

**City Council Minutes
Study Session and Regular Meeting
August 13, 2019**

I. ROLL CALL – 4:10 p.m.

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

II. CURRENT BUSINESS

Mayor Dixon announced that Item SS4 would be discussed before Item SS3.

SS1. Clarification of Items on the Consent Calendar - None

SS2. Proclamation Recognizing Spaghetti Bender's 50th Anniversary

Mayor Dixon read the proclamation and presented it to Joyce Hoskinson and her son, Michael. Michael thanked the City for its support, Joyce thanked the Spaghetti Bender staff, and Council Member Brenner shared her experiences with the restaurant.

SS4. Marine Avenue Trees Maintenance

Council Member Herdman recused himself out of abundance of caution due to real property interest conflicts.

Public Works Director Webb, Deputy Public Works Director Martin, and City Arborist and Landscape Manager Pekar utilized a PowerPoint presentation to review the Marine Avenue Rehabilitation Project, discuss the maintenance and history of the Marine Avenue trees, the committee that was formed in 2017, why a design consultant was utilized for a concept plan, the options for new types of trees, the empty tree wells, the role of PB&R on tree issues/removals of Special Trees, report on fallen limbs due to recent weather events, annual tree inspections, and display examples of Eucalyptus in similar cities, confirmed that the Applegate report and Walt Warriner report were reviewed, and discussed the recommendations.

In response to Council questions, John Noyes, chair of the committee and the Balboa Island Merchants Association detailed the composition of the committee and why it was formed, and indicated former Council Member Selich requested money in the budget to hire a consultant to develop drawings.

Staff outlined the definition of Special Trees under City Council Policy G-1 (*Retention, Removal and Maintenance of City Trees*), and discussed site conditions, maintenance history and practices, the reason for trimming early in the morning, and the trial basis to plant an African Tulip tree and Ginko trees.

Council Member Brenner explained that, in the late 1980s, as Chair of the Parks, Beaches, & Recreation Commission (PB&R), they often recommended removing hazardous trees, particularly on Poppy Avenue. However, the Council at that time chose not to remove the trees which recently resulted in the removal of all the Eucalyptus trees due to sidewalk damage.

Regarding the risk of failure and liability to the City, City Attorney Harp explained the liability risk to the City based on these assessments and City Arborist Pekar reviewed the International Society of Arboriculture (ISA) tree assessment form.

In response to Council questions, staff stated that, if part of the tree is high risk, the whole tree is considered high risk, agreed there are 27 high risk trees, but there are 10 trees with the highest risk, explained the difference between the Applegate and Warriner reports, and clarified Great Scott's fees based on diameter of tree and the recent changes to their contract.

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Mayor Pro Tem O'Neill noted this issue will be addressed by PB&R on September 3, 2019, and Council will not be voting on this issue today. Staff clarified no timeline has been established for the Marine Avenue project, but it would still need to go before both PB&R and Council.

Council Member Muldoon emphasized he is trying to stop staff from removing the trees.

Council Member Brenner indicated the tree issue got mixed-up with the infrastructure project, staff is trying to work with the community, and expressed concern that, if no action is taken until all the trees are in distress, the result will be similar to what happened on Poppy Avenue. She agreed that the trees should be protected, but Council also needs to protect its citizens.

In response to Council questions, staff discussed the inventory system that goes back to 1999, indicated the 17 other trees can be reassessed, noted sidewalks ramps must follow Americans with Disabilities Act (ADA) guidelines, and discussed tree and root growth.

John Noyes briefly discussed the proposed infrastructure project and reiterated this issue will first be heard by PB&R.

Jodi Bole, Balboa Island Preservation Association (BIPA), indicated she took leaf and bark samples to a lab, displayed photos of heartwood decay, and requested Council adopt an emergency resolution to prohibit staff from taking any action on the Marine Avenue trees until PB&R action occurs.

Mark Porter, arborist, believed the City needs alternative risk strategies, discussed tree failure statistics, suggested testing all the trees, and believed BIPA's concerns are valid.

