

**City Council Minutes  
Study Session and Regular Meeting  
April 9, 2019**

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**I. ROLL CALL - 4:02 p.m.**

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

**II. CURRENT BUSINESS**

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

**SS2. *Community College Awareness Month (discussed after Item SS5)***

Mayor Dixon introduced Leticia Clark, District Director, Public Affairs and Government Relations, who accepted the proclamation on behalf of her organization.

**SS3. *National Library Week Proclamation***

Mayor Dixon introduced Paul Watkins, Vice Chair of the Board of Library Trustees and Library Services Director Tim Hetherton who said a few words and accepted the proclamation in honor of *National Library Week*.

**SS4. *DMV/Donate Life California Month Proclamation (discussed after Council Announcements during the regular meeting)***

Mayor Dixon introduced Angela Betts who accepted the proclamation on behalf of her organization.

**SS5. Junior Lifeguard Building Proposal**

Public Works Director Webb and Civil Senior Engineer Tauscher utilized a PowerPoint presentation to discuss the status of the Newport Beach Junior Lifeguard (NBJG) Building project and possible alternatives to the building location, project cost, and design team selection.

Discussion ensued between City staff, NBJG Foundation representative Graham Harvey, and Council regarding three site proposals, building on stilts, expanding the existing parking lot, the process of hiring an architect, the overall size of the building, amenities, allowing other City departments and organizations to use the facility when not in use by NBJG, the timeline for the project, including when it would go in front of the California Coastal Commission, fundraising to date, the City's fundraising policy, implementing a donor wall, and the importance of the building connecting with the sand.

Bob May, representing David Pyle, expressed support for the NBJG program and improving the facility, discussed contributions and fundraising, and requested that the project move forward.

Council provided staff with direction to move forward with Building Site 2, keep the costs as low as possible, add the project to the Capital Improvement Project list, have the project stay parking neutral, and work with NBJG to support donor contributions.

**III. PUBLIC COMMENTS**

Alexis Portillo displayed a slide to discuss her sixth grade project and requested the City make parks and beaches more accessible to children with special needs.

David Grant provided recommendations and suggestions regarding the issues at the Newport Aquatic Center (NAC).

Bruce Ibbetson noted issues at the NAC, the City's responsibilities, and requested assistance from the City.

Jim Mosher took issue that no information was provided to the public about Item IV.B. and discussed recent court decisions.

*City Attorney Harp reported the City Council would adjourn to Closed Session to discuss the items listed in the Closed Session agenda and read the titles.*

**IV. CLOSED SESSION**

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

**Agency Designated Representatives:** Grace K. Leung, City Manager, Carol Jacobs, Assistant City Manager, and Barbara Salvini, Human Resources Director; Labor Negotiators.

**Employee Organizations:** Newport Beach Fire Management Association (NBFMA) and Part Time Employees Association of Newport Beach (PTEANB).

**B. CONFERENCE WITH LEGAL COUNSEL  
ANTICIPATED LITIGATION – INITIATION OF LITIGATION  
(Government Code § 54956.9(d)(4)): 3 matters**

**V. RECESSED – 5:15 p.m.**

**VI. RECONVENED AT 7:00 P.M. FOR REGULAR MEETING**

**VII. ROLL CALL – 7:00 p.m.**

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

**VIII. CLOSED SESSION REPORT – None**

**IX. INVOCATION – Pastor David Manne, Calvary Chapel of Costa Mesa**

**X. PLEDGE OF ALLEGIANCE – Mayor Pro Tem O'Neill**

**XI. NOTICE TO THE PUBLIC**

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

Council Member Avery:

- Attended the Newport Beach Police Officers Appreciation Breakfast, a luncheon at St. Andrews Presbyterian Church regarding the Newport Harbor High School's mentor program, an Orange County Sanitation District meeting, and the John Wayne Airport Town Hall meeting
- Recognized Mike Stewart for his 55 years of dedication to the Newport Sea Scouts

Council Member Muldoon:

- Attended the Newport Beach Police Officers Appreciation Breakfast and the John Wayne Airport Town Hall meeting

**Council Member Brenner:**

- Attended the John Wayne Airport Town Hall meeting, and meetings regarding the Koll and Aerie projects
- Announced the upcoming Speak Up Newport meeting on April 10, 2019

**Council Member Herdman:**

- Attended the Newport Beach Police Officers Appreciation Breakfast, the John Wayne Airport Town Hall meeting, the Water Quality/Coastal Tidelands Committee monthly meeting, the messaging and strategy airport working group meeting, On-Demand Micro Transit System meeting, Balboa Museum and Historical Society's Vietnam Recognition Day, and the Newport-Mesa Unified School District's workshop on diversity
- Announced the restructuring of the Aviation Committee and the application period for the committee is currently open
- Utilized a slide to indicate the Bayside Drive improvement project is nearing completion and is on schedule
- Recognized Police Officer Tony Yim for his work with the local homeless community

**Mayor Pro Tem O'Neill**

- Attended the Newport Coast Elementary School STEAM Expo, a transportation conference at Chapman University, the Newport Harbor High School's mentor luncheon, the Newport Beach Police Officers Appreciation Breakfast, and the Anti-Defamation League dinner
- Utilized slides to discuss National Library Week, the Special Olympics on Parade, and the upcoming Special Olympics Basketball Tournament on April 20, 2019

**Mayor Dixon:**

- Attended the Newport Beach Police Officers Appreciation Breakfast, the John Wayne Airport Town Hall meeting, Mayor's Youth Council meetings at all Newport Beach high schools, a tour of City Hall with fourth graders from Our Lady Queen of Angels School, and an Eagle Scout Court of Honor for Matt Eimers
- Utilized slides to announce the upcoming hearing of the Board of Supervisors to discuss the JWA General Aviation Improvement Project and the upcoming Mayor's 5<sup>th</sup> Annual Egg Race

**XIII. MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA**

- **Consideration of reinstating the Public Art and Cultural Fund (Herdman)**

Mayor Dixon and Council Members Herdman, Brenner and Avery concurred with placing the matter on a future agenda.

**XIV. PUBLIC COMMENTS ON CONSENT CALENDAR**

Mike Hewitt referenced his correspondence and requested his comments be incorporated into the minutes (Item 1).

Jim Mosher asked what the actual employee salaries are and questioned the one-time bonus (Item 7).

Denys Oberman asked that the City properly characterize any employee compensation (Item 7).

**XV. CONSENT CALENDAR**

***READING OF MINUTES AND ORDINANCES***

**1. Minutes for the March 12, 2019 City Council Meeting [100-2019]**

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 ADOPTION**

3. Pulled from the Consent Calendar

**RESOLUTIONS FOR ADOPTION**

4. **Resolution No. 2019-32: Proposed Revisions to City Council Policy A-12, *Discretionary Grants* [69/100-2019]**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2019-32, *A Resolution of the City Council of the City of Newport Beach, California, Amending City Council Policy A-12 "Discretionary Grants" to Include Cultural and Arts Programs, Adjusting Priorities for Funding and Other Revisions.*

5. Pulled from the Consent Calendar

6. Pulled from the Consent Calendar

7. **Resolution No. 2019-35: Adopting the 2019 Key and Management Compensation Plan for the Period January 1, 2019 through December 31, 2021, and Amending the City's Salary Schedule [100-2019]**

- 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 amended Resolution No. 2019-35, *A Resolution of the City Council of the City of Newport Beach, California, Adopting the 2019 Key and Management Compensation Plan, Which Shall be Effective from January 1, 2019, and Amending the City's Salary Schedule;*
- c) Approve Budget Amendment No. 19BA-034 appropriating \$372,742.95 to salary and benefit accounts from unappropriated General Fund surplus fund balance for the remainder of FY 2018/19 representing the first, six months of the three-year Key and Management Compensation Plan; and
- d) Approve and adopt the revisions to the Citywide salary schedule as reflected in the 2019 Key and Management Compensation Plan.

8. **Resolution No. 2019-36: Authorizing the Submittal of an Application for the WaterSMART: Water and Energy Efficiency Grant for 2019 (C-8553-2) [38/100-2019]**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2019-36, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Submittal of an Application for the WaterSMART: Water and Energy Efficiency Grants for Fiscal Year 2019 to Fund the City's Advanced Meter Infrastructure Project.*

**CONTRACTS AND AGREEMENTS**

9. **Public Works Inspection and Construction Administration Services – Approval of On-call Professional Services Agreements (C-8589) [38/100-2019]**

- 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 three separate 5-year term on-call Professional Services Agreements with Interwest Consulting Group, Inc., Project Partners, Inc., and Willdan Engineering at a not-to-exceed amount of \$300,000 per agreement, and authorize the Mayor and City Clerk to execute the agreements.

*Council Member Muldoon recused himself from Item 9 due to business interest conflicts.*

**10. Bayside Drive and Jamboree Road/Marine Avenue Improvements – Increased Contingency Authority and Budget Amendment (16R12) (C-7224-1) [38/100-2019]**

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060 c(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060c(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
- b) Establish a contingency amount up to \$656,946 (approximately 23%) for Contract No. 7224-1 to cover the cost for unforeseen work not included in the original contract; and
- c) Approve Budget Amendment No. 19BA – 039 appropriating \$300,000 from the Water Reserve Fund unappropriated fund balance to the Water System Rehabilitation project (Account No. 70201932-980000-19W05); recognize \$56,946 in new revenue from Orange County Sanitation District (OCSO) (13501-431075-16R12) and appropriate \$56,946 in expenditures to the Bayside Drive improvement project (Account No. 13501-980000-16R12).

**11. MacArthur Boulevard and University Drive Pavement Rehabilitation – Award of Contract No. 7183-2 (18R23) [38/100-2019]**

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1, (b), (c) (maintenance of existing public facilities involving negligible or 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. 7183-2 to R.J. Noble Company, Inc. for the total bid price of \$2,319,580.00, and authorize the Mayor and City Clerk to execute the contract;
- d) Establish a contingency of \$232,000.00 (approximately 10 percent of total bid) to cover the cost of unforeseen work not included in the original contract; and
- e) Approve Budget Amendment No. 19BA-035 appropriating \$940,907.00 from the CIP General Fund unappropriated fund balance and new revenue and expenditures from the Irvine Ranch Water District and Mesa Water District into the project account.

**MISCELLANEOUS**

**12. Budget Amendment to Accept a Check from the California State Library for Literacy Services (CLLS) and Appropriate Funds to the Library's FY 2018/19 Maintenance and Operation Budget [100-2019]**

- 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) Accept a check in the amount of \$23,666 from the California State Library for Literacy Services (CLLS) and approve Budget Amendment No. 19BA-033 to increase expenditures by the same amount in the Literacy accounts indicated.

**Motion by Mayor Pro Tem O'Neill, seconded by Council Member Herdman,** to approve the Consent Calendar, except for the items removed (3, 5 and 6); and noting the recusal by Council Member Muldoon on Item 9, and the amendments to Items 1 and 7.

The motion unanimously carried.

**XVI. ITEMS REMOVED FROM THE CONSENT CALENDAR**

**3. Introduction of an Ordinance Amending Title 15 of the Newport Beach Municipal Code Setting Time Limits to Complete Construction [100-2019]**

In response to Council questions and concerns, Community Development Director Jurjis discussed the ordinance language, project size limitations and confirmed that this code would not apply to the Aerie project since this applies mainly to single family dwellings and duplexes only.

Laura Curran discussed construction project signage.

Susan Skinner requested the time limit be reduced to two years.

Adam Wood, Building Industry Association (BIA), thanked the City for their hard work.

Jim Mosher noted the community meeting to further garner public input conflicts with the Planning Commission meeting and expressed concern regarding the review authority's decisions not being appealable.

**Motion by Mayor Pro Tem O'Neill, seconded by Council Member Muldoon,** to a) determine that the 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 it will not result in a physical change to the environment, directly or indirectly; and b) introduce amended Ordinance No. 2019-8, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Section 15.02.095 to the Newport Beach Municipal Code, Setting Time Limits to Complete Construction*, and pass to second reading on April 23, 2019.

The motion carried 6-1 with Council Member Duffield voting no.

**5. Resolution No. 2019-33: Formation of Ad Hoc Committee on Election Reform [24/100-2019]**

Council Member Herdman voiced his concerns regarding not being selected to sit on this committee and asked that this ad hoc committee be combined with the Local Lobbyist Registration committee.

**Motion by Council Member Herdman, seconded by Mayor Pro Tem O'Neill,** 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) adopt Resolution No. 2019-33, *A Resolution of the City Council of the City of Newport Beach, California, Creating an Ad Hoc Committee on Election Reform*; and c) confirm Mayor Diane Dixon's appointments of Mayor Pro Tem Will O'Neill, Council Member Brad Avery and Council Member Joy Brenner to the Ad Hoc Committee on Election Reform.

Susan Skinner suggested placing Council Member Herdman on the committee and discussed election reform.

Lynn Lorenz read a letter from *Stu News* that supports appointing Council Member Herdman to the committee.

Jennifer McDonald provided reasons that Council Member Herdman should be appointed to the committee.

Marko Popovich agreed that Council Member Herdman should be appointed to the committee or the public should be provided with an explanation as to why he is not.

Jim Mosher believed reforms could be made to how elections are actually conducted in the City.

Philip Greer reviewed election reform history in the County and recommended changing the makeup of the committee.

Bob Rush provided a handout to discuss a Fair Political Practices Commission (FPPC) investigation regarding Council Member Herdman and questioned the constitutionality of the committee.

Denys Oberman believed Council Member Herdman should be appointed to the committee and discussed transparency.

Discussion continued between Council Members that included why the Mayor made the selections she did and possibly looking at including members from the public on the committee in the future.

The motion carried 6-1 with Council Member Herdman voting no.

**6. Resolution No. 2019-34: Formation of an Ad Hoc Committee on Local Lobbyist Registration [24/100-2019]**

**Motion by Mayor Pro Tem O'Neill, seconded by Council Member Duffield,** to table the item indefinitely.

The motion unanimously carried.

**XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Susan Skinner expressed support for the City Council, especially Council Member Herdman.

Ron Yeo expressed concern for the future of Mariners Mile and West Coast Highway.

Ryan Farsai read a letter he sent regarding his business.

Luke Dru highlighted the City's population and transient occupancy tax ranking in the County.

Marko Popovich asked why Council Member Herdman was not placed on the Election Reform Committee and how long lobbyist registration will be tabled.

Denys Oberman provided photos, requested that Council restore her property rights, and discussed the problem she is experiencing.

**XVIII. PUBLIC HEARING**

**13. Resolution No. 2019-37: Amending the Local Coastal Program Implementation Plan to Include Balboa Village Parking Management Overlay District (PA2017-046) [100-2019]**

Community Development Director Jurjis introduced Planning Manager Alford who provided a brief description of the item and responded to Council questions and comments.

***Mayor Dixon opened the public hearing.***

Jim Mosher discussed why he believes there will be a cost related to this item and pointed out a typographical error in the resolution.

Mary Zmuidzinas requested Council approve the item.

Kelly Carlson, President of the Balboa Village Merchants Association, thanked staff and expressed support for the item.

***Hearing no further testimony, Mayor Dixon closed the public hearing.***

Discussion continued between Council and staff regarding the impact parking restrictions have on small businesses and the possibility of hiring a Coastal Commission consultant to assist the City.

**Motion by Mayor Dixon, seconded by Council Member Brenner,** to a) find the action statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15265(a)(1) of the California Code of Regulations, Title 14, and Chapter 3 of the Coastal Act, Section 15265(a)(1), which exempts local governments from the requirements of preparing an environmental impact report or otherwise complying with CEQA in connection with the adoption of a Local Coastal Program; and b) adopt amended Resolution No. 2019-37, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Submittal of Local Coastal Program Amendment No. LC2017-001, Adding the Balboa Village Parking Management Plan Overlay to the Certified Local Coastal Program, to the California Coastal Commission (PA2017-046).*

The motion unanimously carried.

**XIX. CURRENT BUSINESS**

**14. Sculpture Exhibition in Civic Center Park – Phase IV (C-8590) [38/100-2019]**

Library Services Manager Basmacyan discussed the sculpture selection process and introduced Rick Stein, President of Arts Orange County, who utilized a PowerPoint presentation to display the ten selected art sculptures and three alternates for the Civic Center Park exhibition – Phase IV, along with the installation process.

Jim Mosher discussed a sculpture that was removed from the list of selected art.

Ron Yeo commended the sculpture garden project.

Arlene Greer, Chair of the City Arts Commission, explained the selection process and confirmed that some artists receive an honorarium to offset the costs of delivering the sculptures to the park.

Council Member Herdman commented on the future maintenance of the art sculptures and indicated he is working with Assemblywoman Cottie Petrie-Norris to receive future funding for the sculpture exhibits.

**Motion by Mayor Pro Tem O'Neill, seconded by Mayor Dixon,** to a) determine this action 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 ten sculptures, three alternates, and the proposed locations within Civic Center Park as recommended by the City Arts Commission for the temporary sculpture exhibit.

The motion unanimously carried.

**15. Assessment District Nos. 116 and 116b and Underground Utilities District No. 22 Phase I – Award of Contract No. 7572-1 (19A11) [89/100-2019]**

***Council Member Muldoon recused himself due to business interest conflicts.***

Public Works Director Webb provided a brief overview of this item and introduced Assistant City Engineer Sinacori who responded to Council comments and questions regarding the City's negotiations with utility companies, utilizing general fund money for the project, the amount of funds the City is saving by managing a large portion of the work in-house, and what roads and sidewalks will be impacted during the installation.

**Motion by Council Member Herdman, seconded by Mayor Dixon,** to a) find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Class 2 Section 15302 (d) (conversion of overhead electrical utility distribution lines where the surface is restored to the condition existing prior to the undergrounding) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it will not have an adverse effect on the environment; b) approve the project plans and specifications; c) award Contract No. 7572-1 to Asplundh Construction Corp. for the bid amount of \$3,813,399.61 for Underground Utility Assessment District Nos. 116, 116b and Underground Utility District No. 22 - Phase I, and authorize the Mayor and City Clerk to execute the contract; d) establish a \$400,000 (approximately 10 percent) contingency amount to cover the cost of unforeseen work not included in the original contract; e) authorize the City Manager to execute reimbursement agreements with utility companies for the Underground Utilities District No. 22 - Phase I portion of the project on forms approved by the City Attorney; f) approve Professional Services Agreement with NV5 of Irvine, California, for a not-to-exceed fee of \$197,255 for Construction Administration and Residential Permit Support Services; and g) approve Budget Amendment No. 19BA-036 recognizing \$2,122,732 in contribution revenue funding from multiple utility companies and appropriate the same to the Contributions Fund (Account No. 13501-980000-19A11); and appropriating \$250,000 from the General Fund unappropriated fund balance for City costs and related construction support services for UUD No. 22 – Phase 1 (Account No. 01201928-980000-19A11).



The motion unanimously carried.

**16. Acquisition of Rule 20A Credits from the City of Lynwood (C-8591-1) [38/100-2019]**

***Council Member Muldoon recused himself due to business interest conflicts.***

At Council's request, Public Works Director Webb provided a brief explanation of this item.

James Peterson, Government Relations Manager for Southern California Edison, commended staff and indicated he looks forward to working with the City.

Dick Armstrong requested that Council support this item.

**Motion by Mayor Pro Tem O'Neill, Council Member Herdman,** 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) approve Budget Amendment No. 19BA-040 transferring \$1,428,885 from the FY 2017/18 General Fund surplus to the Neighborhood Enhancement Fund and appropriates this amount for the purchase of SCE Rule 20A Credits; c) authorize the City Manager to execute the Memorandum of Understanding (MOU) between the City of Newport Beach and City of Lynwood documenting details of the transaction for the Rule 20A credit acquisition; and d) authorize staff to process the Rule 20A credit transfer between the City of Newport Beach and City of Lynwood with SCE.

The motion unanimously carried.

**17. Appointment of a New City Arts Commissioner to Fill an Unscheduled Vacancy [24/100-2019]**

Assistant City Clerk Nelson provided a brief explanation of how the selection process works and that the successful candidate must receive at least four votes.

Jim Mosher noted the differences between the two applications and discussed the Commission's duties.

With Mayor Dixon, Council Member Avery, Council Member Duffield, Council Member Muldoon, Council Member Brenner and Council Member Herdman voting in favor of Ritch LeGrand and Mayor Pro Tem O'Neill voting for Maureen Flanagan, Ritch LeGrand was appointed to the City Arts Commission to fill the unscheduled vacancy ending June 30, 2021.

**18. Amended and Restated Employment Agreements for the City Manager, City Attorney, and City Clerk (C-8568-2, C-7034-3 and C-7032-3) [38/100-2019]**

***City Attorney Harp and City Manager Leung recused themselves due to potential impacts on their finances.***

Human Resources Director Salvini provided a brief summary of the three employment agreements and responded to Council questions and comments regarding LIUNA and the \$2,700 one-time bonus.

Jim Mosher took issue with the one-time bonus and retroactive pay.

In response to public comments, Edward Zappia, outside Counsel for the City, explained that the \$2,700 one-time bonus is not considered a gift, but is part of the compensation contract.

Council Member Muldoon remarked on the positive way the City is handling its pension liability.

**Motion by Mayor Pro Tem O'Neill, Council Member Avery,** to a) determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; b) approve and authorize the Mayor to execute a First Amended and Restated Employment Agreement between the City of Newport Beach and City Manager Grace K. Leung, subject to the terms and conditions approved by the City Council; c) approve and authorize the Mayor to execute a Fifth Amended and Restated Employment Agreement between the City of Newport Beach and City Attorney Aaron Harp, subject to the terms and conditions approved by the City Council; d) approve and authorize the Mayor to execute a Fifth Amended and Restated Employment Agreement between the City of Newport Beach and City Clerk Leilani Brown, subject to the terms and conditions approved by the City Council; and e) approve Budget Amendment No. 19BA-037 for \$20,184 to enhance salary and benefit accounts for the last six months of FY19 (January 1, 2019 through June 30, 2019).

The motion unanimously carried.

**19. Amended and Restated Employment Agreements for Fire Chief and Police Chief (C-8549-2, C-7098-3) [38/100-2019]**

City Manager Leung provided a brief summary of the two agreements.

Jim Mosher questioned providing the one-time bonus to safety employees.

Human Resources Salvini clarified the specifics of the \$2,700 one-time bonus.

**Motion by Council Member Herdman, Mayor Pro Tem O'Neill,** 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) authorize the City Manager to Execute a First Amended and Restated Employment Agreement Between the City of Newport Beach and Charles (Chip) Duncan for Services of Fire Chief; c) authorize the City Manager to Execute a Second Amended and Restated Employment Agreement Between the City of Newport Beach and Jon Lewis for Services of Police Chief; and d) approve Budget Amendment No. 19BA-038 for \$13,580.00 to enhance the salary and benefit accounts for the last six months of FY2018/19 (January 1, 2019 through June 30, 2019).

The motion unanimously carried.

**XX. MOTION FOR RECONSIDERATION – None**

**XXI. ADJOURNMENT – 9:55 p.m.**

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 4, 2019, at 4:00 p.m.

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**Diane B. Dixon**  
Mayor

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**Leilani I. Brown**  
City Clerk

# CITY OF NEWPORT BEACH

## City Council Minutes Study Session and Regular Meeting April 23, 2019

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### I. ROLL CALL - 4:00 p.m.

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

### II. CURRENT BUSINESS

#### SS1. **Clarification of Items on the Consent Calendar**

Mayor Dixon announced she will be requesting that the minutes (Item 1) be continued to the May 14, 2019 City Council meeting.

In response to Council Member Muldoon's questions, Public Works Director Webb indicated the contract for Item 7 would need to be modified if organics were to be used and there would be no pesticide usage related to Item 8.

Prior to responding to Council Member Brenner's question regarding Item 5, ***Council Member Muldoon recused himself due to property interest conflicts.*** City Manager Leung and Public Works Director Webb noted Item 5 is for playground equipment replacement and only new equipment requests need to be discussed at a Parks, Beaches and Recreation Commission meeting.

#### SS2. ***Poppy Month Proclamation***

Carolyn Whitlinger and Debbie Schubert, American Legion Auxiliary, provided the background on *Poppy Month* and received the proclamation from Mayor Dixon. Council Member Brenner expressed the importance of *Poppy Month*.

#### SS3. ***CASA of Orange County Day Proclamation***

Stefanie Gillett provided Court Appointed Special Advocate's (CASA's) background, gave pinwheels to each of the Council Members, discussed *Foster Care Awareness Month* and the CASA Pinwheel Project (CASAoc.org/events), and received the proclamation from Mayor Dixon.

#### SS4. **Recognition of Ford W. Fairon**

Chief Lewis, on behalf of the Police and Fire Departments, commended Ford Fairon for his bravery and heroic actions on January 21, 2019. Ford Fairon thanked the Police and Fire Departments for being our everyday heroes, and received the proclamation from Mayor Dixon.

#### SS5. **Potential Changes to Residential Development Standard to Preserve Cottages and Address 3rd Story Massing**

Community Development Director Jurjis and Principal Planner Ramirez utilized a PowerPoint presentation to display the location map and discuss reasons the City is losing beach cottages, cottage sizes, the number of cottages in the City, standards for Council to study, and the amendment process.

Discussion ensued relative to increasing buildable square footage for cottage owners if they maintain a single story, finding incentives to keep the cottages, conducting extensive outreach before any code amendment occurs, streamlining the process, considering amending parking requirements for cottages, and discussed how many cottages have been replaced with larger homes.

Ron Yeo provided a handout, indicated he inventoried the current cottages in Corona del Mar, believed parking is the biggest issue, and expressed hope the City could assist with keeping the cottages in the City.

Jerry Jansen, past President of the Balboa Island Improvement Association, expressed support for retaining cottages and allowing them to rebuild in the same or similar footprint without requiring parking.

Tanya, cottage owner, indicated she would like to expand a little but cannot due to the parking restrictions.

Nancy Orazi expressed concern with setbacks and amending parking standards in high density areas.

Mark Becker expressed support for preserving Balboa Island's uniqueness.

David Tanner believed parking exceptions should be made to preserve the cottages.

Gary Cruz requested and received clarification that redevelopment does not have to be done by the original cottage owner and there is no restriction to the number of people living in a home.

Andrew Goetz believed an owner should be able to fix other parts of the home without triggering a complete teardown.

Karen Tringali expressed support for the cottage community.

Denys Oberman believed parking problems are created by the larger buildings and that this issue should be considered with the City's total housing stock.

Regarding residential height and massing, Senior Planner Ramirez utilized a PowerPoint presentation to display a map of high density neighborhoods and discuss the goals of the 2010 code amendments, R-1 and R-2 height and bulk standards, third story covered decks, issues in the RM Zoning District, changes for Council to consider, and the amendment process.

Discussion ensued relative to how staircases and vaulted ceilings are counted toward the total square footage, setbacks, third story decks, height and floor area standards in RM Zoning Districts, and design articulation.

Ron Yeo discussed third stories and suggested counting covered deck areas as square footage.

Mark Becker believed the large envelopes are destroying the intimacy in neighborhoods and provided his recommendations.

Vicky Swanson indicated she cannot enjoy her home because the houses next to her are too large and she loses light.

Andrew Goetz expressed concern with the wall heights relative to the roof and suggested minimizing the wall area around cabanas or minimizing the amount of ridge area that sits on the lot.

Denys Oberman took issue with the 2010 code changes and highlighted confusing terminology.

David Tanner requested that any change to the code not make areas worse, questioned how height limits will account for sea level rise, and believed single family homes are being rented as duplexes.

Linda Watkins questioned how a large home was built in a gated community and requested the City tighten the zoning codes.

Jim Mosher noted that the code contains a section about ministerial design criteria that applies to all areas of the City and asked how they are being applied.

Karen Tringali indicated the City may adjust the code to preserve the nature and qualities of certain neighborhoods.

Council indicated that potential considerations moving forward include counting two-story vaulted ceilings, all levels of staircases and anything with a roof as square footage; maintaining the setback that was allowed between multiple lots; ensuring property rights are maintained; revisiting how third story decks are handled with preference of having all sides open; and expediting the simpler issues.

With Mayor Pro Tem O'Neill dissenting, the majority of Council requested the City Attorney look into implementing a moratorium on RM Zoning District conversions to single-family homes, believing a standard height limit should be set for all single-family homes.

#### **SS6. On-Street Parking Impacts Due to Construction Activities**

Community Development Director Jurjis and Deputy Community Development Director Ghosn utilized a PowerPoint presentation to provide the background and discuss the public outreach meetings, feedback received, and staff suggestions.

Discussion ensued relative to implementing rules only in areas that are most impacted by this issue, not allowing Saturday construction, the importance of code enforcement, determining if all parts of the City would want to utilize the signage, and looking at short term lodging impacts separately.

Council Member Herdman expressed his gratitude to staff for the attempt, but felt it best not to move forward with this effort.

Nancy Orazi expressed concerns with the number of short term lodging on the Peninsula and Balboa Island, and noted that parking issues are also due to other sources, not just contractors.

Jeff Stoleron discussed parking impacts and safety concerns due to construction on Lido Isle.

Gary Cruz expressed concerns regarding parking impacts and disturbances due to construction on Newport Island, and requested notification about meetings regarding this issue.

Vicky Swanson believed the City should require construction management plans.

David Tanner believed short term lodging adds to the parking issues and the City should identify how the code is being gamed.

Mayor Dixon indicated short term lodging issues will be coming before Council at a later date.

Council unanimously concurred to bring back an item to add a parking enforcement person through AmeriPark for seasonal parking enforcement; Mayor Dixon and Council Members Duffield, Herdman and Brenner concurred that no construction should occur on Saturdays; and all Council Members, except for Council Member Avery, concurred that the restrictions should only apply in high density areas.

#### **SS7. City Emergency Council Update**

The item was continued to a future meeting.

**III. PUBLIC COMMENTS**

Dan Daley, Healthcare Outreach Specialist with Alzheimer's Orange County, provided a handout and invited Council to the OC Leadership Forum on Aging on April 25, 2019, in Garden Grove.

Jeff Stoleron thanked Council for their service.

*City Attorney Harp reported the City Council would adjourn to Closed Session to discuss the items listed in the Closed Session agenda and read the titles.*

**IV. CLOSED SESSION**

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

**Agency Designated Representatives:** Grace K. Leung, City Manager, Carol Jacobs, Assistant City Manager, and Barbara Salvini, Human Resources Director; Labor Negotiators.

**Employee Organizations:** Part Time Employees Association of Newport Beach (PTEANB).

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

**V. RECESSED – 6:47 p.m.**

**VI. RECONVENED AT 7:07 P.M. FOR REGULAR MEETING**

**VII. ROLL CALL**

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

**VIII. CLOSED SESSION REPORT – None**

**IX. INVOCATION – Monsignor Douglas Cook, Our Lady of Mt. Carmel Catholic Church**

**X. PLEDGE OF ALLEGIANCE – Council Member Avery**

**XI. NOTICE TO THE PUBLIC**

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

Council Member Avery:

- Attended the 7<sup>th</sup> Annual Gala and Auction for the OASIS Senior Center

Council Member Duffield:

- Attended the 5<sup>th</sup> Annual Mayor's Egg Race
- Utilized slides to announce the 3<sup>rd</sup> Annual Underwater Clean-up Event on June 1, 2019

Council Member Brenner:

- Attended Speak-Up Newport, the OASIS Sailing Club opening day ceremony, the WiNN (Women in Newport Networking) event, the OASIS Annual Volunteer Luncheon, the Aviation Committee meeting, and spoke at the Corona del Mar Resident's Association annual meeting

- Met with Supervisor Doug Chaffee, along with City Manager Leung and Mayor Dixon, to discuss John Wayne Airport (JWA) issues, and with Assemblywoman Cottie Petrie-Norris, along with Mayor Pro Tem O'Neill, Council Member Herdman, and a Hoag Hospital representative, regarding the benefactor program
- Toured Fire Station #3 and the City Yard to see the new emergency trailer for the Fire Department

Council Member Herdman:

- Utilized slides to discuss the General Aviation Improvement Program, thanked the community for attending the JWA Town Hall, and announced the upcoming JWA Airport Commission meeting on May 1, 2019 and the May 7, 2019 Orange County Board of Supervisors meeting
- Attended a messaging and strategy meeting about JWA, and spoke at the Airport Commission meeting and the Newport Beach Chamber of Commerce Government Affairs meeting

Mayor Pro Tem O'Neill

- Attended the 5<sup>th</sup> Annual Mayor's Egg Race, the OASIS Annual Volunteer Luncheon, the Corona del Mar Resident's Association annual meeting, the San Joaquin Hills Transportation Corridor Joint Powers Agency Board of Directors meeting, and the Special Olympics Basketball Tournament held at the Newport Coast Community Center
- Utilized a slide to announce the upcoming Unity Torch Walk, Mini Hoop Shoot Challenge & BBQ on May 9, 2019 at the Civic Center
- Announced the Finance Committee meeting being held on Thursday April 25, 2019

Mayor Dixon:

- Utilized slides to announce the City is accepting applications on several boards, committees, and commissions that are due May 8, 2019 by noon, the Special Event Support Program applications due by April 25, 2019, the upcoming shred event on May 11, 2019 at Big Canyon Reservoir, and to recap the 5<sup>th</sup> Annual Mayor's Egg Race
- Announced the upcoming screening of *Big Sonia* in the Main Library's Friends Meeting Room
- Attended the OASIS Annual Volunteer Luncheon, the Corona del Mar Resident's Association annual meeting and the installation of the Association of California Cities Orange County (ACC-OC) board of directors where she has been appointed First Vice President of the board

### **XIII. PUBLIC COMMENTS ON CONSENT CALENDAR**

Jim Mosher expressed concern that the ordinance does not allow for an appeal process relative to the zoning hearing decision (Item 3) and that on-call contracts are being used beyond what they were intended for and about the spending increase (Item 8). He suggested the letter of proposal be submitted to the City Clerk's Office, along with the contract, to allow public access.

Regarding Item 3, Community Development Director Jurjis explained the construction extension hearing process and confirmed that these hearings would be open to the public.

### **XIV. CONSENT CALENDAR**

#### ***READING OF MINUTES AND ORDINANCES***

1. **Minutes for the April 9, 2019 City Council Meeting [100-2019]**  
Continued to the May 14, 2019 City Council meeting.

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 ADOPTION***

3. **Adopt Ordinance No 2019-8: Amending the Newport Beach Municipal Code, Setting Time Limits to Complete Construction [100-2019]**

- 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. 2019-8, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Section 15.02.095 to the Newport Beach Municipal Code, Setting Time Limits to Complete Construction.*

#### **RESOLUTIONS FOR ADOPTION**

4. **Resolution No. 2019-38: Specifying Uses for FY 2019-20 RMRA Funding from the Road Repair and Accountability Act of 2017 [100-2019]**
  - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
  - b) Adopt Resolution No. 2019-38, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a List of Projects for Fiscal Year 2019-2020 Funded by SB 1, the Road Repair and Accountability Act of 2017.*

#### **CONTRACTS AND AGREEMENTS**

5. **2018-2019 Playground Improvements Project – Award of Contract No. 7582-1 (19P01) [38/100-2019]**
  - a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301\_Class 1 (Existing Facilities) and Sec. 15302\_Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, because this involves maintenance of existing facilities and will be reconstructing existing facilities on the same site as the structure [facility] replaced. The project will have substantially the same purpose and capacity as the structure [facility] replaced;
  - b) Approve the project drawings and specifications;
  - c) Award Contract No. 7582-1 to R.E. Schultz for the total bid price of \$188,645.00, and authorize the Mayor and City Clerk to execute the contract;
  - d) Establish approximately \$20,000.00 (approximately 10 percent), contingency amount to cover the cost of unforeseen work not included in the original contract; and
  - e) Approve Budget Amendment No. 19BA-042 transferring \$28,000.00 of project savings in Jasmine Creek Maintenance Road Reconstruction to 2018-2019 Playground Improvements.

