

**City Council Meeting Minutes
Study Session and Regular Meeting
April 26, 2022**

I. ROLL CALL – 4:00 p.m.

Present: Mayor Kevin Muldoon, Mayor Pro Tem Noah Blom, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Will O'Neill
Absent: Council Member Brad Avery (excused)

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar – None

SS2. Proclamation Honoring the Sage Hill High School Girls Basketball State Champions

Mayor Muldoon read the proclamation and presented it to Sage Hill High School Coach Kerwin Walters who thanked the City Council for honoring the team and recognized their efforts.

SS3. Residential Refuse Program Roll-Out Update

Without objection, City Attorney Harp suggested that Item SS3 be continued to a future Study Session.

SS4. Housing Element Update

Community Development Director Jurjis and Deputy Community Development Director Campbell utilized a presentation to review the status of the Housing Element, residential care facilities, property owner unit change requests, AB 1398, and the current General Plan Update (GPU) timeline.

In response to Council Member O'Neill's question, Community Development Director Jurjis confirmed that the fire station on Santa Barbara Drive would be kept, while 199 units would be added to the police station site.

In response to Council Member Dixon's questions, Deputy Community Development Director Campbell clarified that no additional sites can be added to the Housing Element after City Council adoption, applications would be subject to Planning Commission, City Council, and environmental review if received after Council adoption, and may be subject to a Greenlight vote.

Community Development Director Jurjis and Deputy Community Development Director Campbell continued with the presentation to discuss the Land Use Element, zoning, overlays, specific plans, design standards, and massing.

In response to Council Member Dixon's question, Deputy Community Development Director Campbell indicated he is uncertain what would happen if the Housing Element was not approved, provided ideas relative to plan amendments and judicial review, and expressed hope for fine leniency during the period of noncompliance.

Mayor Muldoon cautioned against including controversial projects that could lead to a failed vote or court dismissal.

In response to Council Member Brenner's questions, Community Development Director Jurjis cautioned against relying on the auditor's report to bring relief to the City and expressed appreciation for ideas that encourage a supportive legislature.

Mayor Pro Tem Blom applauded public participation and noted perspective from the State level, entitlement process challenges, process improvements and opportunities for future building, and efforts by the City to create a plan that considers possibilities, State mandates, and public interest.

Council Member O'Neill discussed the General Plan, Housing Element, Land Use Element, and Greenlight vote, and clarified that no project is presently before Council for approval.

In response to Mayor Muldoon's questions, Deputy Community Development Director Campbell noted the City did receive a more helpful tone from the California Department of Housing and Community Development (HCD), clarified that the police and fire stations are included in the property owner requests, and expressed support for the plan as drafted.

Council Member Dixon expressed support for the plan, discussed the property owner request process, clarified adjustments made to meet State requirements, and expressed appreciation for property owners who added units to the count.

Robert O Hill, Managing Owner of the Newport Beach Tennis Club, discussed the circumstances leading to the inclusion of additional units on the property, unit relocation areas, and site improvement plans.

Sean Abdali, owner of Grand Slam Tennis, supported the plan, opposed the apartment proposal, highlighted health and wellness benefits, requested Council support, and submitted over 2,600 petitions.

Jim Mosher discussed differences between unit counts and types, and highlighted compliance penalties.

Charles Klobe expressed support for staff's recommendation and discussed the donors of the Elect Our Mayor campaign.

Dr. Cynthia Boccara discussed the benefits of pickleball and encouraged Council to consider alternative opportunities from the Newport Beach Tennis Club.

Darcy Bouzeos expressed what the Newport Beach Tennis Club and its members mean to her.

Charlotte Saydah discussed the reputation and activities of the Newport Beach Tennis Club.

Bernard noted the value of the Newport Beach Tennis Club for exercise.

Dirk Larson discussed the special qualities of the Newport Beach Tennis Club and suggested a compromise by all parties.

Michelle Jordan relayed the growing popularity of pickleball, its economic impact, and leverage opportunities.

Mitch Jenkins submitted a statement from Jon Rosen and expressed support for the Newport Beach Tennis Club.

Jacob Gonzalez, attorney representing the tenant-in-common owners of the property, clarified that his clients have no intention of removing the tennis club and requested that the City keep the units in the count until the deciding authority is determined and approved projects and housing options are identified.

