

CITY OF NEWPORT BEACH

City Council Meeting Minutes Study Session and Regular Meeting September 13, 2022

I. ROLL CALL – 4:05 p.m.

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

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar – None

SS2. Fractional Home Ownership Update

Community Development Director Jurjis and Consultant David Blumenthal utilized a presentation to discuss the findings of the 22 cities surveyed, map of the 11 known fractional home ownership locations in the City, and case studies from St. Helena, Palm Springs, and Park City, Utah.

Carmen Rawson sought information regarding timeshares in the City, cited chapters in the Newport Beach Municipal Code (NBMC) relative to timeshares, areas where timeshares are permitted, listed three fractional ownership companies breaking the NBMC, and defined timeshares and types of timeshares. In response to Council Member O'Neill's question, Ms. Rawson referenced NBMC Chapters 21.18 and 21.70.

Nancy Scarbrough noted sentiment shared among residents regarding fractional ownership during recent community events, asked that Council consider the residents' dissatisfaction, and City staff to further explore options to regulate or restrict fractional home ownership.

Bridget O'Connor opposed the fractional home ownership model.

Gary Cruz asked Council to curb shared ownership in the City.

Denise Macias opposed fractional ownership.

Gabe Dima-Smith, Pacaso representative, clarified Pacaso's business model and indicated that the owners are interested in enjoying second-home ownership for single-family residential use, and that short-term rental is prohibited under the business model.

Lisa Mathias opposed the use of single-family dwellings in the R1 zone for shared property development.

An unidentified speaker expressed opposition to fractional home ownership.

Denys Oberman expressed the opinion that entities acting as consolidators are using a short-term lodging model, asked Council for clarity on characterizing fractional home ownership as short-term lodging, and not allow them in residential zones and dense family-oriented residential neighborhoods.

Roberta Schmidt referenced a Pacaso statement in the *Orange County Register*, noting a typical rental time of one week, and shared her concerns for keeping a community feel, knowing your neighbors, nearby fractional owners coming and going, community growth and stability.

Mark Markos expressed opposition to fractional home ownership. In response to Mayor Muldoon's request, Mr. Marcos indicated that a fractional home ownership sublease can be found online and agreed to forward a copy to staff.

Angela Caliger expressed opposition to fractional home ownership.

Brita Leffler advocated for preserving historical construction and banning fractional home ownership development.

Bob Yant relayed a non-supportive community opinion and suggested utilizing a cease and desist order or regulation enforcement to stop fractional home ownership in the City.

Ann Archie described late night noise and noted concern for the quality of life for residents living around fractional home ownership properties.

Jack Brown described people coming and going in the fractional home ownership near his home.

Russ Dahl expressed the seriousness of this issue and how it changes the complexity of the neighborhood.

Roberta Schmidt noted benefits to Pacaso in a fractional home ownership real estate transaction.

Philip Mark expressed concern relative to how the fractional home ownership count has grown from two to twelve, questioned why the NBMC is not being enforced, asked for quick action, and for the City Attorney to review the NBMC to determine applicability.

Beverly Johnson, Compass Realty agent, stated that Compass Realty does not have any fractional home ownership listings and is seeking reasonable comparisons.

Philomena Mark urged Council to take action regarding fractional home ownership developments, noted quality of life disruptions from a nearby fractional home ownership property, and asked Council to ban further development.

Mayor Muldoon recessed the meeting at 4:42 p.m. and reconvened the meeting at 4:53 p.m. with all members of the City Council in attendance.

In response to Council Member O'Neill's questions, City Attorney Harp confirmed that Newport Beach defines code sections differently than other cities and that, while a NBMC section references fractional home ownership for timeshare projects, the code refers to a development, pointed out that over 30% of homes in Newport Beach are held in a LLC configuration, noted issues with applicability of provisions, indicated that Sonoma and St. Helena regulate their ordinances by looking at the operational plan and uses to craft regulations, relayed due process and regulation validity issues in the St. Helena lawsuit, indicated that a concise definition is required with an update to the NBMC and Local Coastal Program (LCP), recommended regulating use without capturing others in it, and agreed to work on regulations for consideration by the City Council. Council Member O'Neill supported regulations that would be similar to defining fractional home ownerships as a timeshare plan and thought the current model does not match the General Plan or zoning code, and encouraged residents to call code enforcement on all code violations. City Attorney Harp suggested bringing the matter to the Planning Commission after initiating the amendment.

Council Member Dixon agreed with Council Member O'Neill, thanked the residents for attending the meeting, noted impacts throughout the City, suggested staff look at what other

jurisdictions have done and come back with recommendations, and suggested adopting a moratorium in the meantime.

Council Member Avery noted that, even before Pacaso, the City was starting to lose local control to the State, experienced more density and traffic, agreed with implementing a moratorium, cautioned the potential cost to the City, supported looking at what other cities have done and updating the NBMC, and mitigate the impacts.

In response to Council Member Brenner's questions, Community Development Director Jurjis indicated that the City has not studied the State of Washington to confirm if they have banned fractional home ownership.

City Attorney Harp noted that a cease and desist order would be based on current NBMC provisions and confirmed that a moratorium places a hold on development and would be the path to immediate action.

Council Member Brenner expressed concerns for neighborhoods affected by short-term lodging, the Regional Housing Needs Assessment (RHNA), residential care facilities, and homelessness, and relayed the importance of finding a solution as soon as possible.

Council Member Duffield expressed the opinion that further study is needed to amend the NBMC and supported considering a moratorium.

Mayor Muldoon summarized the direction to staff to explore a regulation timeshare plan with the Planning Commission, conduct more studies on Sonoma and other communities, enact a moratorium and prohibition in the R-1 zone, and to move with expediency.

In response to Council Member O'Neill's question, City Attorney Harp detailed the standards for a moratorium.

In response to Council Member Dixon's question, City Attorney Harp clarified that the City Council must initiate the code change first before going to the Planning Commission.

Mayor Muldoon clarified that the moratorium would come to Council for a vote and the code amendment first needs to be initiated by Council before going to the Planning Commission.

III. PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

Steven Gerard distributed a flyer, invited the City to become a Personhood City and attend the Kirk Cameron movie titled *Lifemark*, asked that this be placed on a future agenda, and sang a song.

Regarding Item 18 (Amending and Re-Adopting the 2021-2029 6th Cycle Housing Element), an unidentified speaker from the Southwest Region of Carpenters expressed concern relative to the environmental impacts of the Housing Element and an interest in having local and skilled workforce requirements added into projects moving forward since he believed it would benefit the climate, boost economic development, and mitigate transportation and greenhouse gases.

City Attorney Harp announced that the City Council would adjourn to Closed Session to discuss the item listed on the Closed Session agenda and read the title.

IV. CLOSED SESSION – After Study Session – Council Chambers Conference Room

A. 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.

V. RECESSED – 5:26 p.m.

VI. RECONVENED AT 5:45 P.M. FOR REGULAR MEETING

VII. ROLL CALL

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

VIII. CLOSED SESSION REPORT

City Attorney Harp announced that no reportable actions were taken.

IX. INVOCATION – Pastor Phil Eyskens, Lighthouse of Costa Mesa Church of the Nazarene, Costa Mesa

X. PLEDGE OF ALLEGIANCE – Council Member Brenner

XI. NOTICE TO THE PUBLIC

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

Council Member O'Neill:

- Announced the start of school, reminded drivers to observe the 25 mph zones, and asked parents to talk to their children about e-bike safety
- Attended the 9/11 Ceremony conducted by the Newport Beach Elks Lodge
- Announced a bike fatality and fire at Promontory Point on Sunday and acknowledged public safety

Council Member Duffield:

- Attended the Water Quality/Coastal Tidelands Committee meeting and reported an "A" grade for all bodies of water in the City

Council Member Dixon:

- Recognized volunteers over the summer and Labor Day weekend that assisted at Lido Isle Bridge and Newport Island Bridge to discourage bridge jumping and provided lifeguard data
- Attended the Buck Gully 10th Anniversary Celebration, swearing-in of new Newport Beach Police Department officers, the annual luncheon to honor volunteers of the Project Adult Literacy program, concert at Marina Park, and the 9/11 Ceremony conducted by the Newport Beach Elks Lodge

Council Member Brenner:

- Met with Denis Labonge and Amber Snyder regarding the Fire Safety Council and home hardening efforts
- Attended the General Plan Update Planning Committee meeting, Sherman Gardens Annual Garden Party, League of California Cities Conference, two-day Source-to-Sea Water Conference

(water-sourcetosea.org), and eight candidate forums with more upcoming that the community can attend

- Utilized a slide to announce a District 6 Town Hall Zoom Meeting on September 22, 2022, at 5:30 p.m. (newportbeachca.gov/townhall)
- Requested a future agenda item to consider directing staff to review the status of a general aviation issue regarding private jet bias and bring back a report to Council with a plan of action and remedies

Council Member Avery:

- Attended the candidate forum for the Newport Heights Homeowners Association at St. Andrews Presbyterian Church and encouraged attendance at other forums

Mayor Muldoon:

- Attended the 9/11 Ceremony conducted by the Newport Beach Elks Lodge
- Requested a future agenda item to consider creating an ad hoc committee, consisting of residents with background in public safety and criminal justice, to address residential burglary concerns and advise neighborhoods on preventative measures
- Utilized a slide to announce a Concert on the Green on September 18, 2022, at 6:00 p.m.