Greg Applegate, arborist, discussed the accident on Irvine Avenue, noted he did not find root decay on the Marine Avenue trees, believed only one tree needs to be removed, and suggested stopping lion tail pruning.

Jim Moloney, attorney for BIPA, highlighted a meeting he attended with staff to discuss the tree policy and indicated BIPA wants a moratorium to slow down the trimming.

Casper Yen discussed why he believed the City has not been following its tree policy.

Walt Warriner, arborist, explained why he believes 27 trees should be removed, noted Eucalyptus trees are a high risk species, and indicated he stands behind his recommendations.

Bob Rush provided a copy of a letter he sent to the Fair Political Practices Commission (FPPC) regarding Council Member Herdman's potential conflict on this issue.

Seymour Beek discouraged any plans that involve the removal of the trees.

Ed Black noted BIPA hired three arborists while the City only hired one arborist, and indicated BIPA compared all the reports and found discrepancies.

Randy Black believed the City's plan on Marine Avenue is linked to the removal of historic trees and mature trees add 20% to 30% to property values.

Dennis Bress believed the public can handle the removal of three trees, but the City needs a life cycle tree maintenance plan. He requested a moratorium on tree cutting.

Mike Sullivan believed the right trees should be planted in the right spots, and the City should consult the experts.

Dick Ashoff expressed concern for these trees, noting the City removed trees in Balboa Village and never replaced them.

Council Member Muldoon noted the difference in the number of trees the arborists are recommending for removal, agreed a moratorium on tree removal should be enacted and the new technology should be used on these trees, and suggested consulting with all the arborists, moving forward with removing no more than three trees, planting trees in the empty wells, and cycling in trees in a more thoughtful manner.

Council Member Avery agreed with preserving trees and commended staff for their hard work.

Council Member Duffy noted Council has made performing duties as economically as possible a priority for staff, but believed, in this case, the City should spend the additional funds to use the new technology to test the trees.

Council Member Brenner agreed Council has been pushing staff for years about watching the budget, requested all the arborist reports be submitted to PB&R, and suggested changing everyone's terminology to state the City is replacing trees, not removing trees.

Mayor Pro Tem O'Neill indicated the moratorium would also need to go to PB&R and suggested providing them with options and cost details.

Mayor Dixon thanked the community for their involvement, suggested making Level 3 testing standard for special trees that are designated in the Council policy, and requested the item come back to Council after it is heard by PB&R.

SS3. 2019 Water Rate Study

Utilities Director Vukojevic, Utilities Manager Catron, and Consultant Sanjay Gaur of Raftelis utilized a PowerPoint presentation to discuss the recent water projects, the City's water system, the 2019 Water Master Plan, display photos of infrastructure failures, highlight Utilities Department customer service, the Water Enterprise Fund, background on water utilities, the goals and objectives of the water rate study, the proposed reserve policy, projected ending balance, graph of the proposed financial plan, customer impact analysis, proposed monthly water fixed charges, proposed water usage, the five year proposed water rates, and next steps.

In response to Council questions, staff and the consultant explained that, in addition for paying for the purchase of water, water customers pay a fee for the ability to use water 24 hours per day, 7 days per week, confirmed expanding the system requires a master plan, and agreed it is a big investment into the infrastructure.

Mayor Pro Tem O'Neill pointed out, if rates are not increased, the fund will go into a deficit.

In response to Tim Stoaks and Jim Mosher's questions, staff indicated that 70% of the City receives City water, the proposed rates are competitive with neighboring cities, IRWD's rates are paid through the user's property tax and only pay for the operating cost, the fixed cost for the City customers will most likely be \$10 more, affordability and conservation must be maintained, and would be achieved with this structure.

Hoyin Ip expressed support for increasing the rates and believed tiered rates encourages conservation.

III. PUBLIC COMMENTS

Regarding Closed Session Item IV.B, Jim Mosher thanked staff for explaining the litigation, questioned if the decision should be appealed and if the City would really make a difference by joining the amicus, and expressed his concerns about the cost the City would incur by being involved.

