

# Ocean Beach Planning Board

Wednesday, September 2, 2020

Virtual

<b>MEMBERS PRESENT</b> (Checked if in attendance / # represents district / Note of arrival time in box if late)			
X 1E Tracy Dezenzo	X 3E Virginia Wilson	__ 5E Numan Stotz	X 7E Nicole Ueno
X 1O Derek Dudek	X 3O Chris Chalupsky	X 5O George McCalla	X 7O Andrew Waltz 6:10 pm
X 2E Jane Gawronski 6:05	X 4E Anthony Ciulla	X 6E Kevin Hastings	X ALE Andrea Schlageter
X 2O Richard Merriman 6:05	X 4O Craig Klein	X 6O Tom Gawronski 6:05	__ ALO Jenna Tatum

**CALLED TO ORDER:** 6:03 pm **ADJOURNED:** 8:25 pm

## AGENDA MODIFICATIONS & APPROVAL

**TD/AS 10/0/0 Approved**

## MINUTES MODIFICATIONS & APPROVAL

**CC/CK 15/0/1 MOTION:** Approve with minor typo corrections sent to secretary prior to meeting.

**Jane:** happy the minutes were so thorough in regards to representative reports and discussion with Councilmember Campbell as we need to be able to hold them accountable.

## REPRESENTATIVES REPORT

### **City Council District 2 Jennifer Campbell – Teodoro (Teddy) Martinez**

City Council has been on legislative recess for most of the month. We'll be returning back next week so committees for council meetings will start again and we'll be looking at a number of issues that have come up over the last month or so. So we are still watching the veterans Plaza crowds, and we're told that teams from the city, SDPD and County are out there, taking their educational approach. So, we're still monitoring that. We met with the council folks last week and they seem to be pretty happy with the approach that's happening and so we're just going to keep monitoring it make sure that people are following the rules as best they can and using the city space properly. As we head into the holiday weekend we're also looking at other issues around crowds and trash collection and this will be working with the mayor's office and SDPD as they're deploying their resources this weekend so we'll be watching that just generally from a more public safety standpoint, and Councilmember Campbell is in regular conversations with Western and Northern Division from the police department and resources have been reassigned already to Ocean Beach and we are working with them as they also deploy their homeless outreach teams they're HOT teams, and they're doing sweeps throughout district two including in Ocean Beach so we're working with them on that. To other general conversations that we'll be having as we start full council meetings and committee meetings again will be obviously STVR regulations. Obviously, many of you know this vendor regulations are also conversation that is coming up again as crowds and reopening continues to happen. We'll be working with the appropriate folks on that to see what can be done, we've gotten some feedback from the community already so I'll be interested to see the dialogue tonight on the topic and happy to kind of follow up and see what the options are as reopening and it's continued to happen. We're helping folks also with rental assistance as well, and also with the Housing Commission so if you know folks that need assistance we're happy to relate to the right, folks, and also small businesses, and the relief fund, we're still helping businesses navigate through that. Please send them our way. And lastly, just wanted to share Point Loma is doing some blood drives and some COVID-19 testing and OB. So, they're still confirming some of the details but just look out for that we'll put that out as soon as that some of those details confirm or not happy to answer your questions and always available by email. Thank you.

## **PUBLIC COMMENT:**

**Mark from Facebook:** Is there more info on additional trash cans? **TM:** I got an email from town council members about additional trash cans for the weekend, because it's obviously part of a greater need for additional trash cans. I sent that

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over immediately to the Mayor's office, and got a quick response that they're looking into it. I don't have an update yet from them but we just asked today and so I'll check in tomorrow morning and see what they're planning ahead of the weekend.

## Assemblyman Todd Gloria – Michaela Valk

On August 31, which was this past Monday, all state bills passed the State Legislature by midnight. Several housing bills, mostly Senate housing bills, did not make it back to the Senate in time for a final vote. AB725, by Assemblymember Wicks, which is like a missing middle housing bill (I'm posting the links here in the chat for the bill which) passed and is on its way to the Governor, AB2345, which is Assemblymember Gonzalez's density bonus bill is also on the Governor's desk. AB2345 mimics the density bonus that's happening in San Diego and will be implemented statewide. This bill was introduced in 2019, and there has been a lot of fear mongering about how these bills were little parts of SB50, and that wouldn't be true. Those are 2 bills that have made their way to the Governor's desk, and that's 2 out of the 11 that had been discussed. SB1120, which was Senator Atkins' bill, did not make it back to the Senate in time. There are also several bills, for example SB902, SB899, both by Senator Wiener, died in Assembly Appropriations. So the main bills that you know we should focus our attention on are those Assembly Bills: AB725 and AB2345, because those will be live if the Governor signs them.

