

City Council Study Session – March 14, 2017

# Update to Commercial Marinas Rates



- How Many Marinas?
- History and Actions Taken in 2012 & 2013
- Staff Actions Taken in 2014, 2015, 2016
- Recommendations for 2017
- Next Steps



# How Many Marinas?

## 60 Commercial Marinas



- Large Marinas – 10
- Smaller Marinas - 30
- Other uses - 20
  - Fuel Docks
  - Shipyards
  - Yacht Clubs
  - HOA < 15,000SF
  - Boat Rentals
  - Restaurants
  - Vessel Charter
  - All Other





Permit# CP11204001

Effective 2013 (Per Resolution 2012-98)

	Charter Rate: (5,646 sq. ft. x Current Rate)
	Restaurant Guest Slip Rate: (3,961 sq. ft. x Current Rate)
	Day-Use Rental Rate: (6,703 sq. ft. x Current Rate)
	Sportfishing Charter Rate: (2,885 sq. ft. x Current Rate)
	Building Use over Tidelands (13,196 sq. ft. x Current Rate)
Total = Combined Total of all Pier Types	

# Balboa Manor

Bulkhead/Pierhead Lines



# History and Actions Taken in 2012 & 2013

# A Lot of Public Outreach in 2012 & 2013

Public Outreach Effort	Date
Stakeholder Meetings with Council Committee	Feb. 23, 2012
	April 5, 2012
	June 13, 2012
	August 1, 2012
	August 15, 2013
	August 21, 2013
Committee Members Public Speaking Events	April 5, 2012
	April 10, 2012
Communication Material Distribution	August 22, 2012
	August 29, 2012

# September 12, 2012

## **Council Ad Hoc Committee on Harbor Charges recommendation to City Council - Rates for Commercial Marinas:**

- Increase rent from \$0.36 / sqft to \$1.45 / sqft
  - Up to 20% of Gross Revenue
- Rent to be phased after one-year to year 2020

# October 23, 2012

## The Committee modified the recommendation to City Council:

- Establish a 9-Marina Index
  - “Up to ~~20%~~ 18.5% of Gross Slip Revenues”
- Approve model lease template and permit
- Set rent for large commercial marinas
- Phase increases over six periods



# November 13, 2012

The Committee further modified the recommendation to City Council:

- Continue to use the Marina Index
  - “Up to ~~20.0%~~ ~~18.5%~~ 16.0% of Gross Slip Revenues”
- Index made up of nine marinas
- Phase increases over six steps
- Beginning March 1, 2013 rent is at \$0.36 / sqft
- Starting March 1, 2014 reach full fair market value on March 1, 2018
- Rent established for other harbor uses:

Commercial Use Category	2012 CC Action
Large Commercial Marinas	\$1.68
Small Commercial Marinas	\$1.26
Fuel Docks	\$0.50
Shipyards	\$0.50
HOA marina / docks for member's use	\$1.02
Yacht Clubs	\$0.50
- Guest Slips @ Yacht Clubs	\$0.35
Any free public access dock	-
Boat Rentals	\$1.02
Sport Fishing Charters	\$1.02
Restaurants' guest slips	\$1.02
Vessel Charters	\$1.02
All Others	\$1.02

- Rent established for other harbor uses

# Staff Actions in 2014, 2015, 2016

- 2014 - Index dropped to \$0.35 / sft
- 2015 – Further Discussion at City Council Study Session
- 2015 - Staff paused rates at \$0.35 / sft
- 2016 – Appraisal by George Hamilton Jones Inc.
- 2016 – Continue to hold rates at \$0.35 / sft

# 2017 Recommendations

\*Appraisal conducted by George H Jones (April 2016)

- New appraised rate is **\$1.17 / sft** for large marinas (no longer indexed)
- Phased approach to raise the rent:
  - April 2017 - Immediately raise to **\$0.76 / sft**
  - April 2018 - raise to **\$1.17 / sft**
- Establish a Medium Size Marina for 54,999 to 15,001 sft
- Adjust every year by Consumer Price Index (CPI)
- Re-appraise the marinas every **ten Years (2027)**

