



# NEWPORT BEACH

## City Council Staff Report

November 10, 2020  
Agenda Item No. 13

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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**TITLE:** Resolution No. 2020-95: An Update to the Established Fair Market Value Per Acre for Assessing In-Lieu Park Dedication Fees

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### **ABSTRACT:**

Pursuant to Section 19.52.070 of the Newport Beach Municipal Code, the City of Newport Beach (“City”) requires a subdivider of residential land projects containing 50 lots or less to: dedicate parkland as part of the development; pay an in-lieu fee equal to the value of land required for parkland; or a combination of the two. A fair market value update to the parkland in-lieu fee (“Park In-Lieu Fee”) was last approved by the City Council in 2007 under Resolution No. 2007-30. An update to the fair market value appraisal has been performed and an updated Park In-Lieu Fee calculated. For City Council’s consideration is a resolution to approve an updated Park In-Lieu Fee.

### **RECOMMENDATION:**

- a) Find the adoption of this resolution is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and
- b) Adopt Resolution No. 2020-95, *A Resolution of the City Council of the City of Newport Beach, California, Establishing the Fair Market Value Per Acre to be Used in Assessing In-Lieu Park Dedication Fees Pursuant to Section 19.52.070 of the Newport Beach Municipal Code* (Attachment A).

### **FISCAL IMPACT**

If the resolution is adopted the amount of annual Park In-Lieu Fees collected would increase for those projects that are not approved under an existing Development Agreements or have not had their applications deemed complete. Development Agreements lock in the Park In-Lieu Fee rate at the time the agreements are approved. For those projects that are not under a Development Agreement the fee collected is based on the number of “for sale” residential units that have been added above what is currently existing. For example: an existing single-family dwelling is torn down and replaced with a two-unit condominium. The project applicant would pay a Park In-Lieu Fee equivalent to the one added unit.

Park In-Lieu Fees are set at the time a project application is deemed complete by Community Development Department and are due to the City upon recordation of the parcel map. Project applications deemed complete after approval of this item will have Park In-Lieu Fees assessed based on the adjusted fee amounts.

The amount of fees collected fluctuates year to year. For example, in FY 2016-17 \$3,339,610 in Park In-Lieu Fees were collected, but in FY 2019-20 only \$208,822 were collected. Year-to-date for FY 2020-21, \$208,694 in Park In-Lieu Fees have been collected. It is anticipated the amount Park In-Lieu Fees collected would go up over the next two years, but it is difficult to estimate the amount.

The Park In-Lieu Fee program has funded the development of many parks, such as Grant Howald Park, Sunset View Park, and Marina Park.

## **DISCUSSION:**

### **Background**

Title 19 of the Newport Beach Municipal Code (“NBMC”), the Subdivision Code, outlines the City’s compliance with the Subdivision Map Act (Division 2 of Title 7 of the California Government Code), for the purpose of adopting tract and parcel maps while implementing the City’s General Plan. Chapter 19.52 of the Subdivision Code, Park Dedications and Fees, provides for the dedication of land, the payment of fees in lieu of dedication, or a combination of both, for park and recreational purpose in relation to residential developments in the City.

Under NBMC Section 19.52.070 of the Subdivision Code, when a Park In-Lieu Fee is required to be paid, the fee is computed by multiplying the acreage of parkland required of the project by the fair market value per acre. Fair market value per acre is to be established by periodic appraisal prepared by the City, to ensure the Park In-Lieu Fee remains current with property value appreciation. The last adjustment approved by the City Council was in 2007, which established the current fee of \$26,125 per residential unit.

### **Assessing and Calculating Fees In Lieu of Dedication**

California State Statute 66477 (the Quimby Act) establishes the methodology for assessing and calculating parkland dedication and in-lieu fee requirements. Consistent with the Quimby Act, the Subdivision Code requires park dedication, and/or payment of Park In-Lieu Fees, for residential subdivisions resulting in additional dwelling units. Park In-Lieu Fees are assessed as a condition to the approval of a tentative map or parcel map, and they are used to help fund the City’s acquisition or rehabilitation of parkland to meet the park and recreational demands of new residential development.

In accordance with the Quimby Act, if a proposed subdivision contains fifty parcels or fewer, the subdivider may pay an in-lieu fee equal to the value of the parkland that would otherwise be required for dedication. If a proposed subdivision contains fifty parcels or more, the decision-making body shall determine whether land dedication, in-lieu fees, or a combination of the two shall be required.

Pursuant to the Subdivision Code, the following factors are to be used in the calculation of parkland dedication and fee requirements:

- The City's established parkland dedication ratio of five (5) acres of parkland per 1,000 people expected to reside in a subdivision, or 0.005 acres per person.
- The average number of persons per household in the City based on data from the most recent available federal or state census, currently 2.09 persons per unit.
- The per-acre value of land in the City as established by periodic appraisal.