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 – Council Chambers Conference Room

A. **CONFERENCE WITH LABOR NEGOTIATORS**

(Government Code § 54957.6): 1 matter

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

Employee Organization: Lifeguard Management Association (LMA)

B. **CONFERENCE WITH LEGAL COUNSEL**

ANTICIPATED LITIGATION – INITIATION OF LITIGATION

(Government Code § 54956.9(d)(4): 1 matter

Based upon existing facts and circumstances, the City Council will be considering joining an amicus in the case of *Robert Martin v City of Boise*, Ninth Circuit Court of Appeals Case No. 15-35845, United States District Court for the District of Idaho, Case No. 1:09-cv-00540-REB, as an amicus curia.

V. RECESSED – 6:56 p.m.

VI. RECONVENED AT 7:15 P.M. FOR REGULAR MEETING

VII. ROLL CALL

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

VIII. CLOSED SESSION REPORT

Regarding Item IV.B, City Attorney Harp reported that a motion was made by Mayor Pro Tem O'Neill and seconded by Council Member Brenner to join the litigation as an amicus curiae, and the motion was unanimously approved by the City Council. He listed the plaintiffs and defendant, and briefly explained the lawsuit.

IX. INVOCATION – Pastor Jorge Molina, Mariners Church, Irvine

X. PLEDGE OF ALLEGIANCE – Council Member Muldoon

XI. NOTICE TO THE PUBLIC

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

Council Member Avery:

- Attended an Orange County Sanitation District meeting

Council Member Duffield:

- Provided an update on the Harbor dredging project

Council Member Muldoon:

- Announced he will be attending and presenting a proclamation at a Korean War and WWII Veterans luncheon at American Legion Post 291 on August 15, 2019

Council Member Brenner:

- Displayed slides to discuss a Homeless Task Force Subcommittee meeting at Supporting People In Need (SPIN) that she attended with Jean Wegener and Terry Moore; and a Costa Mesa Network for Homeless Solutions meeting at Costa Mesa City Hall

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- Attended an ad hoc committee meeting regarding short term lodging with Mayor Dixon and Council Member Herdman; a tour of the Melinda Hoag Smith Center for Healthy Living with Terry Moore and Michelle Rose; and the monthly meeting with the Corona del Mar Residents Association's Executive Committee
- Met with her Newport Harbor High School Mentee, Vanessa Conejo; former Mayor Evelyn Hart about possible plans to add an exercise pool at OASIS Senior Center; City Manager Leung, Public Works Director Webb, Traffic Engineer Brine, and others to ensure traffic is a consideration in project planning; and Mayor Dixon, Mayor Pro Tem O'Neill, Public Works Director Webb, Assistant City Engineer Sinacori, Balboa Island Improvement Association (BIIA) leadership, and Southern California Edison (SCE) staff regarding undergrounding utilities costs
- Filmed a tour of the new Corona del Mar Branch Library for NBTV with the head Librarian

Council Member Herdman:

- Announced he will be attending the Korean War and WWII Veterans Luncheon on August 15, 2019
- Attended the Newport Beach Police Department (NBPD) summer Teen Academy Graduation with Mayor Pro Tem O'Neill and Council Member Brenner
- Judged at the Balboa Island Sandcastle Contest
- Continued talking to people about homeless issues and responding to emails regarding the proposed Marine Avenue rehabilitation project
- Requested a future agenda item to consider if the Friends of the Newport Beach Animal Shelter (FONBAS) can be allowed to insert membership information into the City's dog license renewal mailers

Mayor Pro Tem O'Neill

- Attended NBPD's National Night Out event, the Teen Academy Graduation, and the TCA Board Meeting
- Announced office hours on September 11, 2019, from 8:00 a.m. to 10:00 a.m. at the Newport Coast Community Center
- Introduced his mentee from Newport Harbor High School, Timothy Tizon

Mayor Dixon:

- Announced that the library was the California History Section's featured City of the Month for July; the upcoming Concert on the Green on August 25, 2019; and a college application workshop in the Friends Room on August 31, 2019
- Displayed slides to discuss Earth Day messages from children in the City and a Sunday *New York Times* article, "Where Hollywood's Golden Age Stars Found Safe Harbor"

Tim Stoaks, President of FONBAS, announced that FONBAS is ready to purchase a permanent site for the animal shelter, discussed how they obtained the funding, introduced several FONBAS Board Members in the audience, and proclaimed Mayor Dixon as the first *Member of FONBAS*.

Mayor Dixon commended FONBAS members for all their efforts and recognized the benefits of public-private partnership.

XIII. PUBLIC COMMENTS ON CONSENT CALENDAR

Prior to discussing Item 14, *Council Member Muldoon recused himself due to real property interest conflicts.*

Ruth Sanchez Kobayashi congratulated the City for joining the litigation (Item IV.B) and believed that 75% of the people served in the programs listed under Item 14 are non-residents.

Wendy Weeks from Youth Employment Center requested that Council continue to provide funding to her organization (Item 14).

XIV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. **Minutes for the July 23, 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.

RESOLUTION FOR ADOPTION

3. **Resolution No. 2019-72: Approval and Award of Professional Services Agreement with Avenu Insights and Analytics, LLC (“Avenu/MuniServices”) for Sales and Use Tax Auditing and Analysis (C-8184-2) [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;
 - b) Authorize the Mayor and City Clerk to execute the amended one-year Professional Services Agreement with the option to extend for an additional four years, in one-year increments, with Avenu Insights and Analytics, LLC (C-8184-1), for sales and use tax auditing and analysis, for a total not-to-exceed amount of \$531,000 over five years;
 - c) Authorize the Mayor and City Clerk to execute a Contract Governing Access to Confidential Taxpayer Data with Avenu/MuniServices (C-8184-2) describing the legal requirements within California Revenue & Taxation Code (“RTC”) 7056; and
 - d) Adopt Resolution No. 2019-72, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Access to Sales or Transaction and Use Tax Records and Documents Pursuant to California Revenue & Taxation Code Section 7056(b).*

CONTRACTS AND AGREEMENTS

4. **Bayside Drive and Jamboree Road/Marine Avenue Improvements – Notice of Completion for Contract No. 7224-1 (16R12) [38/100-2019]**
 - 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 the applicable portions of Civil Code; and
 - c) Release Faithful Performance Bond one year after acceptance by the City Council.
5. **Bayview Heights Drainage Project – Notice of Completion for Contract No. 7109-1 (15X11) [38/100-2019]**
 - 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 the Civil Code; and
 - c) Release the Faithful Performance Bond one year after acceptance by the City Council.
6. **2018-2019 Playground Improvements Project – Notice of Completion for Contract No. 7582-1 (19P01) [38/100-2019]**
 - 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 Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and
 - c) Release the Faithful Performance Bond one year after acceptance by the City Council.
7. **Cameo Highlands Street Reconstruction Project (20R21) – Approval of Professional Services Agreement with Psomas – Contract No. 7067-1 [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; and
- b) Approve a Professional Services Agreement with Psomas of Santa Ana, California, for the Cameo Highlands Street Reconstruction project at a not-to-exceed price of \$233,235.00, and authorize the Mayor and City Clerk to execute the Agreement.

Council Member Muldoon recused himself on Item 7 due to real property interest conflicts.

8. Via Lido Soud and Nord Water Main Replacement Project (20W12) – Approval of Professional Services Agreement with HDR Engineering, Inc. – Contract No. 7645-1 [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; and
- b) Approve a Professional Services Agreement with HDR Engineering, Inc. of Irvine, California, for the Via Lido Soud and Nord Water Main Replacement project at a not-to-exceed price of \$232,700.00, and authorize the Mayor and City Clerk to execute the Agreement.

9. Amendment No. One to Agreement with Rainbow Disposal Co., Inc. dba Rainbow Environmental Services (Rainbow) for Beach Container Refuse Collection Service (C-4709) [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 Amendment No. One to the Agreement with Rainbow for Beach Container Refuse Collection Service to modify the compensation terms from an annual not-to-exceed to a contract not-to-exceed amount, increase the total not-to-exceed amount by \$120,000.00 for a total not-to-exceed amount of \$1,497,624.30, and authorize the Mayor and City Clerk to execute the agreement.