Just to clarify with the process. Every step is a two-year, legislative session. This is the end of two out of two years. That means that these bills are dead and not moving forward. Each Senator and Assembly Member can choose to reintroduce the legislation next year, but it will be a different Bill number, likely with different amendments to address other legislators concerns that they had. There will also be new Assembly Members and new Senators so there'll be a new. **AS:** So the State House is done with passing any legislation until after the November elections. **MV:** That's correct.

I also wanted to mention two other things. September 19, the Assemblymember will be having a Peninsula Community Coffee via Zoom. An invitation will go out to OB, Point Loma and probably Midway. The NAVWAR Bill AB2743 should pass both houses without opposition from any members and will be on its way to Governor. It helps facilitate the NAVWAR property from the Navy to SANDAG.

## **PUBLIC COMMENT:**

**Korla Eaquinta:** 1120 died. It didn't make it out of the Senate.

## **NON-AGENDA PUBLIC COMMENT:**

**Cory Briggs:** Good evening, everybody. I'm Cory Briggs, I'm running for city attorney. I want to get rid of the politics in the office, I want the office to become fully transparent, and I want the public to trust the City Attorneys office again, as a law office, not as a political office. My goal is to make a difference in the lives of San Diegans, as opposed to making headlines for myself. I have a couple things pertinent to the Planning Board. You should have a lawyer representing you assisting you on all of your decisions. If I'm the City Attorney that will designate a staff attorney to cater for the Planning Board, so you'll have your own lawyer at every meeting. Secondly, the issue of Veterans Park came up in the Sidewalk Vending Ordinance. This was an issue that came up at the Town Council meeting at the debate last week, and just like with short-term vacation rentals, we already have laws on the books that the City Attorney's office could be enforcing, whether it's for the vacation rentals or the sidewalk vendors. The Sidewalk Vendor Ordinance has a number of exceptions to it that allows the City Attorney to enforce existing rules on the books when you have public health and safety problems, access problems, problems relating to paycheck access and sidewalk access but you need a City Attorney who's willing to enforce them and I'm that person. I don't take money from lobbyists. I don't take money from union leaders. I don't take money from any business interests who are trying to do business with the system. I am beholden only to the voters and to the taxpayers. If you're interested in learning more visit [CoryBriggs.com](http://CoryBriggs.com) and thank you for your time.

**George McCalla:** I've noticed on the Veterans Plaza parking lot that there's a gentleman who takes up the very first handicap parking space and he sits there most of the day and sell skateboards. As far as I'm concerned he shouldn't be allowed to sit there all day, not taking advantage of the beach and doing business.

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## Information Item #1: Measure E to Remove Midway from the Coastal Overlay Zone

The board will hear a presentation from the Yes on E campaign co-chairs (Kathy Kenton and Dike Anyiwo). This ballot measure seeks to remove the Midway district from the coastal overlay zone, thus no longer having to restrict development to 30ft.

**KK:** Good evening Ocean Beach it's great to be here with you. My name is Kathy Kenton, and I'm a property owner in the Midway area. I grew up in Point Loma. I grew up in Ocean Beach, and I'm very proud to be part of this effort. Alongside me this evening is Dike Anyiwo, a six-year resident in the Midway District. In addition to serving as Chair and Vice Chair of the Midway Community Planning Group we are the two chairs of the Yes on E campaign that seeks to remove the Midway Community Planning Area from the 30-foot Coastal Height Limit Zone. This ballot measure is the culmination of 11 years of effort that went into our Community Plan update, being approved by San Diego City Council in September of 2018, and years of coordination between the Midway Pacific Highway Community Planning Group and Councilmember Campbell's office to docket a ballot measure for this November that was confirmed by city council on July 21, just six weeks ago.

**DA:** The Midway Planning Area itself is a relatively small area consisting of a total of 1324 acres. About 400 of those acres are actually the Marine Corps Recruiting Depot, while 88 of the acreage in the community overall owned by the City of San Diego. 48 of those 88 acres are currently going through the long term RFP process of the Sports Area site, while the remaining 40, acres that are owned by the City, apparently home to low income Senior Living apartments and some commercial lease space. The Midway Community Plan update went through a rigorous and robust process that was approved by the Planning Commission and City Council in 2018, and the Coastal Commission in 2019. The land use goals within the plan, to create districts and villages with compatible mix of uses, including commercial and residential zoning, active transportation, and a healthy environment for a variety of housing types for all ages, incomes, and social groups. From this map you can see all those goals outline the proposed dream park space, residential village areas as well as the opportunity to create improved transportation infrastructure. Some of the additional benefits in the Community Plan include improving Sports Arena Boulevard as the gateway to the community with a multiuse urban path, parks and pedestrian/bicycle connections to the San Diego River Park and the coastal zone outdoor recreation and locations, and a new or renovated Sports Arena Entertainment Complex. Additionally, the Council unanimously adopted a new development impact fee study in 2019, which includes prioritizing approximately 16 acres of new parks, and a much-needed new fire station.

