partner with increased mooring fees, thought the proposal was discriminatory, and asked Council to listen to the public comments regarding a fair appraisal.

In reply to Mayor O'Neill's question, City Attorney Harp suggested the public hear the report on the mooring fees before commenting. Mayor O'Neill indicated that only one comment on the matter would be allowed per speaker, except for Ms. McDonald who was informed of the rule after speaking.

Gary Cruz suggested an increased police presence and code enforcement involvement for Fourth of July activities.

IV. CLOSED SESSION – Council Chambers Conference Room

A. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code § 54957.6): 2 matters

- 1. Agency Designated Representatives:** Grace K. Leung, City Manager, and Barbara Salvini, Human Resources Director.

Employee Organizations: Association of Newport Beach Ocean Lifeguards; Newport Beach City Employees Association; Newport Beach Employees League; Newport Beach Firefighters Association; Newport Beach Fire Management Association; Newport Beach Lifeguard Management Association; Newport Beach Police Association; Newport Beach Police Management Association; Newport Beach Professional and Technical Employees Association; and Part Time Employees Association of Newport Beach.

- 2. Agency Designated Representatives:** Will O'Neill, Mayor, and Joe Stapleton, Mayor Pro Tem.

Unrepresented Employees: All unrepresented employees (including all employees in the Key and Management Group), except for the City Manager, City Attorney and City Clerk.

B. CONFERENCE WITH LEGAL COUNSEL
ANTICIPATED LITIGATION – SIGNIFICANT EXPOSURE TO LITIGATION
(Government Code § 54956.9(d)(2), (e)(2)): 1 matter

C. PUBLIC EMPLOYMENT
(Government Code § 54957(b)): 2 matters

Title: Grace Leung, City Manager

Title: Aaron Harp, City Attorney

V. RECESSED – 5:57 p.m.

VI. RECONVENE AT 7:01 P.M. FOR REGULAR MEETING

VII. ROLL CALL

Present: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand

VIII. CLOSED SESSION REPORT

Mayor O'Neill announced that no reportable actions were taken.

IX. INVOCATION – Pastor Drew Smithson, Orange County First Assembly of God

X. PLEDGE OF ALLEGIANCE – Mayor O’Neill

XI. NOTICE TO THE PUBLIC

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

Councilmember Kleiman:

- Wished everyone a wonderful Fourth of July and thanked staff who serve residents and visitors

Councilmember Avery:

- Shared his time boating at Catalina
- Attended the Orange County Sanitation District monthly administration meeting

Councilmember Grant:

- Attended the Newport Beach Historical Society Museum grand opening and the Ben Carlson Day event
- Utilized slides to highlight the art exhibition, the July 4th flag installation with the Corona del Mar Chamber of Commerce, and July 4th parades
- Welcomed the delegation from Okazaki, Japan

Mayor Pro Tem Stapleton:

- Commended first responders during Fourth of July and noted his enjoyment in Newport Harbor

Mayor O’Neill:

- Thanked the America Legion for holding a fantastic boat parade

XIII. PUBLIC COMMENTS ON CONSENT CALENDAR

Mayor O’Neill requested Item 9 be continued to the next meeting.

Mayor Pro Tem Stapleton asked, if Item 10 (Professional Services Agreement with Flock Group Inc. for Fixed-Location ALPR Units and Related Services) passes, that power be supplied to the poles with mounted cameras versus solar panel energy.

Jim Mosher stated that reappointment is not required for Item 11 (Appointment to the Building and Fire Board of Appeals) and thought it may be wiser to wait to allow for more potential applicants.

Adam Leverenz supported a favorable vote by Council of staff’s recommendation on Item 3 (Resolution No. 2024-44: Revising Certain Rents Within the Schedule of Rents, Fines and Fees) and asked that Council apply the same approach to the other tideland users in the Newport Harbor.

XIV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the June 25, 2024 City Council Meeting

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.

