

What Happened to Newport Beach?

By

Publius

Municipal elections in Newport Beach have traditionally been sleepy and polite affairs. So polite in fact over the past six elections, eight candidates were elected without opposition. Ed Selich was re-elected twice without opposition and in 2012, all three council seats on the ballot including an open seat saw only one candidate per seat.

In 2008, when independent expenditure campaigns were mounted against two incumbents, both were re-elected by ten percentage points. Election results reflected the more than 90% "Customer Satisfaction Survey" results achieved when the council polled the community.

Even when individual campaign contribution limits were loosened after the 2008 election from \$500 to an indexed \$1,000, campaign budgets averaged near \$100,000 for a competitive election.

Part of the reason for the lack of contentious elections was that the city council, dubbed the "dream team" by three-term Mayor Ed Selich, delivered. The highly popular OASIS senior center was rebuilt to national acclaim, a new Mariners library and fire station in Santa Ana Heights opened, a community center in Newport Coast and six new city parks. The harbor was dredged, roads repaved and water pipes replaced.

Despite setbacks in Federal Court, the city's groundbreaking ordinance on alcohol and drug abuse group home regulation has survived and served to reduce the impacts of concentration of group homes on the peninsula neighborhood by more than 40%. The city managed to renegotiate and extend the Settlement Agreement with John Wayne Airport, extending the takeoff and landing curfews and addressing the city's most long standing complaint, airport noise.

While neighboring Costa Mesa found itself enmeshed in controversy over ham-handed efforts to contract out services, Newport Beach managed to reach agreement with its employees to pick up more pension costs than any other local city, contract out significant services such as trash collection and reduced its workforce by more than 100 positions.

While many cities struggled through the recession, former mayors Keith Curry, a former municipal finance consultant and Michael Henn, a former Fortune 500 CFO, helped lead the city to the highest bond ratings of any city in California, the highest level of cash reserves (more than \$130 million) in the city's history and a rebounding tax base that preserved the city's high level of services throughout the recession. The city's Fiscal Sustainability Plan was a model for other cities.

Newport Beach was the poster child for a well-run, high quality of life, fiscally strong, full service city. Then in 2014, the public's perception of their community completely turned. How did it happen?

The story must start with city hall. The building. Newport's old city hall was a collection of buildings, built on the cheap between the 1940's and the 1980's. Between 2003-2006, the city struggled to find a design to rebuild the facility, only to have consensus break down over issues of whether to keep the building on the Balboa Peninsula or move it to Newport Center to reflect the shift in the center of the city following the annexation of Newport Coast. Part of this paralysis was the result of a fairly mediocre design (done "on the cheap"), for the building were it to stay in its current location. In a key 2006 vote, the council voted to look at moving the city hall. This opened up a free for all regarding new locations.

The area near the Newport Beach Country Club, the OCTA transit bus station, the existing police station and an Irvine Company parcel adjacent to the recently constructed 20 story office tower were all in contention.

Into this mix came Bill Ficker, a noted yachtsman (winner of the America's Cup), and local architect, with a proposal to build city hall on a city-owned parcel located between Avocado and MacArthur, south of San Miguel.

This parcel had been donated to the city by the Irvine Company after they determined it was not suitable for development and was briefly considered as a site for an art museum. In 2006, the city was in the late development plans for a new passive park for this site, a plan that was very popular with the adjacent neighbors, but because of its passive nature, did not have a large constituency in the city.

Because Ficker was a respected community leader for many years, a mostly older, retired and conservative group, along with then *Daily Pilot* publisher Tom Johnson, rallied to support the "Ficker Plan" on the basis of "you already own the land, it must be cheaper". In turn, adjacent neighbors, environmentalists and longtime open space advocates began to mobilize to protect the original park plan.

Then-Mayor Steven Rosansky used his 2007 "Mayors Dinner" speech to make a passionate appeal to the city council to reverse course and embrace the "Ficker Plan" what was then called "City Hall in the Park".

Rosansky's council colleagues however were skeptical. For openers, there was no "plan" to the Ficker Plan. Ficker had produced a model of a basically tilt up building but there never was a specific engineering plan or estimate for site preparation. While "synergy" with the library was claimed, the fact that the entrance of city hall was a full story higher than the existing central library was left unresolved.

Cost estimates became contentious with Ficker claiming the building would cost around \$40 million and Ed Selich being one of the first to say site prep, and integration with the existing library along with parking would push the cost up to over \$100 million.

In a 4-3 vote the council turned down the Avocado site. Not to be denied, Jack Croul, a wealthy retired business executive embraced the Ficker Plan and funded a referendum campaign that wrote into the city charter the requirement that city hall must be at this site.

Spending over \$800,000 before it was all done, the pro-Ficker forces narrowly won a special election in February of 2008, by 53%. Councilmembers Keith Curry and Ed Selich led the losing opposition.