10. Amendment No. Two with Global Power Group, Inc. for Maintenance and Repair Services of City Generators (C-6185) [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 Amendment No. Two to the Maintenance/Repair Services Agreement with Global Power Group, Inc., for preventative maintenance and as-needed repair services for City generators, adding \$120,000 to the contract for a total not-to-exceed amount of \$495,000 for the remainder of the term of the agreement; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

11. Wastewater Flow Agreement with Costa Mesa Sanitary District (C-8185-1) [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 the amended Wastewater Flow Agreement with the Costa Mesa Sanitary District related to specific properties within the City of Newport Beach; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

12. Pulled from the Consent Calendar

MISCELLANEOUS

- 9. Planning Commission Agenda for the August 8, 2019 Meeting [100-2019]**
Receive and file.

14. Community Programs Grants for Fiscal Year 2019-20 (C-8281) [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) Pursuant to City Council Policy A-12, find that the organizations listed below provide services or programs that serve residents and are beneficial to residents' quality of life and authorize the allocation of \$67,000 in Community Programs Grants in the following manner:

<u>Applicant</u>	<u>Recommendation</u>
Advocates for Grandparent Grandchild Connection	\$ 1,000
Balboa Island Museum	20,000
Boys & Girls Club of Central Orange County	7,000
Helping Hands, Our Lady Queen of Angels	10,000
Newport Beach Sister Cities Association	2,000
Newport-Mesa Family YMCA of Orange County	7,000
Share Our Selves	15,000
Youth Employment Services	5,000
Total	\$ 67,000

Council Member Muldoon recused himself on Item 14 due to real property interest conflicts.

Motion by Mayor Pro Tem O'Neill, seconded by Council Member Herdman, to approve the Consent Calendar, except for the item removed (Item 12); and noting the recusal by Council Member Muldoon on Items 7 and 14, and amendments to Items 1, 3 and 11.

The motion carried unanimously.

XV. ITEM REMOVED FROM THE CONSENT CALENDAR

12. Replacement of the Outdoor Warning System (C-8186-1) [38/100-2019]

Emergency Services Coordinator Eing provided the staff report to discuss the state of the current system and the proposal to replace the outdoor warning system with LRAD systems.

Mayor Dixon thanked staff for their hard work and dedication on getting the system replaced.

Brian Ouzounian voiced his concerns about being unable to hear the sirens during testing and suggested utilizing a non-corrosive material similar to the City of Hilo's system.

In response to Council questions, Deputy Director Stafford confirmed the installation of the new warning system would occur between Thanksgiving and Christmas, discussed the sirens projection range, and confirmed the sirens will be tested at full power every month. City Manager Leung confirmed that today's discussion would not be considered a meeting of the Emergency Council for Federal Emergency Management Agency (FEMA) purposes, but that meeting would be held later in the year.

Motion by Council Member Avery, 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) approve a Purchase and Installation Agreement with Mallory Safety & Supply, LLC for the purchase and installation of an LRAD Corporation outdoor warning system equipment for a not to exceed amount of \$200,534.71 plus a contingency amount of \$20,000 (approximately 10%) to cover unforeseen costs, for a total not-to-exceed amount of \$220,534.71, and authorize the Mayor and City Clerk to execute the Agreement; and c) approve Budget Amendment No. 20-006-CC appropriating \$220,534.71 from the unappropriated General Fund capital project savings to Account No. 01201928-980000-20M15.

The motion carried unanimously.

XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Jim Mosher expressed his concerns regarding the lack of viewable contracts on the City's webpage.

Arthur Pesco discussed a proposal to build a monorail through the City.

XVII. PUBLIC HEARING

15. Mesa Drive Townhomes Call for Review (PA2017-218) [100-2019]

Council Member Duffield recused himself due to real property interest conflicts since he is a member of the Santa Ana Country Club.