Commercial Use Category	Current Rent \$/sft
Large Commercial Marinas	\$0.35
Small Commercial Marinas	\$0.26
Fuel Docks	\$0.35
Shipyards	\$0.35
HOA marina / docks for member's use	\$0.26
Yacht Clubs	\$0.35
- Guest Slips @ Yacht Clubs	\$0.35
Any free public access dock	-
Boat Rentals	\$0.35
Sport Fishing Charters	\$0.35
Restaurants' guest slips	\$0.35
Vessel Charters	\$0.35
All Others	\$0.35

## Current Rates

Commercial Use Category	Current \$/sft	April 2017
Large Comm. Marinas	\$0.35	\$0.76
Medium Comm. Marinas		\$0.62
Small Comm. Marinas	\$0.26	\$0.53
Fuel Docks	\$0.35	\$0.36
Shipyards	\$0.35	\$0.36
HOA marina / docks for member's use	\$0.26	\$0.53
Yacht Clubs	\$0.35	\$0.76
- Guest Slips @ Yacht Clubs	\$0.35	\$0.36
Any free public access dock	-	-
Boat Rentals	\$0.35	\$0.53
Sport Fishing Charters	\$0.35	\$0.53
Restaurants' guest slips	\$0.35	\$0.53
Vessel Charters	\$0.35	\$0.53
All Others	\$0.35	\$0.53

>54,999 sft

54,999 – 15,001 sft

<15,000 sft

Immediate Increase



Commercial Use Category	Current \$/sft	April 2017	April 2018
Large Comm. Marinas	\$0.35	\$0.76	\$1.17
Medium Comm. Marinas	\$0.35	\$0.62	\$0.88
Small Comm. Marinas	\$0.26	\$0.53	\$0.70
Fuel Docks	\$0.35	\$0.36	\$0.36
Shipyards	\$0.35	\$0.36	\$0.36
HOA marina / docks for member's use	\$0.26	\$0.53	\$0.70
Yacht Clubs	\$0.35	\$0.76	\$1.17
- Guest Slips @ Yacht Clubs	\$0.35	\$0.36	\$0.36
Any free public access dock	-	-	-
Boat Rentals	\$0.35	\$0.53	\$0.70
Sport Fishing Charters	\$0.35	\$0.53	\$0.70
Restaurants' guest slips	\$0.35	\$0.53	\$0.70
Vessel Charters	\$0.35	\$0.53	\$0.70
All Others	\$0.35	\$0.53	\$0.70

>54,999 sft

54,999 – 15,001 sft

<15,000 sft

Fully  
Phased

Commercial Use Category	Current \$/sft	April 2017	April 2018	April 2019-CPI
Large Comm. Marinas	\$0.35	\$0.76	\$1.17	\$1.19
Medium Comm. Marinas	\$0.35	\$0.62	\$0.88	\$0.90
Small Comm. Marinas	\$0.26	\$0.53	\$0.70	\$0.72
Fuel Docks	\$0.35	\$0.36	\$0.36	\$0.37
Shipyards	\$0.35	\$0.36	\$0.36	\$0.37
HOA marina / docks for member's use	\$0.26	\$0.53	\$0.70	\$0.71
Yacht Clubs	\$0.35	\$0.76	\$1.17	\$1.19
- Guest Slips @ Yacht Clubs	\$0.35	\$0.36	\$0.36	\$0.37
Any free public access dock	-	-	-	-
Boat Rentals	\$0.35	\$0.53	\$0.70	\$0.71
Sport Fishing Charters	\$0.35	\$0.53	\$0.70	\$0.71
Restaurants' guest slips	\$0.35	\$0.53	\$0.70	\$0.71
Vessel Charters	\$0.35	\$0.53	\$0.70	\$0.71
All Others	\$0.35	\$0.53	\$0.70	\$0.71

- Re-appraise the marinas every **ten years (2027)**

# Next Steps

- Receive Further Direction from the City Council on proposed rates.
- Return on March 28, 2017 with a Resolution on the revised fees.



Questions ?

# CITY OF NEWPORT BEACH

## City Council Minutes Study Session and Regular Meeting March 14, 2017

---

### I. ROLL CALL - 4:00 p.m.

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

### II. CURRENT BUSINESS

#### SS1. Clarification of Items on the Consent Calendar - None

#### SS2. Proclamation Commemorating the 110th Anniversary of the Newport Beach Chamber of Commerce

Newport Beach Chamber of Commerce President Steve Rosansky announced the celebration of the 110<sup>th</sup> Anniversary of the Newport Beach Chamber of Commerce.

Mayor Muldoon read the proclamation and presented it to Newport Beach Chamber of Commerce President Steve Rosansky.

