

City Council Minutes
Emergency Special Meeting
July 1, 2020

I. **CALL THE MEETING TO ORDER**

II. **ROLL CALL – 2:00 p.m.**

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

III. **INVOCATION – Council Member Muldoon**

IV. **PLEDGE OF ALLEGIANCE – Council Member Duffield**

V. **PUBLIC COMMENTS ON AGENDA ITEMS – None**

VI. **CURRENT BUSINESS**

1. **Emergency Ordinance No. 2020-007 Closing all City-Controlled Beaches in the City of Newport Beach, California, from July 3, 2020 at 10:00 p.m. to July 5, 2020 at 6:00 a.m.**

Mayor O'Neill indicated he called the emergency meeting due to public safety concerns raised in his meeting with staff earlier in the day and noted the anticipated busiest beach weekend in the City would coincide with one of the largest swells, both of which would significantly affect Lifeguards.

City Manager Leung reported that, yesterday, two Seasonal Lifeguards tested positive for the COVID-19 virus, stated that staff immediately implemented standard protocols, including contact tracing which resulted in a significant number of staff needing to be quarantined and tested, noted concerns from her and Fire Chief Boyles regarding the impacts on Lifeguard staffing and the Junior Lifeguard Program, and reported that the item for consideration is an emergency ordinance to close beaches over the weekend, particularly on Saturday, in light of the public safety aspect of protecting beach areas.

Fire Chief Boyles discussed receiving notification that staff tested positive, implementing contact tracing, the differences between exposure and contact, the employees' duties including Lifeguard recertifications, project management, and coordination and curriculum development for the upcoming Junior Lifeguard Program, expressed concerns about contact with others and potential exposures, the quarantine period of 14 days beginning June 25, and noted that a significant number of Lifeguards are currently under quarantine.

In response to Council Member Dixon's questions, Fire Chief Boyles reported that 23 employees are in quarantine, 95 Lifeguards would be assigned to towers over the 4th of July weekend, 140 to 150 Lifeguards would be utilized for the Junior Lifeguard Program. Lifeguard Chief Halphide reported 76 Lifeguards will staff operations on Friday and 79 on Saturday and Sunday, staffing will be filled over the weekend without any problems despite the quarantines, additional Lifeguards are available to work over the weekend, off-duty full-time staff can be recalled in an emergency, and enhanced staffing levels can be fulfilled. City Attorney Harp advised that only active recreation is currently allowed on the beaches. Lifeguard Chief Halphide related that officers are educating the public more than enforcing the order.

Council Member Muldoon noted the quarantine does not mean the employees have tested positive and the City has asked them to avoid coworkers and those who are vulnerable. He noted staffing will be adequate for the 4th of July holiday weekend.

Mayor O'Neill clarified the concern as more Lifeguards may be needed than is available if the beach population exceeds expectations and if swimmers are not experienced with high swells and added that the City could be at risk. Lifeguard Chief Halphide believed that current staffing should be adequate based on projections for weather, crowds, and staffing, and noted that additional staff will be available if needed.

City Manager Leung advised that staff is planning increased enforcement over the holiday weekend, especially enforcement of the beach curfew, and heavy enforcement would include Lifeguard assistance and extended hours.

Council Member Brenner noted adequate staffing usually means the City can protect the public, but the extraordinary circumstance of the COVID-19 pandemic increases the difficulties.

In response to Mayor O'Neill's questions, Lifeguard Chief Halphide stated that on-duty contact tracing for many of the employees would be straightforward. Fire Chief Boyles reported the next few days would be critical in determining if anyone else develops symptoms. He reported that a third Lifeguard has developed symptoms but has not yet been tested, agreed that staffing will be sufficient but thin over the weekend, and if more Lifeguards have to be quarantined, expressed concern that staffing will reach severe drawdown levels.

Council Member Duffield referred to the closure of other beaches and expressed concern that large crowds will be visiting City beaches. Fire Chief Boyles expected the 4th of July to be busier than average because of the circumstances and beach closures.

Mayor Pro Tem Avery remarked that given the issues of enhanced wave size and risks to staff and the public, the tide is against the City on this. Further, being able to take care of the public on the July 4th holiday means Council should move forward with closing the beach.

In response to Council Member Dixon's questions, Police Chief Lewis reported that there are no confirmed COVID-19 cases within the Police Department at this time, but some individuals have self-quarantined out of an abundance of caution. He noted that, when an officer has a contact exposure, the officer is removed from duty and quarantined over a 14-day period. He further reported that officers wear facial coverings and have other personal protective equipment, recommended that, if beaches are closed for a short period of time, a hard closure with designated times be implemented, pointed out that there is not much time to educate the public due to the short time until the weekend, stated that the Police Department would work with the Public Works Department to install signage and barricades, noted officers would have the pertinent Newport Beach Municipal Code sections available to support an enforcement action, and further noted that enforcement is extremely difficult and resources intensive, but the Police Department will fully comply with any Council direction.

In response to Council Member Brenner's questions, Police Chief Lewis advised that the Police Department would need special authorization to issue a citation because a hard beach closure is outside Newport Beach Municipal Code provisions. Mayor O'Neill referenced Section 7 of the draft ordinance for the special authorization.