RESOLUTION FOR ADOPTION

3. Resolution No. 2024-44: Revising Certain Rents Within the Schedule of Rents, Fines and Fees

- 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. 2024-44, *A Resolution of the City of Newport Beach, California, Revising Certain Rents Within the Schedule of Rents, Fine and Fees.*

CONTRACTS AND AGREEMENTS

- 4. Newport Beach Police Station Video Surveillance System Replacement – Award of Contract No. 9500-1**
 - a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) (interior and exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
 - b) Approve the project plans and specifications;
 - c) Award Contract No. 9500-1 to Vector Resources Inc., dba Vector USA for the total bid price of \$318,370.44, and authorize the Mayor and City Clerk to execute the contract; and
 - d) Establish a contingency of \$32,000 (approximately 10% of the total bid) to cover the cost of unforeseen work not included in the original contract.
- 5. Approve a Professional Services Agreement with Chambers Group, Inc. to Monitor and Maintain the Balboa Peninsula Restoration Project, Contract No. 8814-4**
 - a) Find this project exempt from the California Environmental Quality Act (CEQA) requirements pursuant to Sections 15250 of the CEQA Guidelines, as the plan defined in the California Coastal Commission Consent Orders includes mitigation measures to minimize any significant adverse effect on the environment; and
 - b) Approve a four-year professional services agreement with Chambers Group, Inc. for a total not-to-exceed fee of \$345,418, and authorize the Mayor and City Clerk to execute the contract.
- 6. Approve a Professional Services Agreement with Chambers Group, Inc. to Monitor and Maintain San Diego Creek Trash Interceptor Project Landscaping, Contract No. 7127-7**
 - a) Find the requirement for environmental review under the California Environmental Quality Act (“CEQA”) is satisfied by the September 25, 2018 Council adoption of Resolution No. 2018-67, *A Resolution of the City Council of the City of Newport Beach, California, Adopting Mitigated Negative Declaration No. ND2018-002 (SCH No. 2018081013) for the Newport Bay Water Wheel Project (PA2018-153)*, a.k.a. San Diego Creek Trash Interceptor Project, including the Mitigation Monitoring and Reporting Plan prepared for San Diego Creek Trash Interceptor Project, pursuant to the California Environmental Quality Act State CEQA Guidelines and City Council Policy K-3; and
 - b) Approve a five-year professional services agreement with Chambers Group, Inc. for a total not-to-exceed fee of \$419,015.07, and authorize the Mayor and City Clerk to execute the contract.
- 7. Award Professional Services Agreement for Inspection Services with Willdan Engineering (C-8661-1) and TKE Engineering Inc. for On-Call Public Works Inspection Services (C-8661-2)**
 - 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 a Professional Service Agreement for Inspection Services with both Willdan Engineering and TKE Engineering Inc. for On-Call Public Works Inspection Services for a three-year term and a total not-to-exceed amount of \$150,000 per contract, and authorize the Mayor and City Clerk to execute the agreement.
- 8. Second Amendment to Lease with Secada Medical, LLC for Use of Suites 470 and 485 at 1201 Dove Street (C-9017-5)**
 - a) Find this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing facilities) and Section 15302 (Replacement or Reconstruction) of the

CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment; and

- b) Authorize the City Manager and City Clerk to execute the Second Amendment to Lease between the City of Newport Beach and Secada Medical, LLC (dba Ventris Medical) for use of City Property, office space Suites 470 and 485 located at 1201 Dove Street, in a form substantially similar to the amendment attached to the staff report.

9. Award of Contracts to Eide Bailly LLP (C-9662-1) and The Pun Group LLP for Internal Audit Services (C-9662-2)

Continue to the July 23, 2024 City Council meeting.

10. Professional Services Agreement with Flock Group Inc. for Fixed-Location ALPR Units and Related Services (C-9663-1)

- 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) Approve a sole source procurement of fixed-location ALPR services from Flock Group Inc.; and
- c) Approve a five-year Professional Services Agreement with Flock Group Inc. of Atlanta, Georgia, for ALPR installation and services at a not-to-exceed cost of \$1,412,700, and authorize the Mayor and City Clerk to execute the Agreement.