Faced with a new voter mandate, a now united city council embraced the plan and an international competition was undertaken to design the site. Significant issues soon became apparent. More than 200,000 cubic yards of dirt needed to be moved from the site in order to protect view planes. This would ultimately cost more than \$8 million, completely negating the financial advantage of owning the parcel. In order to have a “park” in “city hall in the park”, a parking structure was required. The neighboring library needed more parking as well. With more than 1.2 million visitors per year, the library also needed extra space and the entrance needed to be moved to the second level to work with the new city hall.

As the city hall design competition began, local residents began to demand more, not less of their city hall. A new emergency center and community room were strongly supported by the city’s 1,000 CERT (Community Emergency Response Team), members and local neighbors. Unforeseen was the donation of the parcel north of San Miguel by the Irvine Company that significantly increased the size (and cost) of the park and required a new bridge to avoid traffic backups at the Newport Center medical offices.

In 2010, the city approved its construction contracts, sold \$126.5 million in Certificates of Participation to finance the building and broke ground. Included in the transaction was nearly \$4 million to refund the existing debt on the city library at significant savings. The city’s timing was fortuitous, funding the Certificates of Participation and awarding the construction contracts within weeks of the absolute trough in construction costs and interest rates.

Part of having a well-managed city is not only controlling costs, but managing revenues to be sure fees are appropriate for the value of services provided. On this point, the City of Newport Beach had historically been less than well run.

Under state Tidelands law, the city is the trustee for tidelands areas and is required by law to charge “fair market” rents for private use of tidelands property. With 882 private docks on tidelands property, the city had established a fee of only \$100 in the 1990’s and had not adjusted it for about 20 years.

Similarly, fees for the 978 boat moorings in Newport Harbor had not been raised for more than 16 years.

Having committed more than \$6 million in general fund money to dredge the harbor, the city council finally bit the bullet in 2012 and raised both dock and mooring fees, using current appraisals of the fair value and phasing in the increases over an extended period of time.

Collectively, these fee increases impacted fewer than 1,800 residents in a city of 86,000. They were a group of residents however not used to being told no. Since the fee increases were coinciding with the opening of the new city hall, fee opponents seized on the cost of the new civic center as an example of government waste and abuse, and a reason as to why the fees should not have been raised. Of course not a penny of the harbor rents were used to pay for the civic center but that was not important to those with a personal agenda.

Residents for Reform, a front group formed by Bob McCaffrey, a Balboa Island resident, became the political vehicle to foment dissent in Newport Beach.

On opening day for the new civic center in 2013, more than 3,000 residents showed up for tours and celebrations. McCaffrey used e mails and newspaper ads to call for a resident protest. Six people responded.

As the city settled into its new civic center, the historic level of citizen satisfaction remained high and the city was moving on to construct new parks and facilities. But that would change.

Fire rings had been part of Newport's beach culture for decades, although Newport only had 60 fire rings compared to 600 in neighboring Huntington Beach. In 2012, the city's Park Beaches and Recreation Commission recommended the Newport rings be removed. When the issue came to the city council, public testimony was overwhelming in support of the fire ring ban on the basis of health impacts on those living nearby and by a unanimous vote that is what the city did. No rings were actually removed however since a permit was needed from the California Coastal Commission. When the Commission predictably turned the city down, that was expected to be the end of the issue. What was not expected was that the Air Quality Management District (AQMD), would get involved and make the fire rings a regional issue. This created the preverbal "fire storm" even though the Newport Beach position was consistently in favor of "local control" of fire rings by each individual city.

In subsequent meetings, the city, caught between contradictory mandates from two state agencies, approved both a wood and alternative fuel ring plan, and a 60 charcoal rings plan. Both had majority support from residents. One resident however, Howard Ahmanson Jr., decided to champion the fire ring cause. Ahmanson, the heir of the Home Savings fortune lives with his wife Roberta in a Disney-esque home in Corona del Mar. Over the years, Ahmanson has used his wealth to fund a variety of political and social causes, including an annual \$1 million grant for many years to Rousas Rushdoony, an anti-Semitic religious fanatic who advocated theocratic government and the use of stoning to punish adultery and homosexuality.

Ahmanson formed "Friends of the Fire Rings" to foment dissent with the city's fire ring policy. Despite his well-funded efforts, sentiment in Newport remained in support of protecting residents from the impacts of wood smoke as measured by those who actually showed up when the issue was on the council agenda.

As 2014 dawned, McCaffrey and Ahmanson looked to take a different approach to influence public opinion and policy. With Councilmembers Mike Henn, Nancy Gardner and Leslie Daigle termed out, and Rush Hill running for reelection, they saw an opportunity with the 2014 fall election.

McCaffrey has long been associated with Dave Ellis, a Newport Beach based campaign consultant known for his take no prisoners approach and willingness to skate the edge of ethics. Caught in the 1990's for fraudulent robo-calls, Ellis had managed the campaigns for Henn, Curry, Daigle, Selich and former mayor Don Webb. But despite the policy records of his clients, Ellis was never really part of the establishment. He considered the locals active in the community groups and chamber of commerce "swells" and was contemptuous of the public improvements such as the senior center and civic center that were produced by his former clients. Appointed to the Orange County Fair Board by former governor Arnold Schwarzenegger, Ellis tried unsuccessfully to engineer the sale of the fairgrounds property.