#### SS3. Update on Harbor Programs and Projects Related to Water Quality

Public Works Director Webb presented a PowerPoint presentation, updating the City Council on various Harbor programs and projects related to water quality. He discussed the Newport Bay Watershed, sediment Total Maximum Daily Load (TMDL) targets, Harbor dredging, copper-based boat paints, and high flushing tide copper levels in Winter 2015 and low flushing tide copper levels in Summer 2015.

In response to Council Member O'Neill's question, Public Works Director Webb explained the difference between high and low tide flushes and continued the presentation, highlighting the total copper in sediment, legacy pesticides, nutrients and algal blooms, and resultant reduction in algal blooms.

Council Member Dixon requested and received confirmation from Public Works Director Webb that the algal blooms were by Marina Park and discussed efforts to reduce them.

Public Works Director Webb continued the presentation, outlining Fecal Indicator Bacteria (FIB) TMDL, fresh water concern for selenium, trash and debris, the Santa Ana-Delhi Channel Trash Collection and Low Flow Diversion Project, water wheel, and significant water quality accomplishments.

Council Member Herdman stated he attended a Coastkeepers meeting and asked if the individual TMDLs were combined. Public Works Director Webb reported each element had a set limit and explained tolerance due to the cost associated with reducing sediments. Council Member Herdman emphasized that the City was not the sole contributor and asked if enforcement was an issue. Public Works Director Webb discussed the need for water quality education. He explained the stakeholders group of Coastkeepers and various cities discussing FIB or Bacteria TMDL.



Council Member Peotter discussed the need to remain diligent with the other stakeholders to ensure there is clean water prior to entering the San Diego Creek. In response to Council Member Peotter's question, Public Works Director Webb stated the primary contributor to copper sediments was boat paints. Council Member Peotter discussed positive efforts to remove algal blooms and addressed the need to devote resources to water quality.

Council Member Dixon asked if additional efforts were needed to reduce upstream debris and trash. Public Works Director Webb discussed 100% capture requirements established by the California Regional Water Quality Control Board. He reported that trash in the channels had been substantially reduced.

Council Member Herdman stated there were only four officers enforcing debris standards in the County and suggested putting pressure on the County to conduct additional enforcement.

Nancy Gardner discussed the impact of sea level rise in the Upper Newport Bay and suggested light layer dredging in order to build up the habitat.

Dennis Baker commended the City on its efforts to improve water quality. He discussed the impacts of storms on the shape of the Upper Newport Bay and asked if there was ongoing monitoring of depths and depth changes. Public Works Director Webb stated the sediment TMDL required monitoring every five years.

Peter Bryant, President of the Newport Bay Conservancy, expressed concern about trash in the Upper Newport Bay and opposition to the water wheel solution due to the location in the State Ecological Reserve. He suggested exploring alternative upstream solutions.

Nancy Skinner complimented the City on its water quality efforts.

#### **SS4. Commercial Marina Rates**

Harbor Resources Manager Miller and Deputy Community Development Director Jurjis presented a PowerPoint presentation, providing an update on commercial marina rates, public input, the Council Ad Hoc Committee on Harbor charges and the evaluation of rate changes, commercial use categories and rates, and staff actions.

In response to Council Member Dixon's question, Harbor Resources Manager Miller confirmed the 2012 rates had been implemented.

Deputy Community Development Director Jurjis discussed the appraisal conducted by George H. Jones and the 2017 recommendations. He reviewed current rates.

In response to Mayor Muldoon's question, City Manager Kiff stated he effectuated the rate freeze.

Deputy Community Development Director Jurjis outlined the proposed immediate increases and fully phased rates.

In response to Council questions, Deputy Community Development Director Jurjis reported the fully phased rate approved by the City Council was \$1.68 and the current appraisal report was conducted in April 2016. He explained the process and analysis. He confirmed that the appraisal did not include medium marinas, but the City did not have a medium category. Harbor Resources Manager Miller added that the small marina rate was proposed at \$.70 per square foot. He indicated the rate prior to 2012 was \$.35 per square foot. City Manager Kiff stated the square footage rate was based on the revenue rate.

Sarah Kleinberg, representing 3333 West Coast Highway, indicated support for staff's recommendations.

Jim Mosher questioned why the rate was higher for a large marina versus a small marina, and asked why the yacht clubs were charged the highest rates. Harbor Resources Manager Miller explained that the cost to upkeep and maintain smaller marinas is higher.