Mayor O'Neill stated that, if Council is going to close the beaches, the Public Works team needs as much time as possible, Lifeguard staffing will be adequate but stretched thin, many people may not understand what a large swell means, and a hard closure would need barricades and fencing. He noted that the emergency ordinance is similar to what Laguna Beach discussed at their meeting and stated that, under the declaration of emergency, the City Manager could close the beaches, but the decision should be made by the City Council. He clarified that the proposal is a hard closure of beaches on the 4th of July weekend with discretion given to the City Manager in consultation with the Police, Public Works, and Fire Departments to close beaches on July 3 and July 5 as the situation warrants.

Council Member Brenner questioned when the public would be made aware of the closure, indicated \$1,000 fines have worked in Los Angeles, noted that the ordinance states the Police Department has the ability to arrest, but a monetary consequence sometimes makes a larger impression, and hoped word of the closure would spread quickly.

Craig Batley understood the matter came up because of questions about Lifeguard staffing, but noted that the Lifeguard Chief said they have adequate staff, believed the worry should be contamination, noted the unintended consequences of closure would be parking and traffic, and stated he was unsure which is the better course of action, closing the beach or ensuring adequate staffing.

An unidentified speaker inquired about the effect of a beach closure before the start of the Junior Lifeguard Program on Monday. Mayor O'Neill advised that Fire Chief Boyles would recommend delaying the program a week given the number of staff under quarantine.

Eric Higby noted that Los Angeles closing their beaches resulted in illegal parking, huge crowds, and public urination, all of which was untenable and there has been an uptick in fireworks in the neighborhood. He did not see how closing the beaches would cause anymore issues than the City would normally have and believed it would be safer to close the beaches.

Cheryl Hall hoped the COVID-19 positive Lifeguards get well soon, remarked that COVID-19 is running rampant everywhere, residents voted for Council Members to lead and protect the community, and the droves of people on the beaches would be troublesome because the other beaches being closed. She believed that, although enforcement may be difficult, closure will show true leadership, noted that few people on the Peninsula are wearing masks and for the sake of public health, Newport Beach, and all communities, Council should close the beaches.

Dr. White discussed the difficulty of trying to go to the water's edge while staying 6 feet away from people, noted that in light of increases in the ICU rate, Hoag Hospital will hold an emergency meeting today, shared an article about nasal testing and false negative results, and believed keeping the beaches open is insanity.

Carmen Rawson believed there are some misconceptions about people coming to the beach during the 4th of July, believed closing the beaches will be counterproductive due to its large area, and asked Council to keep the beaches open.

Chris Nielson thanked Council for their work and continued efforts to keep residents safe, noted that data produced by Council has been accurate, well thought-out, and beneficial to the reopening of businesses, believed fear should not be allowed to affect the people in Newport Beach, stated that residents need to continue with their lives and the only change is there are now two positive-tested Lifeguards. He believed that the City does not need to derail the program that Council has worked hard to have in place and that a hard closure on July 4th would discourage some people but closing all weekend would be hard on the businesses.

Casey asked if beaches would be open for active use under a closure. Mayor O'Neill advised that the recommendation is a hard closure.

Samantha believed it is vital to look at the short term and long term, expressed concern that beach closures in surrounding areas will cause people to come into the Newport Beach community, agreed crowds are good for business, but the risk would be forced closures in the long run, urged Council to think about the physical health and financial health of businesses, believed enforcement should have a monetary value and that young people believe the risk is minor, which neglects the safety of the elderly.

Nathan Rosenberg appreciated the City's response to the pandemic, understood two Lifeguards have tested positive and more have been quarantined, believed a partial closure for the boardwalk, the Wedge and parking lots would limit the number of people on the beaches, worried that a full closure would be more dangerous than a partial closure, stated open space is essential for recreation and staying healthy, and favored limiting the hours of beach access, limiting parking and closing the densest areas of the City.

Shane Corwin noted prior speakers addressed scientific reasons and public health concerns, believed it does not make sense to open the community during a pandemic, especially after Lifeguards have been affected, and hoped others in the community can understand the reasons behind Council's decision.

Scott expressed confusion with the reason for the meeting, noted Council did not close the beaches the year after the July 4th riot, implored Council to keep the beaches open, noted if the Police and Fire Departments have said they can staff the beaches, there should not be an issue, and believed it is best to err on the side of liberty and that a couple of positive COVID-19 tests is not a valid reason to close beaches to the public.

A beachgoer agreed that it is important to err on the side of freedom, noted everyone had valid points about possibly closing parking, believed that ruining the economy and people's lives over some concerns is not a smart move by Council and those that have concerns can stay indoors and follow the plan.

Jean Bowden, business owner on the Peninsula, stated she wants the crowds and their business, but believed they would spread the disease, preferred a short-term loss of business rather than a long term shutdown, noted that 80% of people shopping in the area do not have masks with only a couple of stores requiring them, and she agreed with closing the beaches for the weekend.

Susan did not believe three days would ruin the economy, noted that with other beaches closed, there are few options except for Newport Beach and Huntington Beach, and added that Lifeguards have been quarantined and the City will be stretched thin to deal with the enormous crowds.

Jennifer commented that a majority of people try to do the right thing, but beaches are crowded, people do not wear masks in the supermarket, the City needs to protect its citizens, and stated that we can live without the beaches for three days and, if beaches are not closed, everyone will come to Newport Beach.