Using the factors listed above, the Park In-Lieu Fee per new residential unit can be calculated as follows:

*Park In-Lieu Fee Calculation Methodology*

0.005 acres per person  
x 2.09 persons per unit  
0.01045 acres of parkland dedication per unit

0.01045 acres  
x fair market land value per acre  
Park In-Lieu Fee per unit

**Appraisal to Determine Fair Market Land Value Per Acre**

Since 1979, the City has used an appraisal of Eastbluff Park to establish the fair market land value per acre to be used in setting the Park In-Lieu Fees. In 2006, the City appraised Eastbluff Park as well as a second park site – Bob Henry Park, to set the Park In-Lieu Fees. Consistent with the previous appraisals, the properties were appraised by Integra Realty Resources (“Integra”) on August 13, 2019, assuming the sites had the following characteristics:

- Multifamily residential zoning with no entitlements
- Maximum density of 14 dwelling units per acre
- Utilities available to the developments
- Sites assumed to be vacant and unimproved
- Sites assumed to have relatively level topography
- Sites assumed to have no view potential

Since the subject fee applies to only residential subdivisions, multifamily residential use of the properties is assumed in order to establish the fair market value of vacant, residentially zoned land in the City.

In preparation of this latest Park In-Lieu Fee update, staff considered which areas of the City were likely to be selected for new park sites and determined West Newport and the Airport Area had more limited existing park resources. A third site was appraised by Integra to reflect the most likely property type, a hypothetical industrially zoned property of 20,000 square feet in West Newport, to be acquired by the City to create a new park resource for the underserved area. Use of three sites also provides a more accurate representation of the average land values in the City.

The tables on the next page contain the results of all three appraisals, and the adjusted Park In-Lieu Fee if the appraisal results are used to establish fair market land value using the Park In-Lieu Fee Calculation Methodology outlined in the section above.

<b>Appraisal Results</b> [August 13, 2019]		
<b>Property</b>	<b>Total FMV</b>	<b>Cost Per Acre</b>
Eastbluff Park (Attachment B)	\$52,380,000	\$3,776,652
Bob Henry Park (Attachment C)	\$19,150,000	\$3,989,660
Hypothetical West Newport Industrial Property (Attachment D)	\$1,500,000	\$3,267,000
	<b>Average (3 sites)</b>	<b>\$3,677,771</b>

<b>Park In-Lieu Fee Calculation</b>
0.005 acres per person
<u>x 2.09 persons per unit</u>
0.01045 acres of park land dedication per unit
0.01045 acres
<u>x \$3,675,000 FMV per acre (rounded)</u>
\$38,403.75
<b>\$38,400 (rounded) Park In-Lieu Fee per unit</b>

The proposed Park In-Lieu Fee of \$38,400 per unit equates to an approximately 47 percent increase over the current fee of \$26,125 per unit, established by City Council in May 2007, or over three percent per year. Due to the large increase in the fee, staff recommends phasing-in the increase over two years by charging \$30,217 per unit at adoption of the Resolution, setting the fee at \$34,309 per unit one-year following the date of adoption, and setting the fee at \$38,400 per unit two-years following the date of adoption.

### **BIA Outreach**

Staff contacted the Orange County Chapter of the Building Industry Association of Southern California (“BIA”) in September to notify them of the proposed Park In-Lieu Fee update, and to request their review and comment on the appraisal reports and resulting fee increase. Steve LaMotte, the BIA’s Chapter Executive Officer, reviewed the information and confirmed on October 20, 2020, via email the BIA is not opposed to the fee update due to the time since the last fee increase, and because the fee is proposed to be phased-in over two years.

### **Park Fee City Comparisons**

Staff conducted a survey of surrounding cities to determine both how parkland dedications and in-lieu fees are determined and what fees are being charged.

Similar to the City of Newport Beach, the cities of Yorba Linda, Orange, Irvine, and Garden Grove set their park dedication fees based on fair market land value. Fees in Yorba Linda were last updated in 2015 and are based on a fair market land value of \$1,851,250 per acre. The City of Orange determines the fair market land value at the time the project is being processed and uses a formula of 3.0 acres per 1,000 people to determine their acre of parkland dedication per unit requirement. Similarly, the City of Irvine requires a subdivider to obtain an appraisal at the time of their application, and the fee is based on the fair market land value of the property they are developing, their proposed density, and a factor of 2.0 acres per 1,000 people to determine the per unit requirement. The City of Garden Grove also requires a fee reflecting the estimated cost of land acquisition required for park and recreation purposes, and as of February 12, 2019, the fee per single family unit is \$11,794, and the fee per multifamily unit is \$9,804.

The cities of Costa Mesa and Los Angeles base their park dedication fees on projected demographic growth and future demand for park and recreation facilities as the population increases.

### **Collected Park In-Lieu Fees**

Park In-Lieu Fees are set at the time a project application is deemed complete and are due to the City upon recordation of the parcel map. Project applications deemed complete after approval of this item will have Park In-Lieu Fees assessed based on the adjusted fee amounts. Year-to-date for FY 2020-21, \$208,694 in Park In-Lieu Fees have been collected, and an additional \$287,375 is anticipated to be collected.

**ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find adoption of the resolution is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

**ATTACHMENTS:**

Attachment A – Resolution No. 2020-95

Attachment B – Integra Realty Resources Appraisal Report – Eastbluff Park, Dated August 27, 2019

Attachment C – Integra Realty Resources Appraisal Report – Bob Henry Park, Dated August 27, 2019

Attachment D – Integra Realty Resources Appraisal Report – Hypothetical Property Near Intersection of Placentia Avenue and Production Place, Newport Beach, Dated September 4, 2019