Community Development Director Jurjis, Deputy Director Campbell, and Associate Planner Westmoreland utilized a PowerPoint presentation to describe the project, display the vicinity map, site plan, and project renderings, address traffic, compatibility and density concerns, and reviewed staff recommendations.

Discussion ensued between Council and staff regarding City density versus County density, the quality of the project's building materials, the proposed lower first floor and the benefits associated with it, building height restrictions, traffic visibility, congestion at the project intersection, access to the property, the need for housing in the City, and the City's limited building design guidelines.

Mayor Dixon opened the public hearing.

Tim Stoaks, former Chair of the Santa Ana Heights Project Advisory Committee, discussed the annexation agreement with Santa Ana Heights and questioned if the City has taken the zoning changes to the County for approval. Staff clarified that this RMD area is not part of the specific plan and does not need to go back to the County.

Anastasios Nikolaou, applicant, indicated he wanted to provide more visibility for the area due to a prior accident at the intersection and noted he used the same designer as the Lido House Hotel.

Jim Mosher believed the area is considered high density, not medium density, and expressed concerns with this type of construction.

Berkley Egenes disagreed with Costa Mesa's traffic incident report, suggested installing stop signs at the intersection, and questioned if emergency vehicles would be able to utilize the driveway.

In response to Council questions, staff indicated the intersection belongs to the County, they installed the traffic light, and the Fire Department reviewed the plans and is comfortable with staging on the street in the event of an emergency.

Chris White expressed support for the project.

Jane Nikolaou, applicant, requested Council support for the project.

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

Motion by Mayor Pro Tem O'Neill, seconded by Council Member Avery, to a) find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment; and b) adopt Resolution No. 2019-73, *A Resolution of the City Council of the City of Newport Beach, California, Upholding the Planning Commission's Approval of Major Site Development Review No. SD2017-008 for an Eight-Unit Residential Condominium Project Located at 1501 Mesa Drive and 20462 Santa Ana Avenue (PA2017-218).*

With Council Member Duffield recusing himself and Council Member Muldoon voting no, the motion carried 5-1.

16. Consideration of Planning and Land Use Entitlements for Vivante Senior Housing, Located at 850 and 856 San Clemente Drive (PA2018-185) (C-8187-1) [38/100-2019]

Community Development Director Jurjis, Deputy Community Development Director Campbell, and Associate Planner Nova utilized a PowerPoint presentation to discuss the General Plan Amendment (GPA), display the vicinity map, and highlight the site plan, project description, required entitlements, GPA map, summary and recommendations.

Council Member Avery expressed his support for the project.

Mayor Dixon opened the public hearing.

Cory Alder and Curt Olson, Nexus Development/applicants, utilized a PowerPoint presentation to provide background, discuss the reason for the project, and explain why this Vivante project is unique.

Jim Mosher noted the City is moving forward on a General Plan Update (GPU) and expressed concerns with considering this project at this time and the housing count. Staff indicated this project is for residential units with medical needs, does not exceed 100 units, and does not trigger a Charter 423 vote.

Ruth Sanchez Kobayashi believed the project would be a great addition to the community and the neighborhood would support it if commuter safety is addressed.

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

Mayor Dixon noted that she visited the Costa Mesa facility and would be proud to have this senior facility in Newport Beach. If approved, she reported that, in the last 18 months, the City would have approved over 350 senior housing units.

Motion by Mayor Dixon, seconded by Council Member Herdman, to a) adopt Resolution No. 2019-74, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Environmental Impact Report Addendum No. ER2016-002 and Approving a Mitigation Monitoring and Reporting Program, and Adopting California Environmental Quality Act Findings of Fact and a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*; b) adopt Resolution No. 2019-75, *A Resolution of the City Council of the City of Newport Beach, California, Approving General Plan Amendment No. GP2018-003 to Change the Land Use Designation from Private Institutional (PI) to Mixed-Use Horizontal (MU-H3), for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*; c) waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2019-13, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Planned Community Development Plan No. PC2018-001 Amending the San Joaquin Plaza Planned Community (PC-19) Located at 850 and 856 San Clemente Drive (PA2018-185)*, and pass on to a second reading on September 10, 2019; d) waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2019-14, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Development Agreement No. DA2018-005 for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*, and pass on to a second reading on September 10, 2019; and e) adopt Resolution No. 2019-76, *A Resolution of the City Council of the City of Newport Beach, California, Approving Major Site Development Review No. SD2018-003, Conditional Use Permit No. UP2018-019, and Lot Merger No. LM2018-004, and Revocation of Use Permit No. UP2005-017 and Modification Permit No. MD2004-059 for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*.