Nancy Gardner believed that the initial plan did not anticipate all the other beach closures, believed Council should close the beaches because it will be a magnet for crowds, and staff should inform residents so they can protect themselves.

Jillian Acuff indicated she has tested positive for COVID-19 within the last week, expressed concern about beaches remaining open this weekend, stated the number of people using businesses and beaches as a vacation destination rather than a place of residence is astounding, and believed the beaches staying open will hurt businesses in the long term.

Roger Johnston indicated Newport Beach has been placed in a corner because of other beach closures, stated Council should think about the amount of people coming into the City, visitors do not wear masks or practice social distancing, noted as the pandemic has gotten worse and Newport Beach is one of the only areas with open beaches, people will keep coming into the City, believed the 4th of July weekend will be far worse than the Memorial Day weekend. He requested that Council consider the safety of its residents, the community, and public safety.

Shirley understood the discussion on both sides of the issue, stated that she will be vacationing in Newport Beach with her family this weekend, and suggested closing beaches for one or two days or just closing parking lots and the boardwalk.

An unidentified speaker believed Council needs to look at the long term rather than the short term, closing for two or three days is for the greater good of the entire Southern California area, and asked Council to please close the beaches for the public health of those in Newport Beach and surrounding communities, to listen to science, and to respect science.

Portia Weiss supported closing beaches from July 1 to July 5, believed this is about protecting life, not liberty, noted social distancing and wearing masks have been shown to decrease deaths, stated New Zealand and Iceland are COVID-19 free, and getting hard closure information out to the public will not be a problem.

Julie Holburn stated her family loves Newport Beach, Council needs to close the beaches to prevent the crowds from coming into the City and stated that the leadership of the City needs to protect its citizens.

Jana encouraged Council to close the beaches to keep them safe for residents and believed it is impossible to maintain public health during this current situation and the crowds associated with the holiday are unsafe.

Scott thought closing beaches would be a big issue, believed it would be safer for visitors to be in the open air, supported closing parking lots, and suggested keeping beaches open for residents.

Shelly Johnson encouraged Council to close the beaches over the 4th of July weekend to avoid a similar event to Memorial Day weekend where a huge influx of non-residents from areas with high COVID-19 confirmed cases came to the City.

Ken Rawson noted that, on the 4th of July, people walk closely together and do not wear masks, and if Council closes the beach, people will spillover onto the boardwalk. He asked Council to require people to wear masks and implement a fine to those who do not comply and suggested Lifeguards from cities that have closed their beaches offer assistance in Newport Beach over the weekend.

Fred encouraged Council to close the beaches as no one is social distancing or wearing masks, several restaurant employees have tested positive and are still working, which is a danger to the public, and noted that Lifeguards have also tested positive for COVID-19.

Council Member Dixon believed it is important to hear from residents, stated residents in the beach-facing parts of the City are in the forefront of her mind from a public safety standpoint, noted that perhaps Council can look at what can be done to reduce the burden on businesses that are eligible to remain open, believed parking lots, at least in business districts, should remain open, anticipated Council discussing how many days the closure should be, and stated that business interests need to be balanced with the health and safety of the public. In response to her questions, Police Chief Lewis indicated that closing a lane into the Peninsula will cause traffic congestion to move to other places, the emphasis is getting folks moving and preventing backups, closing lanes affects overall circulation and safety, and advised that closing the beach but not the boardwalk would be difficult. Council Member Dixon expressed concern regarding the number of new cases for young people, noted 309 cases and 2 deaths since January, and wanted to keep some of the parking lots open.

Council Member Muldoon noted the Los Angeles County Sheriff will not be enforcing beach closures, believed people are not meant to be controlled by the government, stated that Hoag Hospital is at less than 10% of its capacity, stated it was unfortunate that Seasonal Lifeguards have been affected, noted local medical experts have informed him that the peak occurred a few days ago, and they believe cases will plateau, believed that because of better treatment and protections fatalities are dropping significantly and for people under age 70, the risk of fatality is the same as the flu. He further stated that medical transfers from other areas of the state are slowing, science and data do not support a closure, and beaches and outdoor spaces are considered the safest places with the lowest transmission rates.

Council Member Herdman indicated it would be irresponsible of Council not to listen to the public and its constituents and close beaches for four days, and noted that restaurant owners on Marine Avenue have requested the 200-block be closed to vehicular traffic so they can move their restaurant seating into the street.

Mayor O'Neill related that the challenge is the nuance of the situation, did not believe there were high transmission rates on the beaches, if any, did not understand why Los Angeles closed their beaches, was convinced to call an emergency meeting because Lifeguards would be stretched thin, noted people in their 20s and 30s are being hospitalized, stated he was hopeful that with the developing news, lately people would begin to take this seriously, encouraged people to social distance, expressed concern about the closure of nearby beaches and beach parking lots, noted bars and indoor restaurants are now closed, which pushes everyone onto the beach, and emphasized that open containers are illegal. He believed the City would have more people on the beaches than expected because of beach, bar and restaurant closures when staffing is stretched thin. For those reasons and a big surf weekend, he could not, in good conscience, ask Lifeguards to do more with less, as that is a public safety issue. He recognized the community's concerns and fears, stated that, if Council closes beaches today, staff will make sure to inform the public, noted that, if this reminds people that this is serious and convinces them that this is the right thing, so that hospitalizations drop and the County gets off the watch list, this is a good thing. He emphasized that the primary reason for this decision is public safety. Everything that could go wrong during a pandemic is going wrong. If more staff are quarantined in the next two days, the City will be in trouble because there will not be enough time to do a hard closure. He asked the community and visitors to be respectful of Lifeguards and the Police Department, and stated that the City needs to be on the safe side.

