

# CITY OF NEWPORT BEACH

## City Council Minutes City Council Regular Meeting December 10, 2013 – 05:30 PM

- I. STUDY SESSION - Cancelled
- II. CONVENED AT 5:30 P.M. FOR REGULAR MEETING
- III. ROLL CALL

Present: Council Member Gardner, Council Member Petros, Mayor Pro Tem Hill, Mayor Curry, Council Member Selich, Council Member Henn, Council Member Daigle

- IV. PLEDGE OF ALLEGIANCE - Council Member Gardner
- V. INVOCATION - Mayor Curry
- VI. PRESENTATION

### State Board of Equalization - Michelle Steel

Mayor Curry noted that the City has been represented for many years at the State Board of Equalization by Michelle Steel.

Michelle Steel, State Board of Equalization, acknowledged the great work of the Council Members, including Mayor Curry and Mayor Pro Tem Hill, expressed her appreciation to the City, and presented Mayor Curry and Mayor Pro Tem Hill with a proclamation.

Mayor Curry also recognized Dave Grant, Coastline Community Colleges Trustee, for his attendance.

- VII. NOTICE TO THE PUBLIC
- VIII. CITY COUNCIL ANNOUNCEMENTS OR MATTERS WHICH COUNCIL MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

Council Member Henn reported participating in the Balboa Village Christmas Tree Lighting Ceremony and commented positively on the event. He thanked ExplorOcean for allowing use of their facility so Santa could visit with children. He noted that Christmas carols were sung by the Orange County Children's Choir, reported that Balboa Village has a new set of decorations, and encouraged residents to visit during the Christmas holiday. He expressed appreciation to the Balboa Village Business Association, City staff, and residents for their support.

Council Member Henn also reported that the Balboa Village Advisory Committee (BVAC) will meet on December 11, 2013, at 4:00 p.m. at ExplorOcean and noted that the main agenda item is a review of parking governance recommendations for Balboa Village as part of a set of recommendations that will be coming before Council. He reported that the Tidelands Management Committee will meet on December 18, 2013, at 4:00 p.m. in the Civic Center Community Room where it will review a capital

plan update for the Harbor, a policy document issued by the California Coastal Commission on sea level rise, how derelict boats are handled in the Harbor, and will receive a Harbor Commission report on public piers and visitor access in the Harbor.

Council Member Gardner reported that the December meetings of the Harbor Commission and the Water Quality/Coastal Tidelands Committee have been cancelled, but the City Arts Commission will meet on December 12, 2013, at 5:00 p.m. in the Central Library Friends Room.

Council Member Petros announced his involvement in a meeting regarding the proposal for a stadium at Corona del Mar High School on December 11, 2013, at 7:00 p.m. at the Bluffs Fiesta Room at 2414 Vista Del Oro.

Mayor Curry announced that the City Clerk's Office will be accepting new, unwrapped toys for children of U.S. troops, new and used DVDs for troops and cash/gift card donations for families of troops through Operation Christmas. He encouraged residents to drop off donations at the City Clerk's Office by noon on December 23, 2013.

Mayor Curry also reported joining the City's Public Works staff in a meeting of the American Public Works Association (APWA) where the City received the 2013 Project of the Year Award for its new Civic Center. He congratulated Public Works staff and the project architects. He reported that, last week, he participated in a press conference organized by the Chief of Police to unveil the City's stolen collection. He reported this is a new and innovative approach to letting people know that the best defense from crime is individual action by locking vehicles and not leaving valuables in open sight in vehicles. He commented positively regarding the campaign and congratulated the Chief of Police for implementing the program. Additionally, Mayor Curry reported speaking at the Citizen's Police Academy graduation and the Newport Coast Moms Club Holiday Carnival where money was raised for Phelan-McDermid Syndrome awareness. He commented on the Corona del Mar Christmas Walk and reported speaking at the Chamber of Commerce's Wake-Up Newport. Mayor Curry referenced a recent article regarding fuel for fire pits and indicated that it would be beneficial to accelerate policies adopted at the last Council meeting.