Council Member Duffield believed the team is committed and this type of housing is needed.

The motion carried unanimously.

XVIII. CURRENT BUSINESS

17. Approval of a Service Agreement for Citywide Streetlight Maintenance and Repair Services with Bear Electrical, Inc. (C-8598-1) [38/100-2019]

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

Jim Mosher commended the staff report for providing bidders' technical scores and costs, and believed there was a Balboa Island assessment district that should have expired but may still be in effect. Staff indicated they will look into it.

Motion by Mayor Pro Tem O'Neill, seconded by 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 the Services Agreement with Bear Electrical, Inc., for Citywide streetlight maintenance and as-needed repair services for a five-year term with a total not-to-exceed amount of \$950,522; and c) authorize the Mayor and City Clerk to execute the Agreement.

With Council Member Muldoon recusing himself, the motion carried unanimously.

18. Approval of a Services Agreement for Citywide Storm Drain System Cleaning Services with Downstream Services, Inc. (C-8599-1) [38/100-2019]

Motion by Council Member Avery, seconded by Council Member Muldoon, 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 the Services Agreement with Downstream Service, Inc., for Citywide storm drain system cleaning services for a five-year term with a total not-to-exceed amount of \$1,750,000; and c) authorize the Mayor and City Clerk to execute the Agreement.

The motion carried unanimously.

19. Park and Beach Public Restroom Janitorial Services (C-8551-2) [38/100-2019]

Mayor Pro Tem O'Neill recused himself out of an abundance of caution due to potential business interest conflicts.

Deputy Public Works Director Martin and Equipment Maintenance Superintendent Brodowski utilized a PowerPoint presentation to discuss public restroom cleaning service levels, proposed service levels versus previous service levels, and staff recommendations.

Council Member Avery expressed his support for increased janitorial services and understood there would be a cost associated to do this.

In response to Council comments, staff discussed the public restroom hours of operation and the security reasons for locking certain restrooms, confirmed that, with the increased services, all public bathrooms would be cleaned and ready to use by 7:00 a.m. every day, and reported the contractor is very knowledgeable and responsive.

**City of Newport Beach
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Motion by Council Member Herdman, 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; b) approve a three-year Janitorial Services Agreement with Ed Building Maintenance for cleaning / servicing 30 standalone City restrooms for a total not-to-exceed amount of \$2,415,000 (3 years at approximately \$803,784.00 per year); and c) approve Budget Amendment No. 20-007-CC transferring \$140,000 from Public Works account 01090901-811031 to the Public Works account 0109041-811012, and also appropriating \$350,000 in increased expenditures from the General Fund unappropriated fund balance to the Public Works account 0109041-811012.

With Mayor Pro Tem O'Neill recusing himself, the motion carried unanimously.

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

City Clerk Brown provided a brief staff report and read the ballot votes as follows:

Krystal Anderson – Herdman
Maureen Flanagan – Avery, Dixon, Duffield, Muldoon, O'Neill
Carrie Williams – Brenner

City Clerk Brown announced that Maureen Flanagan was appointed to the City Arts Commission for a term expiring June 30, 2021.

City Manager Leung and Public Works Director Webb introduced new Deputy Public Works Director Jim Houlihan.

XIX. MOTION FOR RECONSIDERATION – None

XX. ADJOURNMENT – Adjourned at 9:16 p.m. in memory of Orange County Auditor-Controller Eric H. Woolery

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 August 8, 2019, at 4:00 p.m.

Diane B. Dixon
Mayor

Leilani I. Brown
City Clerk