MISCELLANEOUS

11. Appointment to the Building and Fire Board of Appeals

- 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) Waive a portion of City Council Policy A-2; and
- c) Reappoint Saum Nour to a third term on the Building and Fire Board of Appeals.

Motion by Mayor Pro Tem Stapleton, seconded by Councilmember Kleiman, to approve the Consent Calendar; and noting the continuance of Item 9 by Mayor O'Neill and the amendment to Item 1.

The motion carried unanimously.

XV. ITEMS REMOVED FROM THE CONSENT CALENDAR – None

XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Gerard Widder, Fashion Island Vice President and General Manager, extended heartfelt condolences to the McKay family.

Lynn Muslin stated she is representing the United Sovereign Americans and expressed concern for information about the State's voter database.

George Agerry stated that an audit of the 2022 election revealed that it may not have been accurate or legally compliant, announced that the United Sovereign Americans generated a resolution demanding the end of inaccuracy and uncertainty that plagues the election process and a summary of findings and applicable laws, offered to meet with Council to share written answers from the United Sovereign Americans executive team, and requested an investigation by State elected officials and law enforcement.

An unidentified speaker asked Council for support of the United Sovereign Americans' resolution and encouraged Council to adopt the resolution. She began reading the resolution and Nancy McCain and seven unidentified speakers read it to completion.

An unidentified speaker noted the costs due to the flaws in the voting system and urged Council to adopt the resolution and go to www.unite4freedom.com for more information.

Urson Russell noted public concern for the integrity and trustworthiness of the election process, data validating the concerns, securing liberty through a resolution, a lack of transparency and responsiveness to the audits by government representatives at all levels, a right to choose representatives in legally valid and transparent elections, noted those who have sacrificed to protect rights, the Council's opportunity to demand a valid general election in 2024, noted the 90 irregularities, and provided a handout.

XVII. PUBLIC HEARING

12. Resolution No. 2024-45: Intent to Override Orange County Airport Land Use Commission's Determination of Inconsistency for the Residences at 1600 Dove Street (PA2022-0297)

Mayor O'Neill and Mayor Pro Tem Stapleton recused themselves from Item 12 due to their real property interests at the Pacific Club.

Deputy Community Development Director Murillo and Senior Planner Westmoreland utilized a presentation to discuss the project location, project description, potential override, recommendation and next steps.

In response to Councilmember Blom's question, Senior Planner Westmoreland stated that the development agreement has not been signed yet, but the signing is anticipated to occur before the public hearing about the entitlements. Furthermore, a few more changes are needed to the development agreement before it can be signed and noted the applicant is present.

Councilmember Avery opened the public hearing.

Fred Fourcher encouraged Council to measure the noise from the left airport runway since it has not been measured and could result in more noise.

Jim Mosher thought the noise should be measured, noted the risks associated with repeated Airport Land Use Commission overrides, and suggested that Council ask the developer to provide the amount of needed affordable housing to meet RHNA requirements in exchange for the risks.

Hearing no further testimony, Councilmember Avery closed the public hearing.

Councilmember Blom expressed his pleasure with all of The Picerne Group projects and noted Council's willingness to approve an override to produce housing. In response to his question, the applicant, Satish Lion of The Picerne Group, stated that there is no delay with signing the development agreement and they are working with staff.

In response to Councilmember Avery's question, Mr. Lion stated that the site is included in PC-11 and eligible for residential development, and he is unaware of any issues. Deputy Community Development Director Murillo relayed that the information in the resolution is based on the noise contours in the Airport Environs Land Use Plan and the project complies with the requirements.