**KK:** The Midway Community has been asking for this from the City for several years. We need to build up not out to achieve the desired green space. This community is in need of improvements and we know this. Measure E removes the 30-foot height limit in the Midway District only. It leaves in place the existing municipal code height limit that ranges from 30 to 100 feet (for comparison, the Sports Arena sits at 60 feet). Measure E will be the catalyst to bring new life and a new vision of Midway by attracting much needed investment. Measure E is an action that must be taken to amend the Coastal Height Limits section of the municipal code. The spirit of the height limit was to protect view corridors along the coast. Midway has no coastal views nor are we a coastal community. We have no beach access. Midway residents, businesses, and property owners have been asking for this change for many years as we feel the overlay zone lines were drawn arbitrarily and have left the community behind. Removing the height limit is a simple but elegant action that will provide the catalyst that brings to life the vision of our community plan. [shows a slide which contains the official measure language]

**DA:** I'll wrap this up and conclude by saying that in the event that this measure is approved, it only requires a simple majority of voters, for something that would be a benefit to our entire city. Not only will this Measure help create new jobs will also increase opportunities to improve are much needed transportation infrastructure throughout the city, create a source of funding for said infrastructure, and most importantly assist in closing the gap on much needed housing.

## PUBLIC COMMENT:

**Typed in comment:** Why is The Orchard retirement complex for seniors being torn down, or is this a confirmed objective of the Midway Community Plan? **KK:** The Orchard retirement complex is not being torn down. There's no plans for it to be torn down nor is it an objective of the Community Plan. It is on city property. It is on a long-term lease and there are no plans that any of us are aware of to tear it down. I'm not sure where that confusion is coming from. **DA:** Two of the members of the Midway Community Planning Group actually residence at The Orchard and I can assure you that there are no plans that we are aware of to do anything with that property...to my knowledge.

**Korla Eaquinta:** I agree with we need revitalization in Midway area and I applaud you guys for the work you've done on

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your Community Plan. I think you all know that I disagree with the way Measure E was improperly placed on the ballot, but my question and concerns are about the new Save Our Access lawsuit and the CEQA allegations. Do you guys have any comments? Can you say anything about this guy claiming this is going to be a massive public land giveaway and blah, blah, blah? **DA:** I can assert that I'm not aware of any CEQA allegations or a lawsuit. We have not been served to my knowledge, with any paperwork. I'm not aware of any lawsuit or CEQA allegations. **KE:** There was an article in the OB RAG with all this information. I don't know if you guys have read it but you might. You might want to read it. It's called Save Our Access and there are apparently two court actions.

**FB Comment:** So regarding removing the 30-foot height limit, how can you guarantee that the elimination of the height limit will not spread to the coastal region? **DA:** This specific mechanism can only be achieved by a public vote of the people and we in the Midway community, not just the Community Planning Group, but the community at large, have worked at length to articulate the specific boundaries of where our measure is involved. Our communities and our coastal communities are obviously quite sensitive around the issue at large but the only way that this gets done, the only legal way that it can exclude itself from the coastal height limit, is by a public vote of the people. Specifically Measure E has nothing to do with the boundaries outside of Midway District. **KK:** I know that those of us in Midway are fully in support of the 30-foot height limit for the coastal zone and that we want that protection for the coastal zone. We feel that the arbitrary boundary of West of the 5 that was included in the 1972 Prop D was an arbitrary boundary it was convenient and an easy boundary to identify and what we've realized is that the Midway should never have been included in that boundary. We're trying to fix a mistake that was made almost 50 years ago.

**Dan:** Since the City has been unable to enforce their zoning, how do we know that all of these units aren't going to be turned into short-term vacation rentals? **DA:** I can't speak for the City, nor can I speak to the future. I think that's a question that is very difficult for me to answer. There's no certainty that any housing created anywhere, wouldn't become a short term vacation rental but I can assert that as a community planning group member I'm not interested in seeing those abound. **2<sup>nd</sup> question from Dan:** [most of the recording was inaudible] The gist of the question was, are there traffic mitigation features that are going to come along with this increase? **KK:** As part of the Midway Community Plan update we've spent a lot of time on it. It's something that we're very aware of we're very concerned about. We're looking at what additional infrastructure can be put in at NAVWAR and what can be done. We are very sensitive to our neighbors in Ocean Beach and in Point Loma and your traffic issues. We can't solve them all but we don't have the infrastructure dollars to make those changes until the redevelopment occurs because that's where the money comes from to make those changes happen. We looked at all of the zoning and all the zoning changes that have already been made as part of the planning update. Even at full build out with the additional 11,000, residential units that goes in, that doesn't incur as much of an increase as you would expect in traffic because those are residential trips rather than commercial trips and they actually create less in volume. Now granted, there will be more trips but there will be more infrastructures. There's a lot of additional traffic and transportation improvements being recommended. **DA:** I just want to underscore that the document that details the number of units that are zoned in any given neighborhood, and the measure that we're talking about here tonight doesn't do anything to that number of units. I want to be clear that oftentimes when we have these conversations, there tends to be some conflation between the high limit and density in and of itself but it's the concerns that people are moving in, because we've changed this morning that change was made two years ago and over the course of 20 years from the life of this bias that we anticipate a slow, gradual phasing in of those people in our community tomorrow.

**Andrea:** I think a lot of people have been asking about what the height limit is actually going to be once this has passed? **KK:** So there is no there is no height limit, per se. As part of the community plan, each zone has its own height limit, some of those are 40 or 60 feet, and other zones have up to 100 feet. That doesn't necessarily mean, we're going to build too that limit. We're not looking to build downtown type high rises. That has never been the plan. The plan is to build, moderate, and middle income and affordable housing for people that want to live and work in a community.

**Korla:** The City is removing DIF fees now due to COVID. Will this affect this project and will you actually get DIF and other fees? **DA:** That's news to me. **KK:** Well, you know, COVID, hopefully, is going to end at some point. We don't expect that anything is going to be breaking ground on any of these projects for a couple of years.

**Typed in comment:** what percentage of the district zoning will allow the hundred-foot height? **KK:** I couldn't tell you that offhand **AS:** For those of you who don't know the Community Plan, can be located on San Diego planning website so if you google "San Diego Midway Pacific Planning Group Community Plan" you'll be taken the sandiego.gov website.

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**Catherine:** I heard on the radio last night that they are going to rebuild the Sports Arena and it has been decided and they will need more housing than is already planned in order to pay for it. **KK:** Nothing has been finalized. All that has happened is that the Mayor and the City have selected who their developer is. The project isn't final regarding what they build or what they propose on that site. It will probably be a good year of negotiation with the City before any new lease terms because if they can't come to terms on a lease, on what they're going to do, there won't be a project. There's no decisions on anything. The preference is to build a new facility because that building is so old. **DA:** my understanding is that the Mayor selected this developer specifically because they did submit plans that included a new arena. **Catherine:** so when we were looking at the plans that were posted for about 10 days, that was not the way things were heading? **DA:** None of those concepts or renderings has been committed to in any way shape or form, and ultimately it will be the next administration that has the ability to lock in whatever terms and structures, etc. So I would encourage you all to vote for whomever you'd like to vote for the Mayor.

## BOARD COMMENTS:

**GM:** Is there a maximum height or are there going to be multiple heights? **DA:** The action that we're talking about like I said removes the 30-foot height limit that currently blankets the entire Midway community. Once that blanket is then pulled back each individual site on across the community is on for various different things with the commercial, residential zone for a certain density of dwelling units per acre, etc. Those individual parcels, called basins, articulate what the height limit is. The highest parcel the highest height limit across this entire community is 100-feet and we're talking about a small percentage. Many of the zoning changes come in at around 30, 40 or 60-feet so it is probably the most popular height across the district, but the highest anywhere, if this action was to be successful, will be 100 feet.

**CK:** Isn't it true that The Orchard and especially the portion to the east of Sports Arena Blvd. are within the area that the height limit is being removed? **DA:** That is correct. The Orchard as far as the facility is within the footprint that we're talking about removing the height limit from. **CK:** That means that at some future date, because the limit is removed, a developer could come in and go 40 or 60 feet or whatever is there to The Orchard. **DA:** In theory a developer can come in and refurbish or rehab it. Currently that property is owned by the City of San Diego and so we need to have more say so what happens there, so in theory, yes a developer can come in and build more affordable housing for seniors.

**JG:** I am very fearful that this is the camel with the nose in the tent and if we allow the 30-foot height to be ignored or increased, then Point Loma could do it, Ocean Beach could do it. I can't support this at all.

**TG:** I would feel more comfortable with this measure. If it reaffirms the coastal height limit with respect to the areas where it applies other than the Midway district. If the Midway district wants this, I think that's okay but I would like to make sure that it doesn't apply at any time in the future to the coastal communities. That's where I am. So as it stands with measure as it is presently presented. I'm totally opposed.

