

CITY OF NEWPORT BEACH

Parks, Beaches & Recreation Commission Regular Meeting September 3, 2019 – 6:00 PM

I. CONVENE MEETING OF THE PARKS BEACHES & RECREATION COMMISSION TO ORDER – 6:00 PM

II. ROLL CALL

Present: David Granoff, Chair
Heather Ignatin, Vice Chair
Hassan Archer, Commissioner
Diane Daruty, Commissioner
Laird Hayes, Commissioner
Walt Howald, Commissioner
Kate Malouf, Commissioner

Staff: Sean Levin, Recreation & Senior Services Deputy Director
Dave Webb, Public Works Director
Micah Martin, Deputy Public Works Director
Kevin Pekar, Parks and Landscape Superintendent
Mariah Stinson, Administrative Support Specialist

III. NOTICE TO THE PUBLIC

IV. PUBLIC COMMENTS ON CONSENT CALENDAR-None.

V. CONSENT CALENDAR

A. Minutes of the August 6, 2019, PB&R Commission Meeting.

Recommendation: Waive reading of subject minutes, approve and order filed.

Jim Mosher announced that he had submitted to staff a number of corrections for the minutes. He stated that it was impossible to tell from the minutes what the Commission's recommendations were for lower Sunset Park and the Donation Policy.

B. Parks, Trees & Beach Maintenance Divisions Activity Report.

Recommendation: Receive/file Activity Report.

C. RSS Activity Report.

Recommendation: Receive/file Activity Report of past and upcoming projects and events.

Motion by Commissioner Archer; second by Commissioner Hayes to approve IV. CONSENT CALENDAR. The motion carried by unanimous vote.

VI. CURRENT BUSINESS

A. Appeal of Denial for Special City Tree Removal – 2201 Waterfront Drive

Staff recommends that the Parks, Beaches, and Recreation Commission consider the appeal from property owner Irving Budlong of staff's denial of the removal of a Special City California Pepper tree at 2201 Waterfront Drive.

Parks and Landscape Superintendent Pekar gave the timeline of the application, the reasons for his recommendation of denial, and he noted that Mr. Budlong was willing to remove and replace the existing tree with a 48" box California Pepper.

Commissioner Ignatin asked what the health of the tree was and Superintendent Pekar reported that it was in good health.

Chair Granoff opened the public comment; seeing none he closed the public comment.

Parks and Landscape Superintendent Pekar discussed with the Commission various factors of the new driveway, where the new tree may be placed and transplantation of the existing tree.

Commissioner Ignatin was in support of staff's denial because it did not meet the G-1 Policy.

Chair Granoff reopened the public comment.

Irving Budlong, applicant, stated that there was no garage on the property and the only place to put it was to remove the existing tree.

Mr. Budlong answered the question that he had not heard of any objections from surrounding neighbors regarding removing the existing tree and replacing it.

Commissioner Howald did not want to set a precedent of removing a tree so that the applicant could have a driveway.

Chair Granoff closed the public comment.

Motion by Commissioner Ignatin; seconded by Commissioner Hayes, to deny the appeal from property owner Irving Budlong of staff's denial of the removal of a Special City California Pepper tree at 2201 Waterfront Drive. The motion failed by the following vote:

Ayes: Vice Chair Ignatin and Commissioner Malouf

Nays: Commissioner Howald, Chairperson Granoff, Commissioner Daruty, Commissioner Archer and Commissioner Hayes

Motion by Commissioner Howald; seconded by Chairperson Hayes, to approve the appeal from property owner Irving Budlong of staff's denial of the removal of a Special City California Pepper tree at 2201 Waterfront Drive contingent on the driveway approach approval and a replacement with a 60-inch box California Pepper tree. The motion carried by the following vote:

Ayes: Commissioner Howald, Chairperson Granoff, Commissioner Daruty, Commissioner Archer and Commissioner Hayes