Motion by Councilmember Blom, seconded by Councilmember Grant, to a) find that the proposed overriding action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly; and b) adopt Resolution No. 2024-45, *A Resolution of the City Council of the City of Newport Beach, California, Notifying the Orange County Airport Land Use Commission and State Department of Transportation, Aeronautics Program of the City's Intention to Find that the Residences at 1600 Dove Street Project is Consistent with the Purpose of*

the State Aeronautics Act and Overrule the Orange County Airport Land Use Commission's Determination that the Project is Inconsistent with the 2008 John Wayne Airport Environs Land Use Plan (PA2022-0297).

With Mayor O'Neill and Mayor Pro Tem Stapleton recusing themselves, the motion carried 5-0.

XII. CURRENT BUSINESS

13. Ordinance No. 2024-15, Resolution Nos. 2024-46 and 2024-47: Harbor Commission Recommendations and Alternative Recommendations for Rental Rates for Moorings

Deputy Community Development Director Murillo and Real Property Administrator Wooding Whitlinger utilized a presentation to discuss the purpose of the item, clarified the definition of a mooring, reviewed the Newport Harbor mooring fields map, existing programs and the difference between permits and licenses, mooring permit rental rates, legal requirements, tidelands and rental rate requirements, appraisals and public meetings, Harbor Commission recommendations and how they affect current permittees, concerns raised, and highlighted the alternative staff recommendations.

In response to Mayor Pro Tem Stapleton's question, Real Property Administrator Wooding Whitlinger noted an error in the staff report that incorrectly referenced yacht club offshore moorings instead of current permit rates that applied to two yacht clubs and a homeowner's association onshore mooring field. Furthermore, she confirmed that the current mooring holder rates would remain unchanged for their lifetime in the alternative recommendations.

Real Property Administrator Wooding Whitlinger continued the presentation to review how the alternative recommendations affect current permittees.

Mayor Pro Tem Stapleton emphasized that liveaboard rates will remain the same. Real Property Administrator Wooding Whitlinger indicated that permits for liveaboards are available if they can obtain a liveaboard permit under the current municipal code requirements which have a threshold.

Real Property Administrator Wooding Whitlinger continued the presentation to address the liveaboard permits.

Mayor Pro Tem Stapleton compared the Harbor Commission and staff recommendations.

Real Property Administrator Wooding Whitlinger continued with the presentation to review the Harbor Commission and alternative recommendations for yacht club permits and provided a recommendation comparison.

Mayor Pro Tem Stapleton clarified that the staff recommendations affect future mooring holders, compared mooring permit holders of today and future City mooring licenses that applies to transfers or new licenses after the effective date, noted there are currently 16 City mooring licenses, and yacht clubs are paying the same rate for the next eight years and will then go to the new City license rate. Real Property Administrator Wooding Whitlinger concurred.

In response to Councilmember Weigand's questions, Real Property Administrator Wooding Whitlinger explained the intention for including a four-year amortization period with a grandfather provision and one time transfer provision. City Attorney Harp discussed the grandfather rate when two people are on the permit and the system for after a permittee's passing.

In response to Councilmember Grant's questions, City Attorney Harp clarified that the recommendation does not include that a surviving spouse who is not on the permit can take over the permit upon the death of the permit holder. He stated that the recommendation provides for a set of any two people to be on the permit. Councilmember Grant suggested staff consider a process

for changing which two people are on the permit to account for circumstances, like a second marriage.

Chris Benzen thought the mooring rate cannot be based on the Newport Harbor Marina Index, suggested a modified resolution and removing the four-year term, and asked who will own the tackle after a transfer to a City-licensed mooring and what are the CEQA considerations.

Fred Fourcher appreciated the alternative plan, questioned how an increase in mooring size would be handled, and recommended further studies to determine ramifications.

Hein Austin utilized a slide to show a satellite dock and mooring view. He discussed rate discrimination and advocated for equitability in Newport Harbor.

Don Potenza noted challenges adding a name to the permit, took issue with the appraisal method used and increases in the Harbor Department's budget.

Tim Lewis asked Council to vote to review, repair, and incorporate the alternate recommendation.

Chris Bliss expressed his concern for the elimination of affordable family boating in Newport Beach and asked that Council meet with the Newport Mooring Association to discuss an alternative plan.

Jennifer Krestan noted revenue opportunities for the City without adding additional services and thought the staff report evades discussion about dock fee determinations (mooring permit fees). She stated that gift giving of public funds is a violation of the City's fiduciary responsibilities as a trustee of the State-owned land.

Anne Stenton, President of the Newport Mooring Association, appreciated the alternative plan but expressed concern for both proposed resolutions, asked that Council delay a vote to provide for more public discussion, and took issue with the handling of mooring permit transferability.

An unidentified speaker and a Newport Mooring Association member thought family boating and accessibility to a broad swath of the community is an important goal, and sought more collaboration and a greater sense of compromise.

Jamshed Dastur relayed that he felt there would be a \$30 million asset value loss to the mooring owners.

Jessie Fleming asked Council to delay the vote so everyone could work together.

Eric Stunager believed that both alternatives violate SB 1482 and suggested the increase be raised to the legal limit.

Samantha McDonald thought the alternative recommendations are promising and encouraged Council to delay a vote so more public review can occur.

Michael Spano urged Council not to pass the resolution due to incomplete language and suggested collaboration between the permittees and tideland users.

Peter Kaz stated he already sold his boat and mooring due to all the confusion.

Brian Benson noted the importance of transferability and asked for it to remain and not sunset after four years.

An unidentified speaker thought it would be fair to include the option for an heir, liked the alternative plan, and supported adding details to accommodate changes like divorce.

Jim Palmer expressed his gratitude for the alternative plan.

Bud Coomans thought that boats will be abandoned and left for the City to tend with if the mooring rates increase and the transferability is gone, expressed concern for being able to sell his boat, supported transferability, and asked for a delayed vote to allow for public comment.

Anthony Lane supported the opportunity to pass the permit to an heir and hoped for a delayed vote.

Michael Lawler expressed concern for the fairness of the mooring rate appraisal and increase, questioned the authority to charge fair market rent if it was based solely on the Beacon Bay Bill, shared the City policy to provide affordable moorings as an alternative to the higher priced slips and marinas, and thought boat owners cannot afford the increases suggested by the appraisal.

Rhonda Model urged Council to reconsider the transferability change.

Adam Leverenz encouraged Council to read the submittals, stated there has not been enough time to review the recently distributed materials, and suggested a delayed vote for further analysis of the alternate recommendations.

Jim Mosher thought that Council cannot promise that rates will stay the same by way of the grandfather clause because future Councils can change it, noted that the proposed code does not change the prohibition on liveboards on City-owned licensed moorings, questioned the sensibility of maintaining individual tackles at yacht clubs in eight years when premium rates will apply, and relayed Council's duty under the City's Charter to ask for advice from the Harbor Commission before taking action on the alternative recommendations.

Bill Kenney, Newport Harbor Foundation, thought the alternative recommendations provide an economical option for current mooring permittees and four years to sell or transfer permits, stated mooring anchors would be replaced with helix anchors, and rental values and mooring permits will be achieved. He indicated that this led the Newport Harbor Foundation to determine that the alternative plan is the most fair and equitable for the City to meet its obligations pursuant to the Beacon Bay Bill and take into consideration the concerns raised by the current mooring holders. He relayed the Newport Harbor Foundations' support for the alternative plan and recommended that Council adopt it.

Wade Womack utilized a slide to demonstrate that the mooring permits already paid the largest amount into the Tidelands Fund, inquired about the mechanism to protect the grandfathered permits in perpetuity, and asked for the vote to be delayed for further review.

George Hylkema stated that there are boats that do not pay a tidelands fee, shared numbers from the Newport Mooring Association, and asked that Council delay the vote.

Scott Karlin provided a report on transferability, thanked the participants for their work, noted typos in the ordinance, and asked for more discussion and corrections to the wording.