Motion by Mayor O'Neill, seconded by Council Member Herdman, to a) find this project exempt from the California Environmental Quality Act (CEQA) pursuant to 15269 (c) (the activity is necessary to prevent or mitigate an emergency), 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 this project has no potential for resulting in physical change to the environment, directly or indirectly; and b) pursuant to City of Newport Beach Charter Section 412, waive full reading, direct the City Clerk to read by title only, and adopt Emergency Ordinance No. 2020-007, *An Emergency Ordinance of the City Council of the City of Newport Beach, California, Closing All City Controlled Beaches in the City of Newport Beach from July 3, 2020 at 10:00 p.m. to July 5, 2020 at 6:00 a.m. and Giving the City Manager Discretion to Close All City Controlled Beaches at Other Times on July 3, 2020 and July 5, 2020, if She Determines Closure is Necessary to Protect the Public, Health, Safety and Welfare.*

Mayor Pro Tem Avery remarked that the decision is tough and encouraged the public to read Emergency Ordinance No. 2020-007 because it influences Council's decision-making.

Council Member Dixon noted the position is difficult for all Council Members because they believe in freedom and liberty, and everyone should be able to enjoy the beaches, believed surrounding cities and counties put the City in a difficult situation, noted the Governor has threatened to eliminate funding if the County does not invoke enforcement, stated the City needs to be responsible and do what is right for its employees and residents, and noted the closure is to protect the community, including visitors.

Council Member Brenner indicated that she was impressed by the comment received from the Peninsula business owner regarding the short-term loss for a long-term gain and the doctor's comment that leaving beaches open would be insanity. She stated that businesses will be at risk by taking this too lightly, which could jeopardize how soon they can reopen.

Council Member Muldoon stated the doctor he consulted with at Hoag Hospital does not believe it is insanity.

With Council Member Muldoon voting "no," the motion carried 6-1.

VII. ADJOURNMENT – 3:41 p.m.

The emergency special meeting 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 July 1, 2020, at 1:00 p.m.

Will O'Neill
Mayor

Leilani I. Brown
City Clerk

DRAFT

CITY OF NEWPORT BEACH

City Council Minutes
Regular Meeting
July 14, 2020

I. ROLL CALL – 5:00 p.m.

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

II. INVOCATION – Council Member Herdman

III. PLEDGE OF ALLEGIANCE – Mayor Pro Tem Avery

IV. NOTICE TO THE PUBLIC

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

Council Member Brenner:

- Attended the Corona del Mar Residents Association Historical Subcommittee, along with Library Services Director Hetherton and City Arts Commission Chair Greer; and a meeting with Corona del Mar residents and Public Works staff regarding the sidewalk above China Cove

Council Member Herdman:

- Attended a meeting of the Board of Directors for the Orange County Mosquito and Vector Control District, where the Director reported about mosquitos that can carry the West Nile Virus and ankle biters, and listed the areas being treated and services offered to the public
- Reported he and Council Members Muldoon and Dixon met with ACI Jet to review its proposal for the General Aviation Improvement Plan (GAIP)
- Announced that the short-term lodging ad hoc committee has held meetings

Council Member Dixon:

- Reported the subcommittee to review the GAIP for John Wayne Airport (JWA) will review proposals over the next two weeks
- Requested a future item to consider adopting a resolution supporting the Newport Beach Police Department

Mayor O'Neill:

- Reported the Housing Element Update Advisory Committee met and will meet again on July 15, 2020
- Noted that *Ben Carlson Day* was observed on July 6, 2020
- Announced that the Finance Director and City Manager appeared on Speak Up Newport's virtual web event
- Wished Council Member Herdman a Happy Birthday

VI. PUBLIC COMMENTS ON CONSENT CALENDAR

At Mayor O'Neill's request, City Attorney Harp explained the purpose of a second reading of an ordinance and requirements contained in the short-term lodging ordinance (Item 3).

Jim Mosher, addressing Items 3 and 4, stated he was surprised that the new guidelines of short-term lodging were being enacted without discussion, indicated City Council Policy A-1 sets the Council's meeting time at 7:00 p.m. while Item 4 will set the meeting time at 4:00 p.m., shared a history of the Council meeting time, and believed Item 4 ignores history, precedent, and the public.

Regarding Item 4, Susan Skinner suggested 5:30 p.m. or 6:00 p.m. for the Council regular meeting start time in order for individuals who work to be able to attend or call into the meetings.

Craig Batley, addressing Item 3, thanked Council for their work on short-term lodging, noted confusion regarding provisions of the ordinance, inquired whether all violations are equal, believed the good neighbor policy could be defined better, requested the meaning of a nuisance response plan, and suggested the City prepare a manual or handbook for property owners and management companies.

Nancy Alston, representing Stop Polluting Our Newport (SPON) and addressing Item 3, noted Newport Beach has the highest ratio of short-term rentals along the coast, hoped the City has a method to enforce the ordinance, shared practices in other cities that have effective ordinances, suggested that renters be at least 21 years of age, believed too many short-term rentals destroy the cohesiveness of a neighborhood, and advised that cities have recovered tax revenues from Airbnb through lawsuits.