Nancy Scarbrough commented on the Housing Element and State review, provided suggested solutions, and noted further opportunities.

Nicole Reynolds expressed concern for increased traffic at the entrance of Irvine Terrace and stated she supports a unit reduction.

Thomas discussed his son's experience training at the Newport Beach Tennis Club, the opportunities for children, and requested that it remain.

An unidentified speaker noted the benefits of pickleball, the opportunities afforded at the facility, and the welcoming atmosphere and community of people at the Newport Beach Tennis Club.

Paige Nichols discussed the City of Irvine's practice of designating existing and vacated apartments as low-income housing and invited Mayor Pro Tem Blom to the pickleball club.

An unidentified speaker, Newport Beach Tennis Club member and educator, noted the benefits of sports to children.

Robert O Hill read a letter addressed to Deputy Community Development Director Campbell that detailed plans to eliminate the Newport Beach Tennis Club and create a residential development on the property, and further shared alternate unit location plans.

Jacob Gonzalez clarified the unit and tennis court count on the letter addressed to Deputy Community Development Director Campbell, confirmed there is no project pending that removes the Newport Beach Tennis Club, and asked that the Council include the units and allow the court to resolve the ownership dispute.

In response to Council Member O'Neill's question, City Attorney Harp relayed that Robert O Hill is the managing owner and has the right to represent the interest of the owners. Council Member O'Neill requested changes to the current plan be shared with the City by August 2022 along with any judicial rulings, but until then the City will move forward with the current plan.

III. PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

John-Leslie Brown discussed water-related sustainability and mental health support.

City Attorney Harp announced that the City Council would adjourn to Closed Session to discuss the items listed in the Closed Session agenda except for Item IV.A, read the titles, and indicated City Clerk Brown would be recusing herself on Item IV.E due to personal financial interests.

IV. CLOSED SESSION

A. CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6): 1 matter

Agency Designated Representatives: Grace K. Leung, City Manager, Barbara Salvini, Human Resources Director, and Charles Sakai, Esq., Negotiators.

Employee Organizations: Newport Beach Police Management Association (NBPMA), Newport Beach Fire Management Association (NBFMA), and Association of Newport Beach Ocean Lifeguards (ANBOL).

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Government Code § 54956.8): 1 matter

Property: 1201 Dove Street, Newport Beach, California 92660 (APN 427-221-06).

City Negotiators: Seimone Jurjis, Community Development Director and Lauren Wooding Whitlinger, Real Property Administrator.

Negotiating Parties: Parke Miller.

Under Negotiation: Instruction to City Negotiators regarding price and terms of payment.

C. CONFERENCE WITH LEGAL COUNSEL
ANTICIPATED LITIGATION
(Government Code § 54956.9 (d)(2), (e)(1)): 1 matter

D. CONFERENCE WITH LEGAL COUNSEL
ANTICIPATED LITIGATION – INITIATION OF LITIGATION
(Government Code § 54956.9 (d)(4)): 1 matter

E. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code § 54957.6): 1 matter

Agency Designated Representatives: Kevin Muldoon, Mayor, and Noah Blom, Mayor Pro Tem.

Unrepresented Employee: Leilani I. Brown, City Clerk.

V. RECESSED – 5:47 p.m.

VI. RECONVENED AT 6:41 P.M. FOR REGULAR MEETING

VII. ROLL CALL

Present: Mayor Kevin Muldoon, Mayor Pro Tem Noah Blom, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Will O'Neill

Absent: Council Member Brad Avery (excused)

VIII. CLOSED SESSION REPORT

City Attorney Harp announced that no reportable actions were taken.

IX. INVOCATION – Pastor Drew Ross, Christ Lutheran Church, Costa Mesa

X. PLEDGE OF ALLEGIANCE – Council Member Dixon

XI. NOTICE TO THE PUBLIC

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

Council Member Dixon:

- Attended the Aviation Committee meeting and discussed take-off patterns, Fly Quiet, and construction, and attended the Orange County Crime Victims' Rights Rally hosted by the District Attorney

Council Member Brenner:

- Attended the Mosquito and Vector Control and Homeless Ad Hoc Committee meetings
- Utilized slides to announce the Compost Giveaway on April 29, 2022 at Grant Howald Park and an Arbor Day Celebration and tree planting event at Lincoln Elementary School
- Announced the Corona del Mar Residents Association (CdMRA) annual meeting on April 27, 2022

Mayor Muldoon:

- Utilized slides to announce the Touch-a-Truck event on May 14, 2022 in celebration of National Public Works Week, the Wyland National Mayor's Challenge for Water Conservation (mywaterpledge.com), the City Scholarship Program (newportbeach.ca.gov/scholarships), and the Community Programs and Special Events Grant Program (newportbeachca.gov/grants).