Council Member Dixon indicated support for bringing back the recommendations for approval.

Council Member Avery discussed marinas renting public waters and the City's responsibility to obtain market value.

Mayor Muldoon thanked staff for working with the businesses and indicated support for the appraisal.

**SS5. Early Look at the Proposed FY17-18 Capital Improvement Program (CIP)**

Council Member Herdman reported he would be recusing himself on various items during the presentation due to real property interests.

Public Works Director Webb presented a PowerPoint presentation on City Council goals for CIP allocation and facilities.

In response to Council Member Peotter's question, Public Works Director Webb discussed the Lido Fire Station rebuild. Council Member Peotter expressed concern about rebuilding the fire station when it might be relocated. Council Member Dixon recommended proceeding with the preliminary steps. City Manager Kiff reminded Council that the budget year would be from July 1, 2017 to June 30, 2018. Council Member Peotter expressed concern about long-term delays and questioned why the fire station was an exception to the projects that would put on hold.

In response to Council questions, Public Works Director Webb stated the \$520,000 was set aside for design. Deputy Public Works Director Vukojevic further explained the preliminary work, including consideration of alternative locations, and clarified the FFP and CIP budget process. He stated the design and approval process would take at least one year. Public Works Director Webb discussed construction cost increases and clarified that budgeted funds were placeholders.

Public Works Director Webb continued the PowerPoint presentation, outlining new programmed funding for streets, drainage and transportation. He discussed the oceanfront walk/bike safety improvements and stated the design was anticipated to cost \$150,000. Council Member Dixon discussed meetings with residents and noted that discussion about extending the bike path was premature. Mayor Muldoon stated he did not want the oceanwalk extended. Council Member Dixon stated she has a town hall meeting scheduled for April 3, 2017 and would obtain input on the matter.

Public Works Director Webb continued the PowerPoint presentation on transportation funding.

***Prior to Public Works Director Webb discussing Grand Canal dredging and seawall extensions, Council Member Herdman recused himself due to real property interests.***

Public Works Director Webb reviewed new program funding for parks, harbors and beaches.



**City of Newport Beach  
Study Session and Regular Meeting  
March 14, 2017**

---

Council Member Peotter asked for information on the building excise tax. Public Works Administrative Manager Copeland stated it was an element of the development fee for specific improvements for libraries, recreation and fire stations.

Public Works Director Webb discussed water projects, water quality and environmental programs.

Council Member O'Neill asked how many programs from the 2015-16 CIP would be reduced. Public Works Director Webb stated the presentation was based on new programming. He stated re-budget items would be presented in May, but reductions were not anticipated.

In response to Council Member Dixon's question, Public Works Director Webb discussed pavement rehabilitation funds. City Manager Kiff stated the trend line would be presented showing an average of \$5 million to \$6 million.

George Lesley believed the West Coast Highway Median Improvement project was continually superseded and urged Council to complete the improvements.

George Schroeder discussed improvements to Lido Village and the need to complete West Coast Highway Median Improvements.

Jim Mosher asked if the West Coast Highway widening was proposed in the coming year. Public Works Director Webb reported the widening was being conducted through developer improvements.

Council Member Dixon asked why the West Newport landscaping project was being spread out. Public Works Director Webb discussed the estimated cost. Council Member Dixon indicated support for the project and moving forward with deliberate speed. Mayor Muldoon stated he would prefer the project proceed as proposed by staff.

**III. PUBLIC COMMENTS - None**

*City Attorney Harp announced that the City Council would adjourn to Closed Session to discuss the items as listed in the Closed Session agenda and read the titles.*

**IV. CLOSED SESSION**

**A. CONFERENCE WITH LABOR NEGOTIATORS  
(Government Code § 54957.6)**

**Agency Designated Representatives:** Dave Kiff, City Manager, Carol Jacobs, Assistant City Manager, Barbara Salvini, Human Resources Director; and Peter Brown, Esq., Negotiators.