Regarding Item 3, Connie Adnoff inquired as to why the minimum age for renters is 21 and believed it should be 25 years of age.

Patricia Darquea, addressing Item 3, stated she has purchased rental buildings as a retirement investment and relies on rentals to pay expenses, noted that she did not receive notice of the ordinance, stated that short-term renters love Newport Beach and provide more City revenue than hotels, and suggested that more discussion occur before the ordinance is adopted in order to further educate residents.

Relative to Item 3, Colleen Howes expressed concerns about the parking requirement and suggested an owner-occupied unit should be exempt.

Don Abrams, addressing Item 3, believed vacation rentals have been a part of the fabric of Newport Beach for over 100 years and the ordinance is not needed, urged Council to remove the rule limiting new vacation rentals, stated using the pandemic as an excuse not to grant licenses is an abuse of the City's emergency powers and is illegal, noted thousands of vacation rentals bring in \$4 million in City revenue each year, believed by not including other short-term rentals, Council would be taking potential illegal actions, and believed Council's action shows no concern for 1,500 property owners and thousands of people employed in the short-term rental business.

Regarding Item 3, Lori Hamel indicated that she spoke with Council Member Herdman the prior day about her concerns, believed many areas of the ordinance are unclear and need to be rewritten, stated that Council Member Herdman told her she was reading the ordinance too literally, and felt that requiring a person respond within 30 minutes of a complaint is unreasonable.

An unidentified speaker/attorney, addressing Item 3, noted that the minimum age requirement could be an issue, added that discrimination could occur on the basis of renters not being as upscale as residents, believed the pragmatic solution is to work with rental platforms to withhold deposits, and felt the requirement for owners to be within 25 miles of the unit is unreasonable.

Relative to Item 3, Randy Beck believed owners of short-term rentals are being punished, noted that he moved into his property in order to rent out one of the units, appreciated the license going with the property in the future, and indicated he has not been cited for any violations in eight years.

Chris Nielson, addressing Item 3, appreciated Council's and committee's work, believed the section stating that the City Manager may impose additional standards is too broad, requested more notice for meetings, believed rental platforms should not be required to collect the Transient Occupancy Tax (TOT), and volunteered to work with staff to prepare a handbook for owners of short-term rentals.

Regarding to Item 3, Jim Maloney commented that areas of Newport Beach have historically been short-term rental areas, indicated that complying with requirements can be challenging when the property is old, and believed one-size-fits-all rules may not be appropriate.

Relative to Item 3, Shannon, Abrams Coastal Properties, requested clarification regarding maximum occupancy as either two persons per bedroom plus two or the maximum permitted by the building and fire codes, which limits occupancy based on square footage.

Jodi Bole, addressing Item 3, shared demographic data for renters of her short-term rental property, indicated owners use short-term rentals to pay their property taxes, believed the parking regulation is onerous, encouraged owners of short-term rentals to use rental agreements and to charge security deposits, and stated a member of the subcommittee should own a short-term rental to ensure the committee is well-rounded.

At Mayor O'Neill's request, City Attorney Harp reported that the maximum occupancy for short-term lodging is based on the maximum occupancy allowed in the building and fire codes, which are based on square footage. He indicated that, currently, a property owner does not need a parking space in order to obtain a short-term lodging permit; however, if a property owner has an available parking space that is associated with a short-term lodging unit, it needs to be made available for short-term renters.

VII. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the June 23, 2020 City Council Regular Meeting and June 25, 2020 Special Meeting [100-2020]

Waive reading of subject minutes, approve as amended, and order filed.

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

ORDINANCE FOR ADOPTION

3. Ordinance No. 2020-15: Amending the Newport Beach Municipal Code Restrictions for Short Term Lodging [100-2020]

- a) Find 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. 2020-15, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 3.16.060 and Chapter 5.95 of the Newport Beach Municipal Code Relating to Short Term Lodging.*

Council Member Muldoon voted “no” on Item 3.

RESOLUTIONS FOR ADOPTION

4. Resolution Nos. 2020-67 and 2020-68: Modifying the Start Time for the Holding of Regular City Council Meetings [100-2020]

- 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. 2020-67, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a Revised City Council Policy A-1 “City Council”;* and
- c) Adopt Resolution No. 2020-68, *A Resolution of the City Council of the City of Newport Beach, California, Repealing Resolution Nos. 2019-104 and 2020-15 and Setting the Time and Dates of City Council Regular Meetings for Calendar Year 2020.*

Council Member Muldoon voted “no” on Item 4.

CONTRACTS AND AGREEMENTS

5. East Coast Highway Pavement Rehabilitation (21R12) – Approval of Professional Services Agreement with Michael Baker International, Inc., Contract No. 7807-1 [38/100-2020]

- 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 Michael Baker International, Inc., of Irvine, CA, for the East Coast Highway Pavement Rehabilitation project at a not-to-exceed price of \$398,185 and authorize the Mayor and City Clerk to execute the Agreement.