Nays: Vice Chair Ignatin and Commissioner Malouf

B. Special Tree Replacement Request – Marine Avenue

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant of Section 15304 of the CEQA Guidelines because the removal of a dead, damaged, and/or diseased tree is a minor alteration of the condition of land and/or vegetation and none of the exceptions to the use of a categorical exemption set forth in the Guidelines apply; and
- 2) Approve the removal and replacement of four (4) Special City Eucalyptus Gum trees located at 210, 217, 224, and 315 Marine Avenue with a mix of new Eucalyptus Gum trees species, including Lemon-Scented Gum and Silver-Dollar Gum, as there is consensus by staff and consultant arborists on these four trees. The removal of these four trees would take place in September. Replacement of these four trees as well as the planting of the five current vacant tree wells would follow as soon as sidewalk and curb reconstruction work is completed.
- 3) Determine if Level III testing should be conducted prior to the removal of the of six (6) Special City Eucalyptus Gum trees located at 220, 300, 301, 312, 319, and 326 Marine Avenue. If determined necessary, staff would recommend the additional testing for these six trees be conducted in the next couple months. Upon further detailed review and evaluation of this additional testing information by the consulting Arborist and the City Arborist, the City Arborist will determine which of the six special trees, if any, can remain. The other trees (possibly up to all six) not approved to remain will be scheduled for removal and replacement (with a mix of new Eucalyptus Gum tree species, including Lemon-Scented Gum and Silver-Dollar Gum) this coming winter. Replanting of these trees would follow as soon as sidewalk and curb repair work is completed.

Director Webb clarified that staff was recommending to remove 10 trees that were deemed high risk as part of the City's maintenance program and the item was specifically regarding those 10 existing trees.

Parks and Landscape Superintendent Pekar gave a brief description of his background in urban forestry and his love for all trees. He gave a history of the Marine Avenue trees in question, recapped the City's G-1 Policy regarding Special Trees, past maintenance of the trees with the last service being in March of 2019, and existing site conditions on Marine Avenue. He explained over the past 25-years the City had removed and replaced 30 percent of the trees on Marine Avenue. He reviewed the types of prior replacement trees that had been planted in place of the Eucalyptus trees that were removed, what

damages the trees had caused over the past years within the City, and what other Eucalyptus trees looked like in surrounding Cities and natural areas.

Parks and Landscape Superintendent Pekar gave a summary of the Arborgate report done by Greg Applegate which stated recommendations on how to protect special trees, that three Eucalyptus trees should be removed, and that a Hazard Analysis be conducted by a Tree Risk Professional versed in risk analysis.

Mr. Walt Warriner, a consultant with the City, conducted a tree risk assessment and made recommendations for the trees in question. The report stated that the trees could cause severe consequences within the next 3-years, 27 trees were deemed with a high-risk rating and the recommendation was to remove those 27 trees within 3-years with reassessment of 10 trees, in 1-year, that were deemed with a risk level of moderate.

Upon reviewing the report, City Arborist Pekar's recommendations included continuing annual tree inspections and pruning, replace 10 high-risk Eucalyptus trees in 2019, reevaluate and replace up to 17 or more high-risk trees in the following 2 to 3-years. He continued on to review definitions for key terms and gave a detailed description of the 10 trees that were being proposed to be removed. Next steps involved the Commission approving the removal of the three highest risk trees to take place in September of 2019, remove the dead tree at 315 Marine Avenue, make hardscape repairs, replant the five vacant tree wells and the four tree wells that were proposed to be removed, add tree grates, schedule the other high risk trees to be removed in January of 2020 and replace those tree wells with new trees, schedule a re-assessment of the remaining high risk trees which included Level III testing and assessment, and based on that re-assessment removal of additional trees.

Deputy Director Martin stated that the CEQA process was not required when dealing with existing trees and he reviewed Staff's recommendations.

In terms of Commissioner questions, City Arborist Pekar answered it could be \$1,000 a tree to have Level III testing done, throughout the winter was the most ideal time to plant trees, explained the differences between a tree risk assessment and a tree health assessment, the replacement trees would be either Lemon Scented Gum ~~and-or~~ Silver Dollar Gum, any decay ~~that in~~ the existing trees was due to human activity such as root pruning, ~~use mi~~ and recommended using mitigation measures such as structural pruning and tree grates on new trees to help minimize future hardscape problems.

Director Webb asked the Commission to review where the existing tree wells were and determine if those were the proper placements for those tree wells or if they needed to be moved.

Chair Granoff opened up the public comment.