**Employee Organizations:** Newport Beach Police Association (NBPA)

**B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
(Government Code § 54956.9(d)(1)): 1 matter**

*Susan Bidart Riddle v. City of Newport Beach, John Vallely, et al*  
Orange County Superior Court Case No. 30-2015-00808124-CU-WM-CJC

**C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Government Code § 54957 (b)(1))**

**City of Newport Beach  
Study Session and Regular Meeting  
March 14, 2017**

---

**Title:** Dave Kiff, City Manager  
Aaron C. Harp, City Attorney  
Leilani Brown, City Clerk

**D. CONFERENCE WITH LABOR NEGOTIATOR  
(Government Code § 54957.6 (a))**

**Agency Designated Representative:** Council Member Diane Dixon

**Unrepresented Employees:** Dave Kiff, City Manager, Aaron C. Harp, City Attorney, and  
Leilani Brown, City Clerk.

**V. RECESSED - 5:45 p.m.**

**VI. RECONVENED AT 7:05 P.M. FOR REGULAR MEETING**

**VII. ROLL CALL**

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

**VIII. CLOSED SESSION REPORT**

City Attorney Harp reported that there were no reportable actions taken.

**IX. PLEDGE OF ALLEGIANCE - Elizabeth J. Cron, Miss Newport Coast United States 2017**

**X. INVOCATION - Council Member O'Neill**

**XI. NOTICE TO THE PUBLIC**

**XII. CITY COUNCIL ANNOUNCEMENTS (NON-DISCUSSION ITEM)**

Council Member Dixon announced the Women in Newport Networking (WiNN) Forum on March 16, 2017, with special guest speaker Michelle Steel, Chair, Orange County Board of Supervisor. She discussed her recent meeting in Sacramento with Associated California Cities - Orange County. She reminded residents of the Finance Committee meeting on March 16, 2017, and announced Don Quixote Ballet for Kids on March 25, 2017 and the Sunday musicale on March 26, 2017.

Council Member O'Neill stated he attended the most recent library Witte Lecture, announced that the next Witte Lecture will be held on April 7 and April 8, and reported that he attended the beach clean-up with his children. He announced he will be holding office hours on the second Thursday of the month in the Newport Coast Community Center from 8:00 a.m. to 10:00 a.m.

Council Member Herdman reported he spoke at the Newport Beach Kiwanis Club meeting, provided an update at the Big Canyon Community Association meeting, commended the Newport Beach Police Department on its favorable incidents monthly report, and stated he was planning to hold a District 5 Town Hall Meeting.

Council Member Avery discussed his attendance at the California Boating Conference in Sacramento with Mayor Pro Tem Duffield and Harbor Resources Manager Miller, and reported that they also visited the State Capitol to conduct lobbying efforts on behalf of the Newport Harbor. He reported he attended the lifeguard tryouts and announced the District 2 Town Hall Meeting scheduled for March 27, 2017, at the Mariners Branch Library from 6:30 p.m. to 8:00 p.m.



Mayor Muldoon requested a future City Council agenda item to consider naming one of the existing parks after John Wayne.

Council Member Herdman requested a future City Council agenda item to consider renaming the Balboa Island Park to the Ralph Rodheim Park.

**XIII. PUBLIC COMMENTS ON CONSENT CALENDAR**

Mike Glenn expressed concern regarding language in Item 7 (Resolution No. 2017-18: Amendments to Council Policy F-10 (Civil Asset Forfeiture and Seizure Policy). Council Member O'Neill stated the language was based on Federal law.

**XIV. CONSENT CALENDAR**

***READING OF MINUTES AND ORDINANCES***

**1. Minutes for the February 28, 2017 City Council Meeting [100-2017]**

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 INTRODUCTION***

**3. Waterfront Project Guidelines and Standards – Harbor Design Criteria, Commercial & Residential Facilities: Approve Revised Standards [100-2017]**

Continue indefinitely.

***ORDINANCE FOR ADOPTION***

**5. Second Reading of Ordinance No. 2017-3 to Repeal Approvals Related to the Museum House Residential Project Located at 850 San Clemente Drive (PA2015-152) [39/100-2017]**

a) Determine this action is exempt from the CEQA pursuant to CEQA Guidelines Section 15270, which states that projects that a public agency rejects or disapproves are not subject to CEQA review; and

b) Conduct second reading and adopt Ordinance No. 2017-3, *An Ordinance of the City Council of the City of Newport Beach, California, Repealing Approvals for the 100-Unit Museum House Residential Project Located at 850 San Clemente Drive (PA2015-152).*