6. Grant Howald Park Rehabilitation – Award of Contract No. 7476-2 (19P11) [38/100-2020]

- a) Approve the project drawings and specifications;
- b) Declare the bid packages submitted by RAL Investment Corporation of San Diego as non-responsive;
- c) Award Contract No. 7476-2 to Environmental Construction, Inc. (ECI) for the total bid price of \$4,543,686, and authorize the Mayor and City Clerk to execute the contract;
- d) Establish a contingency of \$475,000 (approximately 10 percent) to cover the cost of unforeseen work not included in the original contract;
- e) Authorize the City Manager to approve payments to Southern California Edison (SCE) and AT&T in the amount of approximately \$750,000 for project design services, equipment and installation necessary to underground the existing above-ground facilities related to the project; and
- f) Approve Amendment No. 1 to the current Professional Services Agreement with RJM Design Group, Inc. (C-7476-1) to add \$73,160 to the contract for a total not-to-exceed fee of \$354,950, for additional design services and authorize the Mayor and City Clerk to execute the Agreement.

Council Member Brenner recused herself on Item 6 due to real property interest conflicts; and Council Member Muldoon recused himself on Item 6 due to business interest conflicts.

7. Amendment No. One to Lease Agreement Between the City of Newport Beach and Harbor Day School (C-5888(A)) [38/100-2020]

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Authorize the City Manager and City Clerk to execute Amendment No. One To Lease Agreement Between the City of Newport Beach and Harbor Day School, in a form substantially similar to the agreement attached to the staff report.

8. Approval of COVID-19 Economic Relief Funding Support for the Corona del Mar Business Improvement District (C-8078-4) [38/100-2020]

- 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 Corona del Mar Business Improvement District (CdM) COVID-19 economic relief plan and budget; and
- c) Authorize the City Manager to allocate \$40,000 in COVID-19 Economic Relief Funding Support to the CdM BID in Fiscal Year 2020-21.

Mayor O'Neill voted "no" on Item 8.

9. Approval of COVID-19 Economic Relief Funding Support for the Newport Beach Restaurant Association Business Improvement District (C-8079-3) [38/100-2020]

- 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 Newport Beach Restaurant Association Business Improvement District (NBRA) COVID-19 economic relief plan and budget; and
- c) Authorize the City Manager to allocate \$40,000 in COVID-19 Economic Relief Funding Support to the NBRA BID in Fiscal Year 2020-21.

Mayor O'Neill voted "no" on Item 9; and Council Member Muldoon recused himself on Item 9 due to potential business interest conflicts.

MISCELLANEOUS

10. Planning Commission Agenda for the July 9, 2020 Meeting [100-2020]

Receive and file.

11. Confirmation of Annual Appointments to the Finance Committee [24/100-2020]

- 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) Confirm Mayor Will O'Neill's and individual Council Members' appointments to the Finance Committee: (1) Mayor Will O'Neill, who will serve as Chair, (2) Mayor Pro Tem Brad Avery, (3) Council Member Joy Brenner, (4) Joe Stapleton based upon Council Member Diane Dixon's recommendation, (5) William Collopy based upon Council Member Duffy Duffield's recommendation, (6) Larry Tucker based upon Council Member Jeff Herdman's recommendation, and (7) John Reed based upon Council Member Kevin Muldoon's recommendation.

12. Pulled from the Consent Calendar

Motion by Mayor Pro Tem Avery, seconded by Council Member Herdman, to approve the Consent Calendar, except for the item removed (Item 12); and noting Mayor O'Neill's "no" votes on Items 8 and 9; Council Member Muldoon's "no" votes on Items 3 and 4; and the amendments to Item 1.

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

VIII. ITEM REMOVED FROM THE CONSENT CALENDAR

12. Tourism Business Improvement District (TBID) Annual Report and Fiscal Year 2020-21 Budget [100-2020]

Council Member Dixon viewed the agenda item as an opportunity to update Council on the status of hotels in the community given the economic impacts of COVID-19.

Gary Sherwin, CEO Newport Beach & Company, reported COVID-19 has cost the City tens of millions of dollars and inflicted a lot of damage on hotels, restaurants and attractions, noted that the TBID was created in the wake of the 2009 recession in order to pursue meeting and convention markets, which make up about 60 percent of their business, added that the TBID continues to work with hotels and hopes a vaccine will be developed before the end of the year so that operations may continue, stated that two hotels are currently closed, and one likely will not open until 2021, added that hotels are experiencing occupancy in the low 40 percent range, and believed the hospitality industry in Newport Beach cannot fully recover until the meeting and convention industry recovers.

In response to Council Member Dixon's question, Mr. Sherwin indicated that the Finance Department has informed him that one major hotel did not remit its Transient Occupancy Tax (TOT) and subsequently closed. He added that the hotel is working with the City to pay its past-due TOT and TBID costs and to waive penalties.

Jim Mosher noted the staff report for Item 9 indicates the occupancy rates for July and August are 85 percent and 81 percent, respectively, which conflicts with Mr. Sherwin's statement. He added that the staff report also supports the idea of holding a Restaurant Month in August.

Motion by Council Member Dixon, seconded by Mayor 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 a waiver of the timeline provided in Section 3.5 of the Tourism Business Improvement District Management Agreement; c) review and approve the NB TBID'S FY 2020-21 Annual Report; and d) review and approve the NB TBID's FY 2020-21 Budget.

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

IX. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Craig Sheets showed photos of missiles pointed at oil derricks, believed there is a meth lab on Spyglass Hill, and talked about machine guns, which use depleted uranium rounds. He suggested prohibiting the inbreeding, projectile weapons, and poisons.

Susan Skinner recalled Council Member Muldoon's comments about COVID-19 at the July 1, 2020 meeting, shared statistics regarding COVID-19, compared the pandemic to flu death statistics, discussed the health effects of the Coronavirus, and indicated the best tools to fight COVID-19 are social distancing and wearing face coverings.

Council Member Muldoon believed that Ms. Skinner is not a physician while he obtained information from a medical doctor from Hoag Hospital and indicated people are not meant to be controlled by governments nor should they be told how to live their lives.

Chad Kroeger stated influencers were omitted from the last stimulus bill, while having lost 30 percent of their income, petitioned for a stimulus bill that brings relief to influencers, and suggested levels and forms of compensation.

An unidentified speaker believed government gifts should not be called bailouts but instead they should be called "dude, I won't bail on you," felt that influencers should be included in a stimulus bill, and performed a song.

X. PUBLIC HEARING

14. Resolution No. 2020-69: Community Development Block Grant – Economic Development Job Retention Program (C-8482) [38/100-2020]

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

Council Member Dixon indicated that the City is fortunate that tax dollars are coming in to support businesses, noted that \$219,000 will be used for grants with some income restrictions, stated that as with the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding, these funds will be used as grants for small business relief, and added that a total of more than \$2.5 million has been made available.

Mayor O'Neill noted that Council Member Dixon pushed the business ad hoc committee hard for this and stated that this will be a good way to help businesses as many have had to shut down again.

Mayor O'Neill opened the public hearing.

Jim Mosher inquired whether someone operating short-term rentals from an office building would be eligible for the lottery, while someone operating short-term rentals from their home would not, noted the application period for the previous grants was only six days with three days' advance notice, and inquired whether all business license owners are being informed of the program.

Hearing no further testimony, Mayor O'Neill closed the public hearing.

Mayor O'Neill reported the number of applications for the previous program was three times the highest reported number the outside administrator saw in other programs, and indicated that local businesses will learn of the Community Development Block Grant (CDBG) program just as they did the CARES Act program. In response to his question, Real Property Administrator Whitlinger indicated that the outside administrator will likely spend the next two weeks advertising the program and notifying Newport Beach businesses of the upcoming application period, which staff anticipates opening in early August.

Motion by Council Member Dixon, seconded by Council Member Herdman, to a) find the approval of the Substantial Amendment to the 2020-21 Annual Action Plan exempt from the National Environmental Policy Act ("NEPA") pursuant to 24 CFR Part 58, Section 58.34; b) find the approval of the Substantial Amendment to the 2020-21 Annual Action Plan is 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. 2020-69, *A Resolution of the City Council of the City of Newport Beach, California, Approving a Substantial Amendment to the 2020-21 Annual Action Plan for the Federal Community Development Block Grant Program*; and d) authorize the City Manager to: (1) Submit the Substantial Amendment to the 2020-21 Annual Action Plan to HUD; (2) Execute the CDBG-CV Program Grant Agreement and all related documents on behalf of the City; (3) Execute the sub-recipient agreements with the nonprofit organizations receiving allocations of CDBG funds in the Substantial Amendment to the 2020-21 Annual Action Plan; and (4) Authorize the Community Development Director, or his/her designee, to be the official representative of the City of Newport Beach, and to submit required environmental documentation for CDBG projects.

With Council Member Duffield absent and Council Member Muldoon recusing himself, the motion carried 5-0.

XI. CURRENT BUSINESS

13. Approval of COVID-19 Economic Relief Funding Support for the Balboa Island Merchants Association [100-2020]

Mayor O'Neill understood the Council subcommittee's recommendations at the last Council meeting, recalled Council's agreement to reduce funding by half in 2020 and eliminate funding in 2021, and believed Council has done a good job of supporting local businesses through CARES Act and CDBG funding. He stated that, given Council did not approve allocating funding to the Balboa Island Merchants Association, Inc. (BIMAI) at the last meeting, he did not believe Council should support a second one and advised that he would vote "no" for the same reasons he stated during the prior meeting.

Council Member Herdman noted that, at the last Council meeting, four of seven Council Members voted against allocating economic recovery funding to BIMAI based on a comment that BIMAI was not doing good work, and despite the Balboa Village Merchants Association (BVMA) partnering with BIMAI to develop an economic recovery program with Newport Beach & Company, the approval of this item was defeated. He stated that this item is identical to the prior agenda item, which proposed an allocation of \$20,000 to a newly organized merchants association that did not meet the deadline for application submission, did not provide all required information, and proposed to refinish City-owned benches with the funding. He believed it is not equitable to deny funding for one organization that submitted a well thought out application for economic recovery and approve funding for an organization that did not provide any plan for economic recovery.

Jim Mosher recalled that the Community Event Grants required the amount of money provided by the City to be a small fraction of the amount of money raised by the organization, added that the applicant is a new group that is requesting more funding than it has raised, and believed that, if BIMA is eligible for funding, many other organizations might like to utilize public funding.

Don Abrams agreed with Council Member Herdman's comments and hoped Council would reconsider denying the grant for BIMAI, which proposed assisting merchants on Marine Avenue.

Motion by Mayor O'Neill, seconded by Mayor Pro Tem Avery, to deny the allocation of \$20,000 in COVID-19 Economic Relief Funding Support to BIMA in Fiscal Year 2020-21.

With Council Member Duffield absent and Council Member Brenner abstaining, the motion carried 5-0-1.

15. Novel Coronavirus (COVID-19) Update [100-2020]

City Manager Leung utilized a presentation to discuss recent State actions, the status of Orange County, Statewide closures as of July 13, 2020, and additional indoor operations that have closed throughout the County.

Mayor O'Neill suggested the public pay attention to the guidance that does not allow outside hair salons and barber shops.

In response to Council Member Herdman's question, City Manager Leung reported that 50 encroachment permits have been issued to restaurants. Mayor O'Neill indicated restaurant owners are very thankful to staff for their fast processing of permit applications. Council Member Herdman noted restaurants on Balboa Island have expanded into the sidewalk because they do not have parking lots. Mayor O'Neill remarked that even after COVID-19, Council will probably want to consider continuing outdoor dining because residents are enjoying it, and added his appreciation for keeping businesses viable.

City Manager Leung continued her presentation with information regarding City Hall operations and day camps.

Fire Chief Boyles continued the update with statistics regarding COVID-19 cases, testing and hospitalization/ICU trends.

In response to Council Member Muldoon's question, Fire Chief Boyles indicated he was unaware if fatalities were decreasing because treatment has improved or because of the ages most affected.

In response to Council Member Dixon's question, Fire Chief Boyles indicated the hospitalization rate reported is for Orange County. Council Member Dixon reported a 33% decrease of COVID-19 patients at Hoag Hospital and a 7% decrease in the number of available beds since yesterday. She believed the number of deaths is stabilizing or decreasing in Orange County.

Fire Chief Boyles advised that the Fire Department has responded to 432 enhanced precaution calls, 29 patients transported in ambulances have tested positive, noted that some Lifeguards and Fire personnel have tested positive and personnel deemed highly exposed through contact tracing have been quarantined, and added that the Department has implemented an aggressive plan for disinfecting stations and equipment. In response to Council Member Muldoon's questions, Fire Chief Boyles explained community spread as contact and transmission while Fire personnel are off duty.

Council Member Brenner thanked Fire Chief Boyles and Lifeguard staff for their efforts on the 4th of July, noted the amazing rescue on July 3, 2020, and requested the Lifeguard attend a Council meeting to receive a recognition. Fire Chief Boyles shared the story of his visit with the Lifeguard at Hoag Hospital, that he showed him the Mayor's supportive text message, and the Lifeguard saying he is just glad the kid he rescued was alive. In response to Council Member Brenner's questions, Fire Chief Boyles explained that surfing is not allowed when the blackball flag is up and that the green, yellow and red flags advise the public of dangerous conditions but do not prohibit people from going into the water. Council Member Brenner remarked that Lifeguards have to go into dangerous conditions to save swimmers and surfers. Mayor O'Neill added that the public should remember going into dangerous conditions puts not only themselves but also the Lifeguards at risk.

Fire Chief Boyles noted even with the beaches closed, the July 4th weekend was very busy due to flooding, a sailboat coming ashore, and a power boat missing the entrance to the harbor and landing at Corona del Mar Beach.

Council Member Dixon stated the July 4th weekend was tumultuous due to natural conditions, appreciated Public Works' staff for constructing berms and installing barricades for the flooding on Saturday, and commended the City Manager and all City departments for working long hours. Fire Chief Boyles commended the Public Works staff, as well.

Mayor Pro Tem Avery was impressed by staff's work over the July 4th weekend, believed the Police and Fire Departments did a great job on an extraordinary night, commended the response of public safety units, and stated that he was impressed with the reserve of safety personnel.

Fire Chief Boyles announced he visited the facilities that are holding the Junior Lifeguard Program, noted that participant temperatures are taken in the morning and flags mark the spots for social distancing, and concluded that the first day went smoothly with perfect weather.

Council Member Brenner asked Fire Chief Boyles to inform the children about safe social distancing guidelines and encourage them to wearing face coverings both to and from the Junior Lifeguard Program.

Mayor O'Neill thanked Fire Chief Boyles for the Department's hard work on the July 4th weekend and asked staff to ensure that the Lifeguard who conducted the rescue is present at the next meeting.

Susan Skinner related additional facts about COVID-19 cases and her medical credentials.

Mayor O'Neill noted a substantial rise in cases over the last 30 days with the two largest increases in Santa Ana and Anaheim, encouraged people to be careful and cautious and to treat COVID-19 seriously, and stated that he looked forward to Newport-Mesa Unified School District's (NMUSD) decision regarding school resuming in the fall, and noted that Recreation and Senior Services Director Detweiler is assisting NMUSD on the City's behalf.

Mayor O'Neill recalled his plan to celebrate volunteers in 2020, and noted that while times are currently unconventional, he encouraged Council to contact him regarding any volunteer they would like to recognize with a proclamation, in which he would deliver to the volunteer personally and take socially distanced photos with them.

XII. MOTION FOR RECONSIDERATION – None

XIII. ADJOURNMENT – 7:15 p.m.

The agenda, amended agenda, and second amended agenda were 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 July 9, 2020, at 4:00 p.m., July 10, 2020, at 11:00 a.m., and July 13, 2020, at 5:00 p.m., respectively.

Will O'Neill
Mayor

Leilani I. Brown
City Clerk