Greg Applegate, an arborist, stated that there was not enough data to support the risk assessments that were made and upon his own assessments, he could not come to the findings that were listed in the reports. He clarified that in his report that he was recommending the removal of two Eucalyptus trees and one Eucalyptus in 2 to 3-years.

He announced that his recommendations for improving the health and structures of the trees were not mentioned. He stated that the health of the trees located at 210, 215, 217 and 315 was improving and did not recommend removing those trees. He was not in support of removing 10 trees in the coming year and suggested a much more gradual replacement plan was more desirable.

Mark Porter, an arborist, gave a summary of his work history in and with trees. He believed there were errors in the City's Risk Assessment Report. He didn't see any language regarding risk reduction strategies. Upon doing a value appraisal, he concluded that the trees were worth \$15,000 per tree and it would cost roughly \$614,000 to replace all the trees on Marine Avenue. He reviewed studies that showed that having mature trees around communities improved residents' lives. In terms of Live Crown Ratio, he reported that Mr. Warriner's report was wrong and he provided his own evidence to prove it was wrong. He concluded that he found Mr. Applegate's report to be very comprehensive and accurate.

Jim Moloney, Counsel for the Balboa Island Preservation Association (BIPA), stated that the City was not following the City's tree policy in terms of the trees that were being proposed to be removed. He argued that more testing should be done before money is spent to remove and replace the trees. He stated that the City had stopped watering the trees, the trees had been over-pruned which caused damage, the empty tree wells were supposed to be already filled with trees, but weren't, and that the residents have lost faith in the system.

Jodi Bole, a resident of Balboa Island, declared that upon the hiring of two arborists, both arborists' reports concluded that the trees were healthy. She argued that the project to redevelop Marine Avenue was not wanted by residents, it violated CEQA, there were no existing Eucalyptus trees sighted on the development plans, no assessments were done when the plans were drawn up and it assumed the trees were diseased and dying, there were no treatment plans when it came to the Eucalyptus trees, it was against policy to put in different species of trees, and both risk assessment reports were Level II reports. She requested evidence of proof that the trees were diseased, dying, or causing high risk. BIPA recommended that before removal, the trees should be subject to Level III testing, expand the tree wells, prove proper irrigation, revise the current pruning schedule, plant Eucalyptus in the test wells as well as the five empty tree wells and place a moratorium on any Special Tree removal until Level III testing had been performed and a complete treatment plan was established.

John De Frenza, a small business owner, articulated that it did not make sense to take away the identity of Marine Avenue all at one time. He suggested a phased-in process and use only Eucalyptus trees.

Dr. Suzanne Savory-Savary expressed that the project for Marine Avenue could move forward with the existing trees kept in place.

Dennis Bress, a Balboa resident, was in support of having Level III testing done before a tree was removed and requested that the recommendation of forming the Marine Avenue Preservation Committee be granted.

George Gonzales, an arborist, stated that he worked with Mr. Warriner on the Risk Assessment Report and he argued public safety was the main driver behind the conclusion that the trees needed to be removed.

Balboa Island Business Owner was not in support of changing the look of Marine Avenue and wished to have it stay as it was at the present time.

Name Unknown wanted no trees to be removed until the five vacant tree wells were planted and if a tree was deemed to be removed, that it be replaced within 30-days.

Ed Black, a Balboa Island resident, agreed with all of Ms. Bole's testimony. He read several quotes that were stated at a City Council meeting by Council Members. He concluded that an insurance policy could be purchased for the trees to alleviate any liability issues.

Randy Black argued that the trees were not at the end of their lifespan and that the community felt excluded from the decision-making process of removing the trees. He requested that the annual pruning be stopped and only prune every 3 to 5-years, have strict compliance with the City's Tree Policy, and future development plans for Marine Avenue be in consultation with BIPA's arborist in order to protect the trees.

Scott Williamson, a Balboa resident, disclosed that the history of the island needed to be retained and that included keeping the trees.

Mathew ~~Pouurr~~, a business owner, noted that a large number of merchants on Balboa Island had not been ~~-in~~ heard in this fight to keep the trees and retain the history of the island.

Mary ~~Hardesty-eardyse~~ Clayton, a 50-year resident of Balboa Island, was sick to hear that the City was trying to change the charm of Marine Avenue. She requested that a moratorium be put in place so that the charm of the island could be maintained.