XIII. PUBLIC COMMENTS ON CONSENT CALENDAR

Jim Mosher took issue with the substitution options and permit appeal process related to Item 3 (Ordinance No. 2022-9: Live-Aboards, On-Shore Moorings, and Other Miscellaneous Provisions).

In response to Mayor Muldoon's questions, City Attorney Harp discussed the reasons for not having a permit appeal process, reviewed the Harbormaster's revocation authority, and relayed how complaints are handled.

XIV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the April 2, 2022 City Council Meeting [100-2022]

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. 2022-9: Amending the Newport Beach Municipal Code Pertaining to Live-Aboards, On-Shore Moorings, and Other Miscellaneous Provisions [100-2022]

- 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 full reading, direct the City Clerk to read by title only, introduce amended Ordinance No. 2022-9, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Sections 1.12.020, 17.10.060, 17.25.010, 17.25.020, 17.40.030, 17.45.020, 17.60.040, 17.65.010, and 17.70.050 of the Newport Beach Municipal Code Pertaining to Live-Aboards, On-Shore Moorings, and Miscellaneous Provisions*, and pass to second reading on May 10, 2022.

Council Member Duffield recused himself on Item 3 due to business interest conflicts.

4. Ordinance No. 2022-11: LCP Amendment Related to Setback Map Corrections (PA2020-006) [100-2022]

- a) Find this amendment exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), and Section 15265(a)(1), because it has no potential to have a significant effect on the environment and local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program; and
 - b) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-11, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and Adopting Local Coastal Program Amendment No. LC2020-001 Correcting Setback Map Errors (PA2020-006)*, and pass to second reading on May 10, 2022.
- 5. Ordinance No. 2022-12: LCP Amendment Related to Tattoo Establishments (PA2020-030) [100-2022]**
- a) Find this amendment exempt pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3), and Section 15265(a)(1), because it has no potential to have a significant effect on the environment and local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program; and
 - b) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-12, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and Adopting Local Coastal Program Amendment No. LC2020-002 Related to Tattoo Establishment Development Standards (PA2020-030)*, and pass to second reading on May 10, 2022.

ORDINANCE FOR ADOPTION

- 6. Ordinance No. 2022-10: Amending Newport Beach Municipal Code Sections 3.36.010, 3.36.020, and 3.36.030 Related to Cost Recovery [100-2022]**
- 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) Conduct second reading and adopt Ordinance No. 2022-10, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Subsection 3.36.010 of the NBMC (Findings) to Clarify the Finding Related to User Services, Subsection 3.36.020 of the NBMC (Definitions) to Update the Definition of User Services, Amending Exhibit A of Section 3.36.030 of the NBMC (Cost Recovery Percentages) to Update the Modification Percentage for User Services, and Amending Subsection 3.36.030(E) of the NBMC to Update Waiver of Fees for Service.*

Council Member Duffield recused himself on Item 6 due to business interest conflicts.

Mayor Muldoon voted "no" to Item 6.

RESOLUTIONS FOR ADOPTION

- 7. Resolution No. 2022-24: Supporting the Suspension of the State's Gasoline Tax [100-2022]**
- 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. 2022-24, *A Resolution of the City Council of the City of Newport Beach, California, Supporting the Suspension of the State of California's Gasoline Tax for One Year or Longer.*
- 8. Resolution No. 2022-25: Opposing Senate Bill No. 1464 [100-2022]**
- 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. 2022-25, *A Resolution of the City Council of the City of Newport Beach, California, Opposing Senate Bill No. 1464, which Compels Law Enforcement to Enforce Health Orders that may be Unconstitutional.*

CONTRACTS AND AGREEMENTS

9. Newport Beach Police Station Upstairs Restroom Remodel (Project No. 22F02) – Award of Contract No. 7900-2 [38/100-2022]

- 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. 7900-2 to Urban Professional Builders, Inc. for the total bid price of \$209,000, and authorize the Mayor and City Clerk to execute the contract; and
- d) Establish and encumber a contingency of \$31,350 (15 percent of the total bid) to cover the cost of unforeseen work not included in the original contract.