**DD:** You say, increase affordable housing but it just seems that bigger buildings are inherently more expensive. It's going to increase the density in my opinion but have you thought about what that's going to do regarding public safety? It seems there's certain parts of the Midway corridor that are already having difficulties with the homeless population like near Old Town and by the Mental Health Center so I just want to make sure that you were taking that in consideration. Are there plans to increase the public safety? **DA:** We have more than one thing that we have to deal with. I'm also very well aware of the fact that everything takes time and there's no way to get everything in one ballot measure. This ballot measure that we are discussing tonight, Measure E, was one motion, one step, one action that meets the agenda. There are certain things that we can do: we're working with the Western Division, and the police and also the community representatives from the Campbell's office to articulate our concerns about public safety here, but, like I said, there's no way to do all in one ballot measure. **KK:** One of the primary reasons that we're in this situation is because of the 30-foot height limit. We are not primarily a single-family residential community. We have virtually no single-family residential all of our residential is multifamily. Most of our community is commercial and industrial and it's because of the 30-foot height limit and the cost to redevelop, that redevelopment is not taking place and that our community is so rundown and blighted. Once we can start to improve, once we can start to do things in a way that makes sense those issues will start to take care of themselves.

**DD:** I don't understand how putting more people in the area is going to help with some of those problems. **KK:** Part of the reason that people are attracted to that area is because there's no people there at night, other than on events because people want to work there, they leave the industrial area they leave the commercial areas at night, and there's no one living there and there aren't enough people caring about the community **DA:** We seek to deter that kind of activity and it is

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a particular concern to the community over 70. I walk up and down the streets quite a bit and I've seen it. It's actually gotten much worse because there are even fewer people floating around at the moment.

**AW:** I have a couple of quick thoughts. I think it's likely the City will not enforce Midway being for neighbors and I think Dike mentioned the concept of adding a rider or language. Is there an opportunity to add language that enforces deed restrictions against use for BRBO's or short-term vacation rentals? I also think I gonna echo Tom's thoughts, I think that there's got to be some kind of language that prohibits this process from expanding to other places and being used as a cookie cutter model which I think is highly likely in this kind of the way that our system works - that somebody could pick this up and use it. Can that language be added? **DA:** At this stage in this electoral cycle there's no way to just adjust the base measure language. I think it is abundantly clear to me that we need stronger legislation and we need stronger enforcement of existing legislation. The Mayor we have today will no longer be our Mayor within a few short months, and that gives me quite a bit of confidence and encouragement.

**KH:** It doesn't seem to be compatible with some of the proposals that are put forward or some of the height of the buildings that might be allowed. Did the density in the Community Plan account for the removal of the height limit? **KK:** The Community Plan is based on the 30-foot height limit. We had no alternative but to base it on the 30-foot height limit because that was our reality. But if we do that without raising the 30-foot height limit we'll have virtually no parks, we'll have virtually no recreation we'll have virtually no public space, because they will have to be covered in buildings in order to achieve the density. **KH:** So I guess my question is with the unit density, do you anticipate that would change if the height limit was removed? **DA:** The Midway Community update has been zoned for 11,000 units. That number does not change whether the height goes up or down. It's the spacing and the spreading of the 11,000 units. What Kathy is saying is that if we build everything flat we won't have parks but if you go a little bit taller we could get some more park space, which is so important to communities. **KH:** I think it's sort of a false decision that we are choosing between a rundown industrial complex, and some pretty renderings, there is something else a third choice which is not removing the height limit, and still redeveloping the area. I don't think that's been fairly represented. I know this is specifically just about removing the 30-foot limit, but it's impossible to separate the two especially because the city has already given a green light to one of the developers if this passes. My other comment is that I generally agree with Tom on this. It's like opening the door on a submarine, you ain't gonna be able to close it again. How do we know that anyone without a view now won't lose their 30-foot limit because of this precedent, so that very much concerns me. The Midway District is not in the Coastal Commission zone and I generally agree with the concept but I'm afraid where it leads. We've been promised before on this 30-foot limit and now we are chipping away at it by our own Councilmember. My other question is do you know if members on the CPG would support a homeless shelter in this new development? **DA:** I can only speak for myself but I would. **KK:** We've had a homeless shelter for a number of years in our community that we support. **KH:** So I'm just afraid it gentrifies and then it pushes people into other areas without really addressing those side effects.

**AS:** I did try to be as vocal as I could be during this process, when it was coming before Council to try to get something in that exempted the beach communities from this or protected them for a lengthy period of time. I was calling in every day at every single one of the hearings and it completely fell on deaf ears. My one question is, what happens with the Sports Arena if Measure E fails? Do they still get to keep their 70-foot height or do they have to follow the 30-foot height limit for everything else? **DA:** My understanding is that if they intend to build a new arena, they would not be able to do so, if Measure E failed. If they only wanted to rehabilitate the existing structure, they can do that. But no one else will be able to construct something new, taller than 30-feet. In my conversations with both sides, I don't know whether or not these developers who, at this point only been awarded the ability to negotiate these terms with the City would still be interested in negotiating these terms. I don't know that but I suspect it. But to answer your question if Measure E fails, they will not be able to build anything new taller than 30 feet. **AS:** Could they use the 50% rule to remodel? **KK:** We don't know. We know that if they tear it down, they can't build it back. They're not grandfathered in on that structure, because it's currently in excess of that.

## **ACTION ITEM #1: 4838 Pescadero Ave. PTS#650025**

The board will review the project at 4838 Pescadero Ave. Applicant is seeking an amendment to Coastal Development permit No.493606 for a second story companion unit, with deck, above an existing detached garage. The applicant is also seeking to expand the footprint of the garage. PRC voted 6-0-0 to deny the project in February. Since then the project has made significant changes.

**PUBLIC COMMENT:** None

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## BOARD COMMENTS:

**TD:** Have the 2 issues of FAR and Parking been addressed? **KH:** Believes the project complies because the laws have changed since the last presentation. **JG:** How many units do they have and are on the property? **KH:** 2 units and adding a 3<sup>rd</sup>. **AC:** I am pleased to see that the footprint of the units was revised a little bit more modestly. In terms of the FAR and the parking, and you're going to have some off street parking there but a surface parking. So there are basically two parking stalls for two full cars on the property and off street, is that correct? **Applicant:** that's right, you can fit three cars but two, for sure. **AS:** the FAR is .69 and ADU's aren't required to provide parking. 2 spaces have been confirmed. **JG:** for 2 units, we have 2 parking spaces? **Applicant:** correct **AS:** ADU parking has lowered the standards. **AS:** confirming, the front is a 2 bedroom and the middle is a 1 bedroom? Should there be 3 spaces then for those 2 units. **Applicant:** The single family home is only required to have parking now. **CC:** is the middle unit existing structure? **KH:** under the current law, zero parking requirements. **KH:** thinks the City is lost on its cycle review comments. His understanding is that this property would not require any parking at all.

**Motion AS/CC:** Pending cycle review questions being answered move that the Board approve this project as presented.

**Vote:** 13/0/0

**Yea:** AC, AS, AW, CK, CC, DD, GM, JG, TG, KH, RM, TD, VW. **Absent from vote:** NU - connection lost

## ACTION ITEM #2: Street Vending Ordinance

The board will re-review the Street Vending Ordinance and reaffirm their recommendations or make new ones in light of the current pandemic.

**Andrea introduces item 2:** As we know, a lot of our businesses have been moving outside so we have even less public right away space and we know street vendors are becoming more prominent around the Ocean Beach community so I really think it is a time to readdress the lack of action on the Street Vendor Ordinance, especially if we're going to have to continue to do a mix of indoor/outdoor business. I think we should be leading the effort to get City Council to make a decision on how we're going to equitably distribute our public spaces between the brick and mortar stores and the street vendors and I wanted to reignite this conversation. I want us to lead the charge and that's why I brought the draft ordinance back. It has completely stalled out since the last time we saw it.

I think the main points that our Board was most interested in, last time we looked at it, was making sure that these vendors stay away from permanent events such as the farmers market and street fair so it would be protecting our community events where vendors pay a lot of money to participate in and remove the free rider problem. The other one we were concerned about was distance between street vendors, which I think is even more important now since everyone has to be distanced. We should be asking the street vendors to not set up directly next to each other and I think we should look at some slightly more restrictive rules on how they operate within park and open space because that's really what we need right now, to keep our outdoor activity safe. We can't just have it completely taken over by anyone whoever pops up a tent and starts selling stuff. I really think now is the time to act. I think we can put some pressure on this. Teddy and I spoke about it earlier today, about a possibly faster way to approach this may be to approach the Mayor's office and ask for an executive order asking to mandating that every street vendor stays X amount of feet away from each other, and possibly getting the County to enforce health orders while the City Council works to get an ordinance on the books that's a little bit more robust than an Executive Order. So the action today is, do we want to take a further stance about our suggestions taking it a step further or do we want to just re issue this letter demanding an urgent solution to the problem.