Mike asked if Council has read the ordinance in full, questioned why the wealthiest people get a pass, and voiced his displeasure with the recommendation.

Ira Beer, Harbor Commission Vice Chair and Chair of the Subcommittee for Harbor Commission Objective 2.2, voiced the Subcommittee's unanimous support of the alternate plan and transferability.

Sandy Manich suggested that the current mooring holders receive a fee break and asked Council to work with them.

An unidentified speaker voiced his opposition towards the head of the Harbor Commission.

Councilmember Avery shared his family boating experiences, expressed that it is an exceptional privilege to have a mooring permit on Newport Harbor and transferability stops others from the opportunity, thought rates should be fair, noted harbor costs are getting driven up, and stated

moorings will always be significantly less than slip rents. He described the need to protect people, acknowledged that there is a lot of work to be done to reach a better plan, there cannot be a disparity with public tidelands, the matter has dominated and challenged Council and staff for a long time, and the grandfathered low rates being offered for decades might compensate for lost equity.

Councilmember Grant thanked Councilmember Avery for sharing his expertise and history in Newport Harbor. In response to her request to understand what Council is voting on, City Attorney Harp relayed that the municipal code currently states that two people can be on the permit as of a date certain, when they are deceased the heirs have one year to determine what to do with the permit, and there is no surviving spouse provision. Councilmember Grant thought it was important to maintain accessibility and affordability in Newport Harbor and have a long-term solution which can be accomplished with the alternate proposal. She expressed an understanding for the importance of transferability and relayed that equity is not allowed with the permits, the predominant amount of transfer dollars that exchange hands are not part of the City system, expressed concern for a surviving spouse provision, and stated she would like to move forward in a positive fashion with efficiency and comfort.

Councilmember Weigand noted outstanding questions and discussions, and thought the four-year transferability clause is arbitrary, it would be good to come back regarding this issue, and agreed that grandfathering is a big deal for the current permittees. He concurred that the City should meet with the Newport Mooring Association and work together, noted his mindset is slowly changing, and supported a continuance in order to work with the Newport Mooring Association to get it right.

Mayor O'Neill suggested a shorter transferability period and thought it should have been phased out a long time ago, noted that the mooring permit is not an asset, surviving spouse language can be accomplished fairly quickly with the recommended language, and moorings are not to be sold like land. City Attorney Harp confirmed that when people are signing the agreement with the City it is clear it is not an asset. Mayor O'Neill relayed that future Councils can make changes, only the people directly affected by something tend to voice their concern, Council also represents people indirectly affected, and he is willing to compromise with the four-year transferability term.

Mayor Pro Tem Stapleton expressed his appreciation for the public comment, thought that this is a positive opportunity, believed that the City is ensuring public access by continuing transferability, and supported the staff recommendation.

Motion by Mayor Pro Tem Stapleton, seconded by Councilmember Blom, 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; b) waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2024-15, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Sections 17.60.010, 17.60.020, 17.60.040, and 17.60.045 of the Newport Beach Municipal Code Related to Mooring Permits and Licenses*, and pass to second reading on July 23, 2024; and c) adopt Resolution No. 2024-47, *A Resolution of the City Council of the City of Newport Beach, California, Setting the Fair Market Value of Rent for Moorings Located Upon Tidelands in Newport Harbor*.

Councilmember Avery advocated for addressing public questions and concerns in order to reach a good conclusion.

Councilmember Weigand asked to amend the motion to begin the implementation on January 1, 2025, to which Mayor Pro Tem Stapleton declined the request.

With Councilmember Weigand voting “no,” the motion carried 6-1.

XIII. MOTION FOR RECONSIDERATION – None

XIV. ADJOURNMENT – Adjourned at 9:33 p.m. in memory of Patricia McKay

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 July 5, 2024, at 10:15 a.m.

Will O'Neill
Mayor

Leilani I. Brown
City Clerk

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