10. Amendment No. One to Agreement for On-Call Streetlight Electrical Repair Services with Yunex, LLC (formerly Siemens Mobility, Inc.) (C-8511-1) [38/100-2022]

- 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 Amendment No. One with Yunex LLC, for on-call streetlight electrical repair services to extend the contract term for an additional three years to July 31, 2025, and authorize the Mayor and City Clerk to execute the Amended Agreement.

11. Approval of Amendment No. Two to Service Agreement with Alexander's Contract Services for Water Meter Reading Services (C-6167) [38/100-2022]

- 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 Amendment No. Two to the Service Agreement with Alexander's Contract Services for Water Meter Reading Services, with an additional \$75,000 in contract compensation, a one-year contract extension, and authorize the Mayor and City Clerk to execute the agreement.

12. Tentative Agreement with Newport Beach Lifeguard Management Association (NBLMA) (C-2058(B)) [38/100-2022]

- 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 consider the amended Tentative Agreement between the City of Newport Beach and the Newport Beach Lifeguard Management Association.

MISCELLANEOUS

13. Planning Commission Agenda for the April 21, 2022 Meeting [100-2022]

Receive and file.

14. Grants and Donations Report for the Quarter Ending March 31, 2022 [100-2022]

- 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 Blom, seconded by Council Member Dixon, to approve the Consent Calendar; and noting the recusal by Council Member Duffield to Items 3 and 6, the “no” vote by Mayor Muldoon to Item 6, and the amendments to Items 1, 3 and 12.

With Council Member Avery absent, the motion carried 6-0.

XV. ITEMS REMOVED FROM THE CONSENT CALENDAR – None

XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Jim Mosher stated that Measure B will be discussed on April 27, 2022, at Sherman Gardens, and May 11, 2022, in the Civic Center Community Room.

XVII. PUBLIC HEARING

15. Resolution No. 2022-26: Community Development Block Grant – 2022-2023 Annual Action Plan (C-8482) [38/100-2022]

Community Development Director Jurjis and Real Property Administrator Whitlinger utilized a presentation to review the 2022-2023 Action Plan funding.

Council Member Dixon expressed appreciation for an increase in Newport Beach-based homeless services, programs, and capital projects.

Mayor Muldoon opened the public hearing.

Rosalinda Bermudez, Families Forward, thanked the City for its continued partnership, shared the story of a Newport Beach family who benefited from the funding, and expressed support for the Action Plan.

Jim Mosher questioned the uses for the available funding after the loan repayment.

Hearing no further testimony, Mayor Muldoon closed the public hearing.

Motion by Mayor Muldoon, seconded by Council Member Dixon, to a) find the approval of the 2022-2023 Annual Action Plan exempt from the National Environmental Policy Act (NEPA) pursuant to 24 CFR Part 58, Section 58.34; b) find the approval of the 2022-2023 Annual Action Plan exempt from 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 Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; c) adopt Resolution No. 2022-26, *A Resolution of the City Council of the City of Newport Beach, California, Approving the 2022-2023 Annual Action Plan for Allocation of the Federal Community Development Block Grant Program Funds for Fiscal Year 2022-2023*; and d) authorize the City Manager to: i. proportionally adjust appropriations to specific programs and projects as necessary to conform with the final 2022-2023 formula grant allocation of CDBG funds from HUD if the appropriation is more or less than \$391,662; ii. submit the 2022-2023 Annual Action Plan to HUD; iii. execute the 2022-2023 CDBG Program Grant Agreement and all related documents on behalf of the City of Newport Beach; iv. execute all sub-recipient agreements with the non-profit organizations receiving allocations of CDBG funds in the 2022-2023 Action Plan; and v. authorize the Community Development Director, or his designee, to be the official representative of the City of Newport Beach, administer the 2022-2023 Annual Action Plan and submit required environmental documentation to HUD for CDBG projects.

With Council Member Avery absent, the motion carried 6-0.

XVIII. MOTION FOR RECONSIDERATION – None

XIX. ADJOURNMENT – Adjourned at 7:11 p.m. in memory of Mervin Greiwe

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 April 21, 2022, at 4:00 p.m.

Kevin Muldoon
Mayor

Leilani I. Brown
City Clerk

DRAFT