**AC:** Are we going to address business licensing and safety licenses for street vendors that serve food and drink? **AS:** Yes, absolutely. If you see any street vendors operating without a license you can call the County and they will come out. **CK:** The state allows local municipalities to enact laws to regulate vendors. The problem is San Diego just like everything else that we can't do around here has not been able to enact a local ordinance for over two years and as far as I know we still got nothing. **AS:** We need to be demanding Georgette Gomez to take some action, demanding the County takes action on this, and we need to demand action from the Mayor. **DD:** Pointed out that there are two different types of vendors now, legitimate businesses who are now operating on the sidewalk for more social distance because of the pandemic and there are also the unlicensed vendors occupying park space and public right away without licenses. He also asked how enforcement is going to be achieved. **AS:** All of the restaurants that have expanded outdoor seating have

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been granted permits (very quickly) but many of the street vendors are unpermitted. That's exactly why I think it's important to restart this conversation because our businesses, who are paying permits and paying taxes and who are paying into BID district are struggling too and are now competing for that same property. I thought that the Ordinance lacked a placemaking part to it. It was just, you know, do what do whatever you want maintain a distance and some safety, but I really think that it is important, especially since BIDs all over the city are struggling right now, that I think we should be pursuing something where the BIDs can still identify areas where they think it would be appropriate to have street vending and have them involved in this process to make sure that all the vendors are still incorporated into our BIDs and they can still get some money from the street vendors. **KH:** I want to add some clarity to this discussion to help people understand the situation. It's worse now because our existing law had to go away because it didn't comply with the new state law and the City has lagged in writing a new law that can be enforced. Other cities were ready to go right off the bat and had a new law to comply with the state. So here we are two years later, the proposed law would prohibit street vendors on Newport at all times between Abbott Street, and Sunset Cliffs. It would also allow pushcarts. It also says that a park sales permit may be required in Ocean Beach Park. Now Ocean Beach Park I understand is the veterans Plaza and it may also include Saratoga Park, I'm not sure about that. It would absolutely prohibit sales within 500 feet of permitted events. So, on a farmer's market night that would actually even extend to the adjacent Santa Monica and Niagara blocks. The ordinance is restrictive. You mentioned the police or OBMA's interested in this, I'd love to hear from them as well. I don't know if anyone out here has an inkling of OBMA's take on this given those restrictions I mentioned but the State expressly prohibits you from regulating this to control competition. You can only regulate for health and welfare not because you don't like some guy undercutting your business. **CC and DD:** had a brief concern and conversation about buskers not being included in this ordinance. **CC:** supports busking. **TD:** This issue is something that the Board weighed in on last year. A number of the Board members actually thought that it was restrictive but still supported it. I'm not sure why we have to reinvent the wheel when we've already have a draft ordinance that is good, albeit a little on the restrictive side. It has a lot of distancing rules, licensing rules health and safety issues, rules about blocking the views and corridors to enjoy public spaces. It has everything that we're talking about and I'm not sure that we need to actually rewrite anything or add anything to it. It's actually extremely restrictive and that it would essentially eliminate almost all vendors from Newport and Veterans Park and everything. The ordinance was written extremely tight and I'm not sure that we really need to reinvent the wheel, but we really do need to get City Council to push it through because they have tabled it. So that's where we stand right now, it's not necessarily that the law was written poorly, it's just that nobody's willing to push it through for whatever reason that is. I think just sending them a strongly worded letter, along with Mission Beach and Pacific Beach, who have been sending letters, to reiterate how strongly we feel about this issue, may bring up the urgency a little **AS:** I would like a little more inclusion of reimbursement to the BID, if you're operating in a certain BID district I think you should be contributing to the upkeep of the community. **AS:** At a lot of the meetings I attended, vendors' general thoughts were that the vending ordinance was racist and the rich people in the beach communities don't want them there. **AS:** I am concerned about vendors taking up available park space and not social distancing and visitors to the park spaces not having space to safely distance. I would like to reach out to our partners in the community and get a unified response as I believe we are all in alignment with this and putting emphasis on public health and safety and well as protecting our park space.

**Teddy (Councilmembers office):** Teddy suggested a quicker option. To urge the Mayor to take immediate action outside of the ordinance since the Ordinance may take some time. The Mayor could create an Executive Order on specific space use or specific to OB since the vendor issues are unique to OB and are different than other areas. A citywide ordinance that captures the needs to each community is difficult and could be the reason for the hold up. **KH:** though it was great idea and it would be good if we could do both. **TM:** doesn't want the Board to write something without taking into consideration what has happened over the last year. **AS:** thinks it important to mention the lack of sales tax that is being collected.

## PUBLIC COMMENT:

**Karla P:** I have called the health department, various times due to the disgusting food handling that's going on down there. No one has ever come out. I've called our City Councilwoman, she never replied. I've written a letter to the Mayor, he's never replied, I just spoke to two policemen this week because you can't even walk on the sidewalk anymore. There's another guy now selling, I don't even know what the heck he's selling, but there's the hot dog guy. There's now a guy that's on the sidewalk taking a big chunk of the sidewalk that you have to walk around him. Why the hell does anyone pay for a permit to operate a business? Why does anybody pay their taxes? It's a free for all down there and nobody responds. So what can be done? I don't think it's healthy. I don't think it's healthy when I see all these people down there.