***Council Members Peotter and O'Neill voted "no" to Item 5.***

***RESOLUTIONS FOR ADOPTION***

**6. Resolution to Accept and Agree to the Terms and Conditions of Categorical Exclusion Order CE-5-NPB-16-1 [100-2017]**

a) Find that City acceptance and agreement to the terms and conditions of Categorical Exclusion Order CE-5-NPB-16-1 is part of the certification of the Local Coastal Program and is therefore statutorily exempt from California Environmental Quality Act (CEQA) pursuant to Section 15265(a)(1) of the California Code of Regulations, Title 14, and Chapter 3 of the Coastal Act; and

b) Adopt amended Resolution No. 2017-17, *A Resolution of the City Council of the City of Newport Beach, California, Accepting and Agreeing to the Terms and Conditions of Categorical Exclusion Order CE-5-NPB-16-1.*



**7. Resolution No. 2017-18: Amendments to Council Policy F-10 (Civil Asset Forfeiture and Seizure Policy) [100-2017]**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2017-18, *A Resolution of the City Council of the City of Newport Beach, California, Amending City Council Policy F-10 Relating to Civil Asset Forfeiture and Seizure*, noting the amendment to City Council Policy F-10.

**MISCELLANEOUS**

**8. Planning Commission Agenda for the March 9, 2017 Meeting [100-2017]**

Receive and file.

**9. Supporting St James the Great Episcopal Church [100-2017]**

Continue the item.

**10. 2017 Election Reform [100-2017]**

- 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) Form and confirm Mayor Kevin Muldoon's appointments of Council Members Diane Dixon, Jeff Herdman, and Scott Peotter to an Ad Hoc Committee to study and report back to the City Council regarding potential election reforms. This Ad Hoc Committee will automatically sunset once the committee concludes its work.

**Motion by Council Member Dixon, seconded by Council Member Peotter**, to approve the Consent Calendar, except for the item removed (Item 4); and noting the "no" votes by Council Members Peotter and O'Neill to Item 5.

The motion carried by the following roll call vote:

Ayes: Council Member Herdman, Council Member Avery, Council Member Dixon, Council Member Peotter, Council Member O'Neill, Mayor Muldoon  
Absent: Mayor Pro Tem Duffield

**XV. ITEM REMOVED FROM THE CONSENT CALENDAR**

**4. Ordinance No. 2017-5: Reauthorization of the City's Public, Educational and Governmental Access Fee on State Video Franchises [100-2017]**

City Manager Kiff discussed cable fees, including the franchise fee and Public Education and Government (PEG) access fee. He also explained the use of PEG fees.

**Motion by Council Member Peotter, seconded by Council Member Dixon**, 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; and b) introduce Ordinance No. 2017-5, *An Ordinance of the City Council of the City of Newport Beach, California, Reauthorizing the Public, Educational and Governmental (PEG) Fee on State Video Franchises Operating within the City of Newport Beach*, and pass to second reading on March 28, 2017.



The motion carried by the following roll call vote:

Ayes: Council Member Herdman, Council Member Avery, Council Member Dixon, Council Member Peotter, Council Member O'Neill, Mayor Muldoon  
Absent: Mayor Pro Tem Duffield

**XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Mike Glenn expressed concern with the City requesting grant funds without having an actual project. He also discussed accidents in crosswalks and the need for pedestrian safety on the Peninsula.

Ashley Jacobs believed crosswalks should be a priority for the City.

City Traffic Engineer Brine stated a Peninsula safety study was underway. Public Works Director Webb reported that funds were identified for improvements once the study is completed.

**XVII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES**

Council Member Avery discussed his attendance at the California Marine Affairs and Navigation Conference (CMANC) in Washington D.C. with Mayor Pro Tem Duffield, Public Works Director Webb, and Harbor Resources Manager Miller, and their Congressional lobbying efforts for Federal funds to dredge Newport Harbor in the future.

**XVIII. CURRENT BUSINESS**

**11. Newsracks/Fixed Pedestal Zones in Corona del Mar [100-2017]**

*Council Member Herdman recused himself due to real property interests.*

City Traffic Engineer Brine presented a PowerPoint presentation, highlighting issues and concerns, inventory of existing newsracks, Municipal Code Chapter 5.70, photographs of existing newsracks, examples of pedestal newsracks, and proposed locations.

Council Member Dixon asked if the distributors had been contacted to determine the need for newsracks. City Traffic Engineer Brine stated staff observed that there was continual distribution. He discussed the publications' responsibility to maintain the newsracks and discussed efforts to maintain current publication locations. Council Member Dixon questioned the need for six pedestal newsracks. Traffic Engineer Brine stated the number was based on the existing racks.