In 2010, he finally got his chance to run a true anti-establishment, anti-city hall campaign on behalf of Ed Reno who faced off against Rush Hill for the open District 3 seat. Reno was a well-known and well liked government affairs executive for Allergan. He ran hard against the city's relationship with its employees and the cost of city services. Hill, a former Chamber of Commerce president, citizen of the year, and Reagan administration advisor, ran as the face of the establishment and won by nine points. It was a campaign Ellis wanted to avenge.

Ellis knew that to change the makeup of the city council, he had to change the perception of the city by its residents. The Reno-Hill race demonstrated to him the futility of trying to run an anti-establishment campaign when residents feel good about their city.

He also knew the effort would take a lot of money, and required the ability to circumvent the city's campaign finance limits of \$1,100 per donor. But the stars were beginning to align for his plan.

First, he needed candidates. Marshall "Duffy" Duffield was the wealthy owner of the popular Duffy Electric Boat Company and a former Harbor Commissioner. With nearly one third of all boats in Newport Harbor being Duffy's (and most having service contracts that keep his customers in touch), Duffy had the built-in name identification, a public resume and longtime community connections to begin as a strong contender. Uniquely, he had the ability to rally those most concerned about the harbor rent increases. He also had the willingness to put up significant personal funds into the campaign.

Diane Dixon had recently moved to town to work for the Irvine Company and managed to successfully ease out all potential opponents and thus became a member of the slate almost by default. Dixon, the sister of former Costa Mesa Councilmember Wendy Leece was uniquely able to attract support from both those upset with the city and the city establishment.

Kevin Muldoon, a likeable 35 year old lawyer had moved into Newport Beach from Irvine only three years earlier. With no community involvement, his only connection with the city was unsuccessfully suing on behalf of the dock owners. He was however a Republican activist and these connections would be valuable as the campaign moved forward.

Scott Peotter, the fourth candidate would prove more problematic. As 2014 began, Peotter was a registered voter and still living in Irvine. A serial unsuccessful candidate, Peotter is a polarizing right-wing activist who had run in many jurisdictions. A Newport Beach Planning Commissioner, he was asked to step down in 2010 when his Port Streets house went into default as he attempted to remodel while still living in the home. The neighborhood disruption and blight alienated Peotter from his neighbors and he left town soon thereafter. Peotter was later sued in Irvine for defaulting on a \$13 million commercial loan.

Ellis first spent through Residents for Reform to create a public perception that the civic center was unaffordable and obscenely expensive. Of course his examples always used the total cost of the full civic center including the library, parking, site prep, bridge, park development, community center, and emergency center. These were collectively simply called "city hall". (In fact the city hall itself cost about

\$68 million, not much more than the original estimate). Annual debt service on the entire civic center was about \$8 million in a \$282 million budget.

At the same time, Ahmanson was spending heavily to create an impression that the council was racist in its approach to fire rings. Ahmanson's agents used out of context, ten-year old quotes from former Councilmember Dick Nichols to make the ban look anti-Hispanic. This was especially ironic since Nichols was a strong Peotter supporter.

All of these efforts were outside of the campaign spending limits related to the city council campaigns.

Duffield demonstrated the ability to raise money from his many business associates and clients, amassing more than \$215,000 in contributions. Although only a resident for three years, Dixon running unopposed and with support from a broader segment of the Newport community amassed more than \$100,000 in donations that conformed to the city contribution limits.

For newcomers Muldoon and Peotter, traditional fundraising was a tougher problem. Muldoon managed to raise \$47,923 in direct contributions and Peotter \$48,482.

In order to get the slate, named "Team Newport" elected, Ellis was going to have to circumvent the campaign spending laws big time. So he did.

Since "independent expenditure" efforts are not covered by the contribution limits, they are free to spend as they please. Howard Ahmanson, through his Fieldsted Company (Fieldsted is his middle name), sent \$16,583 to the California Conservative PAC, \$5,454 to the California Taxpayers Advocate, \$27,883 to the California Taxpayer Protection Committee, and \$14,897 to Atlas PAC. These are established independent expenditure committees that are used from one election cycle to another to evade campaign spending limits. These amounts were spent on mail and other voter communications in support of Team Newport and to attack incumbent mayor Rush Hill. Even more was spent on polling and research that was not subject to campaign disclosures.

At the same time, Ahmanson was using these independent expenditure committees to attack Councilman Keith Curry who was running for the state assembly. The attacks on Curry furthered the message that the city was somehow poorly run and the attacks on Hill rebounded to damage Curry. Curry's vote in Newport Beach was turned from +18 in the June primary to -10 in the November election. Ahmanson spent more than \$50,000 to defeat Curry, including an attack on the legitimate Democratic candidate in the primary to ensure he faced a Republican opponent in the fall.

While independent expenditures are not supposed to be coordinated with the campaigns, Ellis thought he had a loophole to the city contribution limits that allowed him to be directly involved in the mail for his team. The Neighborhood Preservation Coalition (NPC), was formed as a slate mail committee with Team Newport campