

ATTACHMENT D

RESOLUTION NO. 2019- 44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING CITY COUNCIL POLICY B-17 “PARKS, FACILITIES, AND RECREATION PROGRAM DONATIONS”

WHEREAS, the City of Newport Beach (“City”) is governed, in part, by its Charter, Municipal Code, and adopted City Council Policies;

WHEREAS, at its August 7, 2018 meeting, the City Council directed the Parks, Beaches and Recreation Commission to review City Council Policy B-17 (Parks, Facilities and Recreation Program Donations) for future Council consideration;

WHEREAS, the Parks, Beaches and Recreation Commission formed an ad hoc committee to review City Council Policy B-17 with interested parties and presented recommendations to the entire Parks, Beaches and Recreation Commission regarding revisions to improve readability and efficiency;

WHEREAS, on April 2, 2019, the Parks, Beaches and Recreation Commission approved for submission to City Council revisions to City Council Policy B-17, as shown in the revised policy attached to this resolution as Exhibit 1 and incorporated herein by reference;

WHEREAS, the Parks, Beaches and Recreation Commission’s revisions increase the maintenance fee of donations, include options for bench donations, provide clarity and avoid ambiguity on remaining provisions; and

WHEREAS, the Parks, Beaches and Recreation Commission recommends the City Council revise City Council Policy B-17 as shown in Exhibit 1.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby amends City Council Policy B-17 (Parks, Facilities and Recreation Program Donations) as provided in Exhibit 1, attached hereto and incorporated herein by reference.

Section 2: All prior versions of City Council Policy B-17 that are in conflict with the revisions adopted by this resolution are hereby repealed.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 5: Except as expressly modified in this resolution, all other City Council Policies, sections, subsections, terms, clauses and phrases set forth in the Council Policy Manual shall remain unchanged and shall be in full force and effect.

Section 6: The City Council finds the adoption of this resolution and the amendment of the specified City Council Policies is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 14th day of May, 2019.

Diane B. Dixon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



For: Aaron C. Harp
City Attorney

Attachment: Exhibit 1 – Revised City Council Policy B-17

PARKS, FACILITIES, AND RECREATION PROGRAM DONATIONS

Purpose

The City Council recognizes the need to promote community involvement and active participation in quality of life components throughout the community, and the need to establish a fair, equitable, and uniform procedure by which gifts may be donated to the City. This policy establishes criteria for donations to assure area compatibility, attractiveness, usefulness, and sustainability of maintenance. Each donation considered for inclusion in the City's parks and streets system will be subject to established limitations and guidelines for each particular area.

Policy

A. Acceptance of donations of cash or tangible items

1. Based on the value of the donation, appropriate City staff will review the acceptability of any donation and determine if the benefits to be derived warrant acceptance of the donation.
2. Criteria for evaluation includes consideration of any initial expenditure required in order to accept the donation, the potential and extent of the City's obligation to maintain the donation for a minimum of 10 years, and the community benefit to be derived from the donation. After 10 years, the donated item and/or plaque may be removed or replaced by the City.
3. The cost of a tangible donation shall also include a maintenance fee equal to 50% of the estimated 10 year maintenance cost of the donated item, paid for in full by the donor at the time of the donation. This maintenance fee is in addition to the cost and installation of the donated item.

B. Types of Donations

Donations may be received in the form of cash, real, or personal property. Restricted donations are those donations that the donor specifies for a particular City location or purpose. Unrestricted donations are those donations that are given to the City for unspecified use.

1. Cash Gifts

- a. Donation of cash or items valued at or below the amount set in City Council Policy F-3 may be accepted by the City Manager. However, any donation considered a park facility improvement that would

result in an installation of a permanent fixture in the parks must be in compliance with subsection 4 of this policy, *Park, Public Improvement, and Street Amenities*.

- b. Donations above the amount set in City Council Policy F-3 for the City Manager may be accepted by the Parks, Beaches and Recreation Commission.
- c. Gifts of funds may be designated for restricted or unrestricted use. Gifts of cash or items that have a restriction must first be approved by the City Council. Gifts of funds designated for unrestricted use shall be programed and spent on City parks as determined by the City.
- d. Gifts of funds accepted by the City imply no other obligation besides using donated funds for the specified purpose.

2. Trees

Tree donations add beauty to City parks and facilities. Trees may be donated and installed at parks recommended by the Deputy Public Works Director and approved by the Parks, Beaches and Recreation Commission. Depending on availability, the minimum cost of tree donations must be equal to the price of a 48" boxed container plus maintenance costs, unless waived by the Commission. Tree donations are limited to specific species that match the landscape in park locations. Tree donations are not eligible for donation plaques, however the donor will be provided with a certificate acknowledging the donation and the location of the donated tree.

3. Benches

Bench donations may be donated and installed in different areas of placement including parks, streets, along the beachfront, within villages, commercial districts, neighborhoods, on a specific island, etc. The Parks, Beaches, and Recreation Commission, with the assistance of Public Works Department staff, shall designate the type, style, design, and placement of City-owned benches on City property.

- a. An inventory of designated benches and available bench locations will be maintained by the City.
- b. Donation requests must be submitted to the Public Works - Municipal Operations Division and meet the following requirements:

- i. Bench donations along a city street, beachfront or other public right of way will require the approval of the Deputy Public Works Director.
- ii. Bench donations within a commercial district will require notification of, and an endorsement from, the local business association, if applicable.
- iii. Bench donations for parks and facilities within a residential community will require notification of residents and an established homeowners association or common interest development, when applicable, within 300 feet of placement.
- iv. Bench donations will be maintained (as defined by the City) for a minimum period of 10 years. After 10 years, the donated item and/or plaque may be removed or replaced at the discretion of the City. For existing bench donations, the donated items will be maintained for 10 years from adoption of this policy.
- v. Four types of benches are able to be donated, with exceptions by approval by the Parks, Beaches and Recreation Commission. Donors can choose from the following:
 - 1. Santa Monica Style – Standard Park Bench with concrete legs and composite bench seat slats;
 - 2. Huntington Beach Style - Standard Concrete Park Bench;
 - 3. Victoria Style – Backless Standard Concrete Park Bench; or
 - 4. Infinity Style – Standard Park Bench with metal legs and composite bench slats. Comes in standard or backless.

4. Park, Public Improvement, and Street Amenities

Other amenities such as drinking fountains, tables, and other equipment that will improve public places in parks, in and/or around public buildings, streets, walkways, and trails may be donated to the City.

- a. Other amenities that may be donated will be identified and approved by City Staff.
- b. Donation of public amenities valued at or below the amount set forth in City Council Policy F-3 may be accepted by the City Manager.
- c. Donation of public amenities valued at the amount set forth in City Council Policy F-3 and above may be accepted or declined by the Parks, Beaches and Recreation Commission.
- d. Donations to be installed on public sidewalks shall meet the criteria described in Policy L-6 Encroachments in Public Rights-of-Way and approved by the Public Works Director.

C. Naming Rights

Donors may receive naming rights on capital improvement projects for which any donation matches or exceeds 75% of the total budgeted cost for the area benefiting from the donation. All such donations will be submitted to the City Council for acceptance of the donation and the name to be applied to the project in keeping with City Council Policy B-9 – *Naming of City Parks & Facilities*.

D. Sponsorships

Special Events are recognized as fundraising activities. Where donations or sponsorship of a special event will require some form of recognition, and, in order to provide recreational opportunities, corporate or organizational sponsors may be recognized by use of logos and name on event banners and signage. Signs and literature at all such special events would be at the discretion of the appropriate Department Director. The size, scale and location of corporate logos and names should not dominate the event facilities or area. Corporate logos and/or names should not be displayed in a manner that would, in any way, suggest the endorsement of the Department or the City. All signs must comply with the City's existing sign code and Council Policies B-3 and B-8.

E. Right to Decline

The City of Newport Beach reserves the right to decline any donation if, upon review, acceptance of the donation is determined to be not in the best interest of the City.

F. Special Privileges

Making a donation or co-sponsoring a special event does not entitle a sponsor/donor to any special privileges other than those stated in this policy such as recognition, plaques or displays at events, unless otherwise agreed upon and approved by the Department Director or the City Council when appropriate.

G. Timeliness

All donations are limited to a period of 10 years. After 10 years, the location will become available for a new donation.

H. Acknowledgements

1. Letter of acceptance of donation will be sent to donor.
2. In some cases, recognition of donations may be given at Commission or Council Meetings.
3. Plaques are reserved for donations meeting the following criteria:
 - a. Donors providing donations valued at \$5,000 to less than \$10,000 may elect to provide a dedicatory plaque not exceeding 2" x 6" with a name designated by the donor preceded by one of the following: "Donated by" or "Donated for." Trees are not eligible for donation plaques.
 - b. Donors providing donations valued at \$10,000 or greater may elect to provide a dedicatory plaque not exceeding 5"x7" with name, date and dedication wording not exceeding 25 words. Plaque content must be approved by the Parks, Beaches & Recreation Commission. Trees are not eligible for donation plaques.
 - c. Donors providing donations valued at least \$1,000 that recognize individuals or organizations that have provided distinguished long term and/or significant service to the City may include a dedicatory plaque not exceeding 5"x7" with name, date and dedication wording not exceeding 25 words. Individuals can include City employees with 25 or more years of distinguished service, as determined by the PB&R Commission.
 - d. Plaques are at the expense of the donor and the City will assume ownership and maintenance of both the donated item and plaque, however, the City does not assume replacement costs due to vandalism or theft. Plaques will remain on a donated item during its

useful life, or up to 10 years. If the donated item becomes unusable or unsightly within the 10-year period due to natural causes, the City does not assume responsibility to keep and/or maintain the item. The City reserves the right, without permission of the donor, to remove and/or relocate the donated item for any reason. The year of the donation will be included on all plaques.

- e. Plaque information will be entered on the application form and ordered by the City.

History

Adopted I-15 – 7-22-1991 (“Park Improvement Donation”)

Amended I-15 – 1-24-1994 (changed to G-5)

Amended G-5 – 6-27-1994

Amended G-5 – 6-24-1996

Adopted B-17 – 5-9-2006 (“Park, Facilities, & Recreation Donations”, incorporation G-5)

Amended B-17 – 2-24-2009

Amended B-17 – 6-26-2012

Amended B-17 – 8-8-2017

Amended B-17 – 5-14-2019