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**Julie Kline:** First of all, Tracy thank you for bringing that up, because it is well written, why reinvent the wheel. However, I have gone down there several Wednesdays and Saturdays now and every vendor that I talked to and said, how much sales tax?, they say "oh, nothing". I actually walked with Conrad, and I walk with Joe from the Mayor's office to prove my point. I sat for three hours on the State Board of Equalization line, called the Sacramento office, hung up and when I called the weed hotline to get a permit they answered right away and they told me that they're not collecting sales tax at these vendor booths, they said please go to your local office. I called the local office two weeks ago. I got a field officer who was unaware of people not collecting sales tax and I told him look, why don't we do a walkthrough. I volunteered to go on a Wednesday and wear a mask. They said they'd get a hold of me in a week. They did not. Two days ago, I called and asked for that field officer and he said I'm so sorry my supervisor said you must go to Sacramento first, and you may have to go to the legal department, and press fraudulent tax fraudulent charge on tax evasion. I almost flipped my lid and said this is unacceptable behavior and that they were losing thousands of dollars. So I have again walked, videotape and called the Mayor's office again. Told them if you don't do something, I will go directly to Gavin Newsom's office because this is killing our poor brick and mortar businesses. Why does a guy with a disabled placard get to vend his skateboards in the handicap parking spot all day long? Unacceptable. I talked to parking enforcement and they haven't gotten back to me. Also the guy that sells his bongos out of his car while parked in the get "loaded" zone on the corner of Newport and Bacon in front of our store, he says he can't sell right now in the farmers market because it's not open for any other vendors, but he's selling right there in a loading zone. He actually showed me his Seller's Permit, but he didn't have any special permit from the City Council. We need to put pressure on Georgette Gomez. She is not passing this through it's been sitting there one year now. It's been a while you guys. This is unacceptable behavior. **AS:** I think in the ordinance it does specifically say something about not being allowed to vend out of your car. Circling back to Conrad, did it seem like there was any will to have this pushed forward? **Julie:** Conrad said, "Julie you will be slaughtered". They, for some reason, think it's a minority run vending venture, and that it's going to hurt and destroy small businesses. They have not at any time, talked about the BID, or the business district being hurt by those vendors. So, I really don't know what angle to take. Unless somehow we get a private meeting, you know with Georgette and say, look, we're pleading with you. We need someone behind us on this ticket. I haven't gotten any response from Councilmember Campbell's office. So, I don't know what to say. I think you need to send each letter do right away.

**Motion AC:** I move the OBPB re-issue our original letter and coordinate with other community groups to docket enforcement of existing street vendor ordinances.

**Revised Motion AS:** I move the OBPB re-issue our original letter and coordinate with other community groups to ask the mayor to enforce existing street vendor ordinances.

**Both Withdrawn**

**MOTION AS/TD:** Move that the OBPB re-write its letter in support of the draft street vending ordinance to be docketed immediately and call for the Mayor to enforce social distancing and encroachment between current street vendors.

**Vote: 11/1/0**

**Yea:** AC, AS, AW, CC, DD, GM, JG, TG, KH, NU, TD, VW **Nay:** RM **Absent from vote:** CK

## OFFICER / SUBCOMMITTEE REPORTS:

**Chair:** Everyone in OB will be getting a greens bin. Compostable bins are in the plans. Parking issue may be coming up next month but parking is not being enforced yet. Email me for ideas. Fill out Census. OB is not doing very well.

**Vice Chair:** n/a

**Treasure Report:** \$1,376.14

**Secretary Report:** n/a

## LIAISON REPORTS:

**Commission for Arts and Culture:** Tracy announced a new artist grant fund. Deadline to apply for the 1 time grant of \$1,000 is Sept 15, 2020.

**Historical Society:** We had our meeting a virtual meeting of the Board, and we're still trying to decide whether to have a virtual meeting or to take this feature and have that posted on our website.

**ANAC:** Anthony reported that the San Diego airport was just awarded an additional \$18 million from the FAA to continue its noise mitigation construction program. Now this will allow people within the 65 to 69 decibel area to continue to receive



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insulation and noise mitigation upgrades on their properties. It doesn't necessarily increase the annual budget but allows them to continue the program for a much longer period of time. So those of you that live within the 65-decibel bar you can apply to have either your home or your property in which you live even if it's rental.

**Mission Bay Park committee: KH:** We should be more involved in Mission Bay Park Committee as well as Parks and Rec committee. OB has not been really well represented. He's going to make a point to attend.

**Forestry:** last meeting was canceled new meeting Sept 10. [sd.gov/trees](http://sd.gov/trees) AS: city trying to get away from palm trees

**SDRAC: CC:** piggyback on what Tracy shared. A lot of work went into this round making sure that it was \$1000 grant. San Diego design week is next week. Google San Diego Design Week. It's virtual.

FINAL