XIII. MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

- Consider partnering with Pedego and the Newport-Mesa Unified School District to provide E-Bike education to the community with events at various locations in the City, including the Civic Center – Community Room, OASIS Senior Center, Junior High Schools, and High Schools [Muldoon]

Council unanimously concurred to bring the matter back at a future meeting.

- Consider the adoption of a resolution requesting that: (1) the State return authority for the regulation of residential care facilities to cities; (2) the State authorize City personnel to investigate violations of State law and enforce State laws; and (3) until local control is restored, that the California Department of Health Care Services and Department of Social Services: (a) immediately investigate any complaint that a residential care facility (subject to state regulation) has violated the law; (b) ensure that timely enforcement actions are brought against violators; and (c) that the stiffest penalties allowed under the law are imposed on violators to help protect those in recovery as well as adjacent neighbors [Brenner]

Council unanimously concurred to bring the matter back at a future meeting.

XIV. PUBLIC COMMENTS ON CONSENT CALENDAR

Jim Mosher noted a past Council practice of allowing the public to ask for a separate discussion and vote on Consent Calendar items, alerted Council of revisions to the State Density Bonus Law (Item 3), believed Council had little information on why the firm for the Fee Study was chosen (Item 12), relayed that the Planning Commission agenda is missing the Study Session about residential care facilities and a possible new ordinance (Item 13), and indicated having not been aware of a Council ad hoc committee relative to residential care facilities.

XV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. **Minutes for the August 23, 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.

ORDINANCE FOR ADOPTION

3. Ordinance No. 2022-18: A Code Amendment Updating Density Bonus Regulations to Comply with State Law (PA2020-032)

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and
- b) Conduct second reading and adopt Ordinance No. 2022-18, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Zoning Code Amendment No. CA2020-004 Amending Chapter 20.32 (Density Bonus) and Other Related Provisions of the Newport Beach Municipal Code Related to Density Bonuses to Comply with State Law (PA2020-032).*

RESOLUTIONS FOR ADOPTION

4. Resolution No. 2022-57: Adopting a Memorandum of Understanding with the Association of Newport Beach Ocean Lifeguards (ANBOL) and Associated Salary Schedule (C-2058A) [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;
- b) Adopt Resolution 2022-57, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a Memorandum of Understanding Between the City of Newport Beach and the Association of Newport Beach Ocean Lifeguards and Amending the Salary Schedule;* and
- c) Approve Budget Amendment No. 23-016 appropriating \$80,617 in increased expenditures in various City division salary and benefits accounts from unappropriated General Fund balance.

5. Resolution No. 2022- 58: Creating an Ad Hoc Committee to Review the Municipal Code [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;
- b) Adopt Resolution No. 2022-58, *A Resolution of the City Council of the City of Newport Beach, California, Creating an Ad Hoc Committee to Review the Municipal Code and City Council Policies and Make Recommendations to the City Council Regarding Possible Modifications Thereto and the Advisability of Using Sunset Provision;* and
- c) Direct the Board of Library Trustees, City Arts Commission, Harbor Commission, Parks, Beaches, and Recreation Commission, and the Planning Commission to each form an ad hoc committee for the purposes of reviewing the Municipal Code and City Council Policies within that particular body's expertise and submit back to City Council by June 30, 2023 recommendations concerning: (1) deleting or reducing language; and (2) the advisability of applying sunset provisions for new or existing Municipal Code provisions.

6. Resolution No. 2022-59: Creating the General Plan Advisory Committee (GPAC) [24/100-2022]

- 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. 2022-59, *A Resolution of the City Council of the City of Newport Beach, California, Creating the General Plan Advisory Committee.*