***Council Member Muldoon recused himself on Item 5 due to property interest conflicts.***

6. **Slurry Seal Program – Award of Contract No. 7432-1 (19R04) [38/100-2019]**
  - a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302(c) Class 2, (reconstruction of existing facility involving negligible or no expansion of capacity) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
  - b) Approve the project specifications;
  - c) Award Contract No 7432-1 to Roy Allen Slurry Seal, Inc. for the total bid amount of \$946,629.00;
  - d) Establish a contingency of \$95,000.00 (approximately 10 percent of total bid) to cover the cost of unforeseen work not included in the original contract; and
  - e) Approve Budget Amendment No. 19BA-043 appropriating \$168,600.00 from the General Fund Capital Projects unappropriated fund balance (cost savings from completed CIP projects) to Account No. 0121927-980000-19R04.

***Council Member Muldoon recused himself on Item 6 due to property interest conflicts.***

7. **Approval and Award of Agreement for Weed Abatement Services to Natures Image, Inc. (C-8537-1) [38/100-2019]**
  - 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 five-year term agreement with Natures Image, Inc. for weed abatement and vegetation management services for a total not-to-exceed amount of \$1,974,933.24, and authorize the Mayor and City Clerk to execute the agreement; and
- c) Approve Budget Amendment No. 19BA-044 appropriating \$40,000 from General Fund unappropriated fund balance to the Parks Division, Hazard Mitigation Account No. 0109031-841055 within the Public Works Department operating budget for weed abatement and vegetation management services with funding to be continued with each annual operating budget proposal.

***Council Members Avery and Duffield recused themselves on Item 7 due to property interest conflicts.***

**8. Approval of Amendments to Four On-Call Professional Engineering and Landscape Architectural Services Agreements [38/100-2019]**

- 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 four separate Amendments to current on-call Professional Services Agreements with Walden and Associates (C-8140-1), Civiltec Engineering (C-8304-1) and Psomas (C-8170-1) for Professional Engineering services increasing the total not-to exceed amount to \$300,000 per agreement; and with BGB Design Group (C-7133-1) for Professional Landscape Architectural services increasing the total not-to-exceed amount to \$250,000, and authorize the Mayor and City Clerk to execute the amendments.

**MISCELLANEOUS**

**9. Planning Commission Agenda for the April 18, 2019 Meeting [100-2019]**

Receive and file.

**10. Grants and Donations Report for the Quarter Ending March 31, 2019 [100-2019]**

- 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.

**11. Storm Drain Operations Fiscal Year 2018/2019 Budget Amendment [100-2019]**

- 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 Budget Amendment No. 19BA-041 appropriating \$550,000 from FY 2018/19 General Fund unappropriated fund balance to the Storm Drain Program.

**12. City's Position in Opposition to a State Drinking Water Tax; Support for Alternative State Legislative Measures SB 414 and SB 669 [100-2019]**

- 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) Oppose a State Drinking Water Tax and authorize the City Council and staff to communicate with legislators and join coalition letters in opposition to new water taxes; and
- c) Support alternative State Legislative measures SB 669 Safe Drinking Water Trust and SB 414 Small System Water Authority Act; and authorize the City Council and staff to communicate with legislators and join coalition letters in support of these measures.

**Motion by Mayor Pro Tem O'Neill, seconded by Council Member Duffield,** to approve the Consent Calendar; and noting the recusals by Council Member Muldoon on Items 5 and 6, recusals by Council Members Avery and Duffield on Item 7, and the continuance of Item 1.

The motion unanimously carried.

**XV. ITEMS REMOVED FROM THE CONSENT CALENDAR – None**

**XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Carly Zamani, representing Juan and Diana Dang, requested the City Council grant a short term lease permit that City staff originally denied.

Diana Miner voiced concerns regarding lack of parking, crime increase, and safety issues on Lido Isle.

Denys Oberman requested that Council restore her property rights and discussed the problem she is experiencing due to a property dispute with her neighbor.

Sharon Courson voiced concerns regarding the increase of crime and parking issues near Newport Harbor High School and the lack of response she is getting from Newport Beach Police.

***Council Member Muldoon announced that, since AT&T owns the Ford Road Residential project property and out of an abundance of caution, he recused himself due to business interest conflicts.***

Janice Grace, Liz Morgan, Bobbi Robinson, Carol Hatch, and Jake Furgatch expressed reasons for opposing the Ford Road Residential project, requested the City maintain the open spaces for parks and recreation, and expressed confusion about the process.

Jim Mosher noted the mitigated negative declaration is currently open for public comment until May 8, 2019, and Community Development Director Jurjis announced it can be viewed at the City Clerk's Office and online. Mayor Dixon highlighted the public process for the project.

Sandra Ayres noted there will be two vacancies on the Planning Commission and asked Council to listen to what their constituents want and appoint people who will assist in preserving the City's quality of life.

**XVII. PUBLIC HEARING**

**13. Resolution No. 2019-39: Community Development Block Grant – 2019-2020 Action Plan (C-8482) [38/100-2019]**

Community Development Director Jurjis and Real Property Administrator Whitlinger utilized a PowerPoint presentation to review the action plan process, funding, suggested allocations, and further explained the next five-year cycle and the consolidated action plan.

Discussion ensued relative to allocating no less than \$10,000 per organization during the next cycle due to the cost of the mandatory audit.

***Mayor Dixon opened the public hearing.***

Jim Mosher questioned the amount of the administration fee, the purpose of the maps in the resolution, the additional areas of the City that are lower income, the Section 108 loan repayment, if this item would correlate with the Orange County Housing Financial Trust (Item 14), and the cover photo on the front of the Action Plan.

***Hearing no further testimony, Mayor Dixon closed the public hearing.***

Community Development Director Jurjis reported an additional \$1,349 that could be used for nonprofit organization allocations.

In response to Council questions, Clint Whited, Vice President, LDM Associates, reported Court Appointed Special Advocates(CASA) also receives CDBG funds from other Orange County cities.

Mayor Pro Tem O'Neill announced that, in his motion, he recommends removing Second Chance Orange County's funding and finding another funding source to assist them, and reallocating those funds to CASA, including the additional \$1,349.

**Motion by Mayor Pro Tem O'Neill, seconded by Council Member Muldoon,** to a) find the approval of 2019-2020 Action Plan exempt from the National Environmental Policy Act (NEPA) pursuant to 24 CFR Part 58, Section 58.34; b) find the approval of 2019-2020 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 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. 2019-39, *A Resolution of the City Council of the City of Newport Beach, California, Approving the 2019-2020 Action Plan for the Allocation of the Federal Community Development Block Grant for the 2019-2020 Fiscal Year*; and d) authorize the City Manager to:

1. Adjust appropriations to specific programs and projects as necessary to conform with the final 2019-2020 formula grant allocation of CDBG funds from HUD;
2. Submit the 2019-2020 Action Plan to HUD;
3. Execute the 2019-2020 CDBG Program Grant Agreement and all related documents on behalf of the City (C-8482-1B);
4. Execute sub-recipient agreements, as amended, with the nonprofit organizations receiving allocations of CDBG funds in the Action Plan (C-8482-2B, 3B, 4B, 6B and 8); and
5. Authorize the Community Development Director, or his/her designee, to be the official representative of the City of Newport Beach to submit required environmental documentation for CDBG projects.

The motion unanimously carried.

#### **XVIII. CURRENT BUSINESS**

##### **14. Consideration of Joint Powers Authority with County of Orange and Other Orange County Cities to Create a Housing Finance Trust (C-8528-1) [38/100-2019]**

Dave Kiff, Interim Executive Director for the Association of California Cities, Orange County (ACC-OC), utilized a PowerPoint presentation to explain the Orange County Housing Finance Trust and the joint power authority, how the Orange County Housing Finance Trust was formed, the goals of the trust, major issues and questions, cost scenarios, the board makeup, the difference between public and private trusts, money the trust will likely have, and reasons why the City should join.

In response to Council questions, Mr. Kiff noted they would like to keep contracts to a minimum and avoid big bureaucracy, and discussed the competition for Proposition 1 funds and the process to apply for funding.

Jim Mosher noted an error in the resolution and believed it should be specified when and where the board will be meeting.

**Motion by Mayor Dixon, seconded by Mayor Pro Tem O'Neill,** 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) adopt Resolution No. 2019-40, *A Resolution of the City of Newport Beach, California, Entering into the Joint Exercise of Powers Agreement to become a Member of the Orange County Housing Finance Trust*.

The motion unanimously carried.

##### **15. Initiation of Zoning Code and LCP Amendments (PA2019-055) [100-2019]**

***Mayor Pro Tem O'Neill and Clerk Brown recused themselves due to real property interest conflicts.***

Denys Oberman questioned the amendments to the planning and zoning code and recommended that they be individually listed and not bundled with the Local Coastal Plan (LCP) so the public can clearly understand what changes are being made.

Community Development Director Jurjis detailed the steps that will be taken during the process to ensure the City remains open and transparent.

Jim Mosher commented on the history of housing height restrictions and the codes that govern those, as he believes the codes are inconsistent and need to be reviewed.

**Motion by Council Member Herdman, seconded by Council Member Duffield,** to a) determine this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and b) adopt Resolution No. 2019-41, *A Resolution of the City Council of the City of Newport Beach, California, Initiating Amendments to Title 20 Entitled "Planning and Zoning" and Title 21 Entitled "Local Coastal Program Implementation Plan" of the City of Newport Beach Municipal Code Related to Minimum Lot Size and Dimensions, Overlay Zoning Districts, Public Hearing Notification, Corrections to Setback Maps and the Transfer of Development Rights (PA2019-055).*

The motion unanimously carried 6-0.

**16. Software License Agreement with Tyler Technologies Inc. for Replacement of the City's Land Management System [38/100-2019]**

Community Development Director Jurjis provided a brief background of the item and introduced, Systems and Administration Manager Campagnolo, Purchasing Agent Nguyen, and IT Manager Luengas-Alwafai who used a PowerPoint presentation to discuss what the software will be used for, why it needed to be replaced, the software selection process, the enhanced features of the product, the scope of work, the project expense, and the hiring of a third party project manager to help with the transition that will take approximately 18 months.

In response to Council Member Herdman's questions, Systems and Administration Manager Campagnolo indicated that the third party project manager would advocate with Tyler Technologies for the City and work with IT Manager Luengas-Alwafai and himself to assist with staff training.

Jim Mosher questioned why three of the six proposers were not interviewed, if the software is used by other cities, and what the maintenance costs will be over the next 25 years.

In response to Mayor Dixon's request, Community Development Director Jurjis and IT Manager Luengas-Alwafai explained that three of the proposals were not complete and, therefore, did not qualify to move forward in the selection process and that the future maintenance costs will be saving the City \$1,000 a year by year three.

Mayor Dixon was pleased with staff's financial planning and emphasized that General Fund money would not be used.

**Motion by Mayor Pro Tem O'Neill, seconded by Mayor Dixon,** 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) authorize the Mayor and City Clerk to execute a Software License and Professional Services Agreement with Tyler Technologies Inc. (C-8399-1) for the purchase, installation, and implementation services of a Land Management System in an amount not to exceed \$1,355,853; and c) authorize the Mayor and City Clerk to execute a Professional Services Agreement with Park Consulting Group, Inc. (C-8266-1) for project management services and change management processes in an amount not to exceed \$200,000.

The motion unanimously carried.

XIX. MOTION FOR RECONSIDERATION – None

XX. ADJOURNMENT – Adjourned at 9:11 p.m. in memory of the victims of the Easter Sri Lanka attack

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 18, 2019, at 4:00 p.m.

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Diane B. Dixon  
Mayor

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Leilani I. Brown  
City Clerk