Chair Granoff closed the public comment period.

Commissioner Ignatin stated that the Commission needed to weigh public safety against preserving the historic natural resources. She believed Level III testing should be pursued and that the BIPA should be available to witness the testing.

Commissioner Howald agreed that Level III testing should be conducted and that the three trees deemed high risk be removed. He wanted to see the five vacant tree wells to be filled. He agreed that the test trees should be removed and replanted with Eucalyptus. The tree that City Arborist Pekar announced as dead he wished to see reevaluated.

Commissioner Daruty was concerned about public safety and was upset that there was a lot of miscommunication. She was in support of removing the four trees that were suggested by Staff, plant trees in the five vacant wells, to use Staff's recommendation of

Lemon-Scented ~~Gum~~ and Silver Dollar Gum species to be the replacement trees, and to do further testing on the other existing trees.

Commissioner Malouf agreed with Commissioner Daruty in terms of public safety, to remove the four suggested trees, remove the test trees, replant the vacant tree wells, but she was concerned about excessive testing of the other trees.

Commissioner Archer wanted to remove the trees that were deemed dead, fill the vacant tree wells, and per the G-1 Policy test the remaining trees before they are removed.

Commissioner Hayes argued that he wanted the test trees that were atypical to be removed, wanted all the new trees to be 24" box, all new trees to be Lemon-Scented Eucalyptus, and all new trees to have a water and maintenance plan.

Chair Granoff agreed with Commissioner Hayes's comments and agreed that public safety was the main driver of removing the trees. He wanted to see tree grates to be installed for all new trees, expand the tree wells, and to work with BIPA on figuring out if a tree well needed to be repositioned. He recommended that Level III assessments be done by a party that Staff and the BIPA agreed upon for the first 10 trees and then again on the other remaining 17 that were deemed to be removed at a later date. He recommended that all new trees come forward to the Commission for approval and that a proper watering system be put into place.

Motion by Commissioner Howald; seconded by Commissioner Hayes, to

1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 of the CEQA Guidelines because the removal of a dead, damaged, and/or diseased tree is a minor alteration of the condition of land and/or vegetation and none of the exceptions to the use of a categorical exemption set forth in the Guidelines apply; and

2) Approve the removal and replacement of four (4) Special City Eucalyptus Gum trees located at 210, 217, 224, and 315 Marine Avenue with Lemon-Scented Gum Eucalyptus trees as there is consensus by staff and consultant arborists on these four trees. The removal of these four trees would take place ~~in~~ within 90 days. Replacement of these four trees as well as the planting of the five current vacant tree wells would follow as soon as sidewalk and curb reconstruction work is completed and receive tree grates on all current and future vacant trees; and

3) Conduct Level III testing conducted prior to the removal of the of six (6) Special City Eucalyptus Gum trees located at 220, 300, 301, 312, 319, and 326 Marine Avenue. Staff would recommend the additional testing for these six trees be conducted in the next couple months. Upon further detailed review and evaluation of this additional testing information by the consulting Arborist and the City Arborist, the City Arborist will determine which of the six special trees, if any, can remain. The other trees (possibly up to all six) not approved to remain will be scheduled for removal and replacement (Lemon-Scented Gum) this coming winter. Replanting of these trees would follow as soon as sidewalk and curb repair work is complete. Incorporate pulling water from the merchants. The motion carried by unanimous vote.

VII. ANNOUNCEMENTS/FUTURE AGENDA ITEMS

PB&R Commission / staff announcements/ Ad Hoc Committee updates or matters which Commissioner members would like placed on future agendas for further discussion (this is a non-discussion item).

~~There was an~~ Deputy Director Sean Levin announcement that there was to be a concert at Marina Park on September 8th, 2019 and the last movie in the park was going to be Hotel Transylvania at Bay View Park.

VIII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the PB&R Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Commission has the discretion to extend or shorten the speakers' time limit on non-agenda items, provided the time limit adjustment is applied equally to all speakers.

IX. ADJOURNMENT– 9:35 p.m.

Submitted by:

Mariah Stinson

Mariah Stinson, Administrative Support Specialist

Approved by:

David Granoff

David Granoff, Chair