In response to Council Member O'Neill's questions, City Traffic Engineer Brine stated the publications owned the newsracks and paid an initial fee for installation. City Attorney Harp stated implementing reasonable place and time restrictions was appropriate and the proposed ordinance complied with all Constitutional issues. Public Works Director Webb added that Corona del Mar Business Improvement District (BID) would fund the project.

Council Member Peotter stated the proposal came from the BID in order to create aesthetic continuity.

In response to Mayor Muldoon's question, City Traffic Engineer Brine explained the current application process, and discussed the process for completion of maintenance and revocation.

**City of Newport Beach  
Study Session and Regular Meeting  
March 14, 2017**

---

Richard Grodowski, *Los Angeles Times*, discussed kiosks installed in other cities. He stated issues with *L.A. Times* or *Daily Pilot* newsracks would be expeditiously corrected. He expressed concern with relocating newsracks and suggested leaving the newsracks on Pacific Coast Highway. He suggested using individual, freestanding newsracks rather than grouped newsracks.

Victor Cervantes, *Orange County Register*, believed specifying the location was a violation of the First Amendment and requested the opportunity to provide input on the matter. He presented photographs of Manhattan Beach newsracks, requested the City consider retaining the existing Newsracks, and implement enforcement and fines for lack of maintenance.

In response to Council Member Dixon's question, Mr. Cervantes explained the trash in the newsracks in Manhattan Beach.

Bernie Svalstad, Chairman of the Corona del Mar BID, believed the ordinance mimicked the ordinance in effect on Balboa Island.

Mike Glenn stated the existing newsracks were marketed for the various publications. He suggested enforcing the current law and noted the BID budgeted \$20,000 and was asking the City to assist with \$25,000 from the General Fund.

Gilbert Perez, *Los Angeles Times*, indicated opposition to the modular style newsracks due to abandonment and trash.

In response to Council Member Peotter's question, Mr. Perez stated he supplied the materials for maintenance of newsracks on Balboa Island.

City Traffic Engineer Brine stated there were six boxes with potential to split one for a total of eight. He stated the proposal matched the existing newsracks.

Jim Mosher stated the appearance of newsracks should not be a top priority. He stated the ordinance was presented at several Corona del Mar BID meetings, but believed the proposed ordinance differed from the Balboa Island rules.

Mayor Muldoon indicated support for a voluntary transfer of the newspaper providers to move to the pedestal Newsracks, otherwise allow existing newsracks to remain.

**Motion by Council Member Peotter** to a) determine that the action 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; and b) waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2017-6, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 5.70 of the Newport Beach Municipal Code in its Entirety Relating to Newspaper Racks and Designating Portions of Corona del Mar as Fixed Pedestal Zones*, and pass to second reading on March 28, 2017.

***The motion died for lack of a second.***

**Motion by Council Member O'Neill, seconded by Council Member Dixon** to continue the item to the April 11, 2017 City Council meeting to allow additional discussions between the newspapers, City Staff, and the Corona del Mar BID.



**City of Newport Beach  
Study Session and Regular Meeting  
March 14, 2017**

---

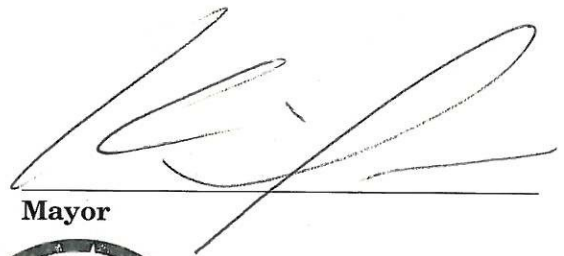
The motion carried by the following roll call vote:

Ayes: Council Member Avery, Council Member Dixon, Council Member Peotter, Council  
Member O'Neill, Mayor Muldoon  
Recused: Council Member Herdman  
Absent: Mayor Pro Tem Duffield

**XIX. MOTION FOR RECONSIDERATION - None**

**XX. ADJOURNMENT - 8:08 p.m.**

The agenda was posted on the City's website and on the City Hall Electronic Bulletin Board located in the entrance of the City Council Chambers at 100 Civic Center Drive on March 9, 2017, at 4:00 p.m.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