CONTRACTS AND AGREEMENTS

- 7. Balboa Pier and Channel Place Park Restrooms Rehabilitation Project (Project No. 20F02) – Notice of Completion for Contract No. 8700-1 [38/100-2022]**
 - a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
 - b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of Civil Code; and
 - c) Release Faithful Performance Bond one year after acceptance by the City Council.
- 8. Ocean Piers Maintenance Project (Project No. 22H03) – Notice of Completion for Contract No. 7884-2 [38/100-2022]**
 - a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
 - b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of Civil Code; and
 - c) Release Faithful Performance Bond one year after acceptance by the City Council.
- 9. City Bridge Deck Maintenance Project – Award of Contract No. 7679-2 (21R13) [38/100-2022]**
 - a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (c) (repair and maintenance of existing street with no expansion of use) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
 - b) Approve the project drawings and specifications;
 - c) Award Contract No. 7679-2 to Peterson-Chase General Engineering Construction, Inc. for the total base bid price of \$270,800, and authorize the Mayor and City Clerk to execute the contract; and
 - d) Establish a contingency of \$40,620 (approximately 15 percent of total bid) to cover the cost of unforeseen work not included in the original contract.
- 10. Award of On-Call Maintenance/Repair Services Agreement with Surfside Restoration & Waterproofing, Inc., for Seawall Repair Services (C-8520-2) [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 the Maintenance/Repair Services Agreement with Surfside Restoration & Waterproofing, Inc., for seawall repair services, for a five-year contract term with a total contract compensation amount of \$500,000, and authorize the Mayor and City Clerk to execute the Agreement.
- 11. Approval of Professional Services Agreement with RJM Design Group, Inc (Contract No. 8891-1) for Arroyo Park Synthetic Turf Replacement (Project No. 23P11) [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 Professional Services Agreement with RJM Design Group, Inc. of San Juan Capistrano, California, for the Arroyo Park Synthetic Turf Replacement project for a total not-to-exceed amount of \$168,425, and authorize the Mayor and City Clerk to execute the Agreement.
- 12. Award of Professional Contract to ClearSource Financial Consulting for Citywide User Fee Study and Cost Allocation Plan Services (C-8951-1) [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;

- b) Authorize the Mayor and City Clerk to sign a three-year term contract, with two optional one-year extensions with ClearSource Financial Consulting for a total not-to-exceed amount of \$298,610 to perform the fee study and cost allocation plan work; and
- c) Approve Budget Amendment No. 23-017 appropriating \$33,223 in increased expenditures in Account No. 0103031-811008 from the General Fund unappropriated fund balance.

MISCELLANEOUS

13. Planning Commission Agenda for the September 8, 2022 Meeting [100-2022]

Receive and file.

14. Pulled from the Consent Calendar

15. City Hall and Limited Off-Site Holiday Closure from Saturday, December 24, 2022, through Monday, January 2, 2023 [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 closing the Civic Center and providing limited services at off-site facilities from Saturday, December 24, 2022, through Monday, January 2, 2023.

16. General Plan Update Steering Committee (GPUSC) Bi-Monthly Update to the City Council [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 the report.

17. Final Tract Map No. 19222 for a Residential Condominium Development Located at 900 Newport Center Drive (C-8952-2) [38/100-2022]

- a) Find that potential environmental impacts have been previously mitigated through the implementation of the policies of the General Plan as evaluated in Program Environmental Impact Report for the 2006 General Plan Update (SCH No. 2006011119) (PEIR);
- b) Review and approve the Subdivision Agreement for Final Tract Map No. 19222 pursuant to Section 19.36.010 of the Municipal Code, and authorize the Mayor and City Clerk to execute the Subdivision Agreement;
- c) Review and approve the required construction securities for Final Tract Map No. 19222 pursuant to Section 19.36.030 of the Municipal Code, and authorize the Public Works Director to execute and release securities; and
- d) Review and approve the Final Tract Map No. 19222 located at 900 Newport Center Drive pursuant to Section 19.60.010 of the Municipal Code.

Motion by Mayor Pro Tem Blom, seconded by Mayor Muldoon, to approve the Consent Calendar, except for the item removed (Item 14); and noting the amendments to Item 1.

The motion carried unanimously.

XVI. ITEM REMOVED FROM THE CONSENT CALENDAR

14. Response to the 2021-2022 Orange County Grand Jury Report “How is Orange County Addressing Homelessness?” [100-2022]

City Manager Leung provided an update on what is being done to address homelessness in Orange County, including more shelters in South Orange County, collaborative efforts between and within cities and counties, long term strategies and solutions, timeliness, bed availability, transition to

permanent housing, the Be Well program kick-off, a homelessness ad hoc committee, community education, collaboration with experts to create strategies, and a website dashboard with outreach efforts and related statistics.

In response to Council Member Dixon's question, Homeless Coordinator Basmacıyan reported that 12 members of the community attended the CityNet community education event, noted that panhandling is protected under the First Amendment, signage is posted to discourage giving to panhandlers, and discussed public safety. Council Member Dixon relayed having noticed improved homeless counts and landscaping conditions during her recent visit to McFadden Square but expressed concern about a chronic homeless problem at Marina Park. Homeless Coordinator Basmacıyan indicated that the primary homeless person in Marina Park is in active case management with CityNet, the increased summer activity is allowable as long as the park curfew and NBMC are honored, and confirmed a decreased homeless count since Labor Day.

In response to Council Member Brenner's question, Homeless Coordinator Basmacıyan indicated that she will notify the community when the CityNet event is available for viewing on NBTv. Council Member Brenner acknowledged the cleanliness at McFadden Square and spikes removed on the Ben Carlson statue.

Jim Mosher asked how many people are on the ad hoc committee and the process for appointment.

Council Member Brenner reported that the ad hoc committee structure is being changed to a collaborative one. Homeless Coordinator Basmacıyan added that the meetings are closed to the public and take place quarterly with this month's focus on faith leaders and local agency partners, and the new structure of the committee will be comprised of Newport Beach residents with expertise in homelessness and three members of the City Council.

Mayor Muldoon recommended the letter to the Presiding Judge be amended to reflect the signature of City Manager Leung.

Motion by Council Member Dixon, seconded by Council Member Duffield, 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) authorize the City Manager to sign the cover letter and remit the responses of the City of Newport Beach to the Presiding Judge of the Orange County Superior Court.

The motion carried unanimously.

XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Charles Klobe, President of Still Protecting Our Newport (SPON), announced that the annual meeting will take place on September 24, 2022 at the Environmental Nature Center.

XVIII. PUBLIC HEARING

18. Resolution No. 2022-60: Amending and Re-Adopting the 2021-2029 6th Cycle Housing Element [100-2022]

Community Development Director Jurjis reported having received a letter from the Housing and Community Development Department (HCD) stating that the City's Housing Element meets all the statutory requirements and contains adequate sites planned for 2,700 affordable housing units, making Newport Beach the fifth city to be certified in Orange County. He thanked Deputy Community Development Director Campbell, Principal Planner Murillo, and Principal Planner Zdeba for their work.

Council Member Dixon expressed appreciation to staff, and in response to her inquiry, Community Development Director Jurjis stated that, with the Housing Element complete, staff will focus on the General Plan Update supported by the General Plan Steering Committee and Policy Advisory Committee, the priority is to update the Land Use Element and complete the Environmental Impact Report (EIR) in time for a March 2024 vote, which will be a Greenlight vote, and reported that the remaining Elements will go at their own pace. He further noted the need for a stable project description on the EIR and confirmed that the special election will be for the Land Use Element that will incorporate the housing units.

Council Member Brenner complimented staff for their work on the Housing Element.

Mayor Muldoon opened the public hearing.

Jim Mosher noted that the document for approval contains many policies that are not written, reviewed, or recommended by the public, but written by staff and the State, suggested Council engage in the Greenlight issue, noted discrepancies in the Greenlight vote triggers and its application, expressed concern for litigation that could jeopardize the Greenlight provision, and recommended that staff and the City Council discuss the consequences of a rejected RHNA mandate by the vote of the people.

Suzanne Forrester, VP of Banning Ranch Conservancy, provided an update on the Banning Ranch acquisition effort, pointed out confusing language in the Housing Element (Appendix B, page 91), noted that the State funding and grant restrictions do not include housing opportunity that follows the land in perpetuity, and requested the language be updated to reflect Banning Ranch land as an open space park and nature preserve in the City's General Plan, Land Use Element, and Housing Element.

Dave Tanner provided a handout, requested that Banning Ranch be removed from the Housing Element Update, suggested the entire Housing Element, General Plan Update, and the appropriate NBMC updates be addressed by a single Environmental Impact Report (EIR) within the CEQA document, the whole project be subject to a vote of the public pursuant to the City Charter, and after reading the letter from HCD, asked for clarification on when the rezoning, use, and density will take effect.

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

Motion by Mayor Pro Tem Blom, seconded by Council Member O'Neill, to a) find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and b) adopt Resolution No. 2022-60, *A Resolution of the City Council of the City of Newport Beach, California, Amending and Re-Adopting the 6th Cycle Housing Element for the 2021-2029 Period as General Plan Amendment No. GP2021-005 (PA2017-141)*.

The motion carried unanimously.

XIX. MOTION FOR RECONSIDERATION – None

XX. ADJOURNMENT – Adjourned at 6:39 p.m. in memory of Queen Elizabeth II

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 September 8, 2022, at 4:00 p.m.

Kevin Muldoon, Mayor

Leilani I. Brown, City Clerk