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

### Written Comments

Council Member Gardner noted that the City received letters from Horizons Construction and KASA Construction regarding Item 6 (Sunset Ridge Park). City Attorney Harp confirmed that he reviewed the letters and reported that there should be no problem with awarding the contract at this time.

Regarding Item 12 (Quarterly Business Report), Jim Mosher acknowledged that the reports are useful, but believed it could be improved by holding a citizens' focus group to determine how to make the financial information more interesting and understandable to the public. He made suggestions regarding the City's reserves, pensions, benefits, and workers compensation.

## **X. CONSENT CALENDAR**

### **A. READING OF MINUTES AND ORDINANCES**

- 1. MINUTES FOR THE NOVEMBER 26, 2013 STUDY SESSION AND REGULAR MEETING. [100-2013]** Waive reading of subject minutes, approve as amended, and order filed. *Council Member Daigle abstained from this item.*

Minutes

Amended Minutes

2. **READING OF ORDINANCES.** Waive reading in full of all ordinances under consideration, and direct City Clerk to read by title only.

**B. ORDINANCES FOR ADOPTION**

3. **ADOPTION OF ORDINANCE NO. 2013-27 AMENDING CHAPTER 17.60 AND SUBSECTION 17.35.020(B)(2) OF THE NEWPORT BEACH MUNICIPAL CODE REGARDING RESIDENTIAL AND COMMERCIAL PIERS LOCATED UPON TIDELANDS. [100-2013]** Conduct second reading and adopt Ordinance No. 2013-27, *An Ordinance of the City Council of the City of Newport Beach Amending Chapter 17.60 and Subsection 17.35.020(B)(2) of the Newport Beach Municipal Code Regarding Residential and Commercial Piers Located Upon Tidelands.* **Council Member Selich recused himself from this item since he owns a residential pier.**

Staff Report

4. **ADOPTION OF ORDINANCE NO. 2013-28 APPROVING CODE AMENDMENT NO. CA2013-008 TO REPEAL THE INCLUSIONARY HOUSING PROVISIONS IN THE MUNICIPAL CODE (PA2013-221). [100-2013]** Conduct second reading and adopt Ordinance No. 2013-28, *An Ordinance of the City Council of the City of Newport Beach Repealing Chapter 19.54 (Inclusionary Housing) of Title 19 of the Newport Beach Municipal Code*, approving Code Amendment No. CA2013-008. **Council Member Gardner voted no on this item.**

Staff Report

**C. RESOLUTIONS FOR ADOPTION**

5. **RESOLUTION NO. 2013-89 - A RESOLUTION OF INTENTION TO RENEW THE NEWPORT BEACH TOURISM BUSINESS IMPROVEMENT DISTRICT. [100-2013]** a) Adopt Resolution No. 2013-89, *A Resolution of the City Council of the City of Newport Beach Declaring its Intention to Renew the Newport Beach Tourism Business Improvement District and Fixing the Time and Place of a Public Meeting and a Public Hearing Thereon and Giving Notice Thereof*; and b) direct the City Clerk to provide notice of the public meeting and public hearing as required by the California Streets and Highways Code. **Council Member Daigle voted no on this item.**

Staff Report

**D. CONTRACTS AND AGREEMENTS**

6. **SUNSET RIDGE PARK - AWARD OF CONTRACT NO. 3449. [38/100-2013]** a) Approve the final park design and the project plans and specifications; b) award Contract No. 3449 to Environmental Construction, Inc., for the total bid amount of \$5,214,820.00, and authorize the Mayor and the City Clerk to execute the contract; c) establish a contingency of \$520,000.00 (approximately 10%) to cover the cost of unforeseen work; and d) terminate the Access Agreement (C-4503) between the City of Newport Beach and Newport Beach Banning Ranch, LLC regarding Sunset Ridge Park approved by City Council on March 23, 2010.

Staff Report

Supplemental Staff Report

## Correspondence

7. **MARINA PARK PROJECT - MARINA BASIN CONSTRUCTION INCLUDING DREDGING, BULKHEADS, GRADING AND SOIL REMEDIATION (BID PACKAGE 2) - AWARD OF CONTRACT NO. 3897(B) (CAP09-0070). [38/100-2013]** a) Approve the project drawings and specifications, b) award Contract No. 3897 (B) (Marina Park Project - "Marina Basin Construction Including Dredging, Bulkheads, Grading and Soil Remediation") to Dutra Construction Company, Inc. (Dutra) of San Rafael, California, for the total bid price of \$4,576,079.00 and authorize the Mayor and City Clerk to execute the contract; and c) establish a contingency of \$457,607.00 (10%) to cover the cost of unforeseen work.

## Staff Report

9. **EXTEND PLANNING STAFF SERVICES CONTRACT WITH MIG, INC. (C-5496). [38/100-2013]** a) Extend the term of the contract with MIG, Inc. to June 30, 2015, for a not-to-exceed amount of \$400,000 for the entire two-year term of the contract, and authorize the Mayor and City Clerk to execute the amendment to the Agreement; and b) approve a Budget Amendment No. 14BA-027 to increase expenditure appropriations in the Planning Division's Professional & Technical Account, 2710-8080, by \$90,000 for FY 2013-2014 from the General Fund unappropriated fund balance.

## Staff Report

10. **TEN-YEAR LEASE AGREEMENT BETWEEN THE CITY OF NEWPORT BEACH AND THE GALLEY CAFÉ LOCATED AT 829 HARBOR ISLAND DRIVE (C-5674). [38/100-2013]** a) Approve The Galley Café to continue as the food services operator in the restaurant premises at the Balboa Yacht Basin; b) approve a waiver of City Council Policy F-7 based on the findings contained in the staff report; and c) authorize the City Manager to execute a new Lease Agreement in substantially the same form in the staff report with The Galley Café.

## Staff Report

11. **AMENDMENTS TO PROFESSIONAL SERVICES AGREEMENTS WITH GLENN LUKOS ASSOCIATES, INC. (C-5117) AND EPT DESIGN, INC. (C-3766) FOR SUNSET RIDGE PARK - CONTRACT NO. 3449 (CAP09-0076). [38/100-2013]** a) Approve Amendment No. 1 to Professional Services Agreement with Glenn Lukos Associates, Inc. to provide additional biological services related to the Sunset Ridge Park project at a not-to-exceed cost of \$232,790 and authorize the Mayor and City Clerk to execute Amendment No. 1; and b) approve amendment No. 8 to Professional Services Agreement with EPT Design, Inc. for additional landscape design services as required by the CDP special conditions for the Sunset Ridge Park project at a not-to-exceed cost of \$49,830 and authorize the Mayor and City Clerk to execute Amendment No. 8.

## Staff Report

E. **MISCELLANEOUS**

12. **QUARTERLY BUSINESS REPORT (QBR) - APRIL THROUGH SEPTEMBER 2013. [100-2013]** Review and file.

## Staff Report

14. **CULTURAL ARTS GRANTS - 2013/2014. [100-2013]** Approve recommended

recipients for FY 2013/14 Cultural Arts Grants as selected by the City Arts Commission in accordance with City Council Policy I-10 - *Financial Support for Culture and the Arts*.

Staff Report

15. **EXTEND TERM OF THE LAND USE ELEMENT AMENDMENT ADVISORY COMMITTEE. [100-2013]** Adopt Resolution No. 2013-90, *A Resolution of the City Council of the City of Newport Beach Extending the Term of the Land Use Element Amendment Advisory Committee* to December 31, 2014.

Staff Report

Amended Resolution

**Motion by Mayor Pro Tem Hill, seconded by Council Member Selich** to approve the Consent Calendar, except for the items removed (8 and 13); and noting the abstention by Council Member Daigle to Item 1, the recusal by Council Member Selich on Item 3, the no vote by Council Member Gardner on Item 4, and the no vote by Council Member Daigle on Item 5.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Mayor Pro Tem Hill, Mayor Curry, Council Member Selich, Council Member Henn, Council Member Daigle

#### XI. ITEMS REMOVED FROM THE CONSENT CALENDAR

8. **GEOTECHNICAL AND WATER QUALITY MANAGEMENT PLAN REVIEW - APPROVAL OF AMENDMENT NO. 1 OF THE PROFESSIONAL SERVICES AGREEMENT WITH BAGAHİ ENGINEERING (C-5526). [38/100-2013]**

Staff Report

Council Member Petros noted that staff has evaluated the proposals and acted proper in awarding the contract to Bagahi Engineering. Regarding the schedule of plan check fees in their scope of work, he expressed concern that fee escalations for 2014 and 2015 are 6% or greater from 2013. Although he believed that Bagahi Engineering is the proper selection, he asked staff to renegotiate this and, if there is an escalation, it is tied to ENR or CPI to be more in keeping with Council Policy.

**Motion by Council Member Petros, seconded by Council Member Curry** to continue the item to the January 14, 2014 City Council meeting.

Community Development Director Brandt indicated that staff will speak with Bagahi Engineering to revise the fee escalations for the second and third year of the contract.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Mayor Pro Tem Hill, Mayor Curry, Council Member Selich, Council Member Henn, Council Member Daigle

13. **PUBLIC MEETING ON THE PROPOSED MODIFICATION OF THE NEWPORT BEACH TOURISM BUSINESS IMPROVEMENT DISTRICT'S (NBTBID) MANAGEMENT DISTRICT PLAN. [100-2013]**

Staff Report

Council Member Petros reported that the intent of this agenda item is to receive public

testimony on the issue.

Jim Mosher believed that the subject of the matter has not been made clear. He referenced a copy of the California Streets and Highways Code included in the staff report and encouraged Council to read it relative to why the legislature thought there was a need to create Business Improvement Districts (BIDs). He noted that the broader purpose of promoting tourism is to revitalize struggling businesses trapped in blighted, urban business districts which he believed does not describe what the NBTBID is about.

**Motion by Council Member Petros, seconded by Mayor Pro Tem Hill** to receive public testimony on the proposed modification of the NBTBID's Management District Plan.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Mayor Pro Tem Hill, Mayor Curry,  
Council Member Selich, Council Member Henn

Noes: Council Member Daigle

## **XII. PUBLIC COMMENTS**

Jim Mosher corrected misstatements he has made over the year relative to his suggestion that there should be a Council Member on the Board of the Tourism Business Improvement District and his reference to taxes when he should have said "fees." However, he believed that whenever public revenue is being spent, close, public oversight is important. He also stated that he is not against the Boat Parade, but believed that, prior to committing public monies, the City should ask for some accounting of how the money will be spent and assurance that the event needs the money to exist. Additionally, he stated that there is an incorrect impression that he is against Girl Scouts, but intended to say that there are a number of worthy organizations operating in Orange County and wondered when the City commits to offering them a piece of property for \$1 a year for the next 50 years, if all organizations are being treated equitably.

George Schroeder commented on Council's approval tonight of two park projects for the west side and thanked Council and staff for their efforts. He invited those interested in the projects to attend Speak Up Newport on January 8, 2014, in the Civic Center Community Room where discussion will be about how parks make life better. He wished everyone Happy Holidays and thanked Mayor Curry for his service.

## **XIII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES**

Mayor Curry reported that the Association of Orange County Cities held a workshop in conjunction with the American Civil Liberties Union (ACLU) about the deterioration of public comments in many surrounding cities. He stated that the City is blessed that its public comment period is always decorous and on topic.

Council Member Daigle reported that she chairs the Affordable Housing Task Force and noted that the City will be repealing its Inclusionary Zoning Ordinance. She clarified that the City has a fund balance of \$4.3 million to construct affordable housing and the regional requirement for the City is five units. She stated that the City will be able to meet this goal and has the means to do so without keeping the Ordinance in place.

Council Member Selich reported that the Land Use Element Amendment Advisory Committee (LUEAAC) met on December 3, 2013, and started reviewing policies for the Land Use Element. He announced that the Committee was unable to review all of the policies, so a special meeting has been scheduled for December 16, 2013, at 3:30 p.m. in the Friends Room of the Central Library.

Council Member Petros reported that the Bicycle Master Plan Oversight Committee (BMPOC) met on December 2, 2013, to review existing conditions of facilities in the City. He noted that James Pinera

of Caltrans was also in attendance since some facilities that were being talked about are owned by Caltrans.

Council Member Petros reported attending a walk-through of Cliff Drive Park and stated that, by Summer 2014, there will be aggressive replanting, painting, and repair at the Park. He encouraged residents to contact him regarding plans for the Park.

Mayor Curry reported attending the groundbreaking ceremony today at Sunset Ridge Park, noting that the City is moving forward on the 13.7 acre park that will provide baseball and youth soccer fields, as well as other amenities.

#### **XIV. PUBLIC HEARINGS**

##### **16. MIRAMAR DRIVE CODE AMENDMENT (PA2013-211) - 2022, 2026, 2032, 2034, 2038, AND 2042 MIRAMAR DRIVE. [100-2013]**

Staff Report

PowerPoint Presentation

Associate Planner Murillo provided a PowerPoint presentation to discuss the proposed Code Amendment, location of the subject properties, typical alley setbacks, existing encroachments, and recommendations.

**Mayor Curry opened the public hearing. There being no testimony, he closed the public hearing.**

**Motion by Council Member Henn, seconded by Council Member Selich** to introduce Ordinance No. 2013-29, *An Ordinance of the City Council of the City of Newport Beach Adopting Zoning Code Amendment No. CA2013-006 to Change the Rear Alley Setback From 6 Feet to 0 Feet for Six Properties on Miramar Drive (PA2013-211)*, 1) finding that the amendment is categorically exempt under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations) and 2) approving Code Amendment No. CA2013-006, and pass to second reading on January 14, 2014.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Mayor Pro Tem Hill, Mayor Curry, Council Member Selich, Council Member Henn, Council Member Daigle

#### **XV. MOTION FOR RECONSIDERATION - None**

#### **XVI. REORGANIZATION**

##### **A. ELECTION OF MAYOR.**

The City Clerk, in presiding, placed all members of the Council on an equal basis to nominate and elect.

Council Member Henn nominated Council Member Hill for Mayor.

Interested parties were invited to address the City Council. There was no member of the public who wished to speak.

**Motion by Council Member Curry, seconded by Council Member Gardner** to close nominations for Mayor.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Council Member Hill, Council Member Curry, Council Member Selich, Council Member Henn, Council Member Daigle

Without objection, Council Member Hill was elected as the Mayor of the City of Newport Beach for 2013-2014.

Mayor Hill took his proper placed at the Council dais.

**B. ELECTION OF MAYOR PRO TEM.**

Mayor Hill, in presiding, placed all members of the Council on an equal basis to nominate and elect.

Council Member Curry nominated Council Member Selich for Mayor Pro Tem.

Interested parties were invited to address the City Council. There was no member of the public who wished to speak.

**Motion by Council Member Gardner, seconded by Council Member Curry** to close nominations for Mayor Pro Tem.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Council Member Curry, Mayor Hill, Council Member Selich, Council Member Henn, Council Member Daigle

Without objection, Council Member Selich was elected as the Mayor Pro Tem for the City of Newport Beach for 2013-2014.

Mayor Pro Tem Selich took his proper place at the Council dais.

**C. SEATING ARRANGEMENTS FOR CITY COUNCIL.**

The Council Members decided on the seating arrangement for the Council dais with the senior Council Members having first preference. The following seating order was determined (left to right):

Gardner - Petros - Selich - Hill - Curry - Henn - Daigle

**D. REMARKS.**

**Presentation of the Gavel Plaque to Outgoing Mayor**

On behalf of Council, Mayor Hill presented a gavel plaque to outgoing Mayor Curry and thanked him for his leadership and service to the City.

**Outgoing Mayor Remarks**

Outgoing Mayor Curry thanked his Council colleagues for the opportunity to serve and commented positively on the community. He listed milestones reached this past year, including the inauguration of the new Civic Center. He noted challenges, like the realignment at the State level to release County prisoners, maintaining safety, and reducing crime. He reported



that, for the third year in a row, there has been a decrease in crime in the City because of the great work of the Newport Beach Police Department and the Newport Beach Fire Department. He commented on reductions in staffing and reported that staff has stepped up to do more work and is doing a great job. He also emphasized that staff is a contributing factor to the success of the community.

Outgoing Mayor Curry thanked City Manager Kiff for his leadership, and also thanked the Management team and City staff. He reported that the City finished 2013 with a \$12 million surplus, reserves are at a historic high of \$130 million, the City's assessed valuation went up 5.3% because of all the private sector investments in the City, hotel taxes are at an all-time record high, and City tourists pay enough money to support the Library Department and the Parks and Recreation Department, combined. He added that the City maintains its AAA bond rating and took the difficult decision to outsource trash services at a savings of \$3.8 million over the next seven years. He reported on the Harbor dredging project, noted the groundbreaking of Sunset Ridge Park, and stated that the City will break ground on Marina Park within a few weeks. He also recognized that the Balboa Boulevard beautification project is underway and commented on the Sanitation and Water District's accomplishments. He addressed the City's economic vitality, the ExplorOcean facility, revitalization of the Balboa Theater, the hotel project at the old City Hall site, revitalization of the airport, reforming of the City Charter, implementation of new arts programs, updates to the General Plan, reductions in copiers and use of paper, development of a new mobile app, and the one-stop shop Community Development counter. He addressed pension reform and thanked City employees for their cooperation and partnership.

Outgoing Mayor Curry noted that these efforts have been due to the entire City Council and expressed his appreciation for everyone's contributions. He wished Mayor Hill all the best.

#### **Remarks from New Mayor**

Mayor Hill thanked Council for electing him as Mayor and the citizens who elected him to Council. He reported that it is an honor and pleasure to serve as Mayor of Newport Beach. He thanked his wife, Linda, for her patience and support, and also acknowledged his family. He discussed his background and experience and stated that he will strive to be better and continue to focus on important issues, such as the airport, providing quality municipal services while containing the growth of government, keeping bay and ocean waters clean, promoting the City to compatible markets worldwide, and providing parks and special places for seniors. He stated that individuals that make up the City's Police and Fire Departments are the best-of-the-best and spoke positively about City management and staff.

Mayor Hill thanked his Council colleagues and thanked his former Chief of Staff, Alan Limon, for his help. He noted his intent to lead and celebrate the City's successes, and announced two events to begin the celebration process, including a wine and cheese gathering/open house on January 15, 2014, at the OASIS Senior Center from 3:00 p.m. to 4:30 p.m. where the community is invited to learn more about the quality senior services provided by the City, and Taste of Newport from January 17 through January 26, 2014. He asked residents to join him and his wife at both events and the many others that will take place throughout the year. He also announced that there will be a reception at Back Bay Bistro at the Dunes after the Council meeting.

#### **XVII. ADJOURNMENT - Adjourned at 6:35 p.m. in memory of Joe Bell, Earl Fusselman and Robert Wynn**

**The agenda for the Regular Meeting was posted on December 5, 2013, at 4:20 p.m. on the City's website; on December 5, 2013, at 4:20 p.m. on the City Hall Electronic Bulletin Board located in the entrance of the City Council Chambers at 100 Civic Center Drive; and on December 5, 2013, at 4:10 p.m. in the Meeting Agenda Binder located in the entrance of the**

**City Council Chambers at 100 Civic Center Drive.**

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**Recording Secretary**

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**Mayor**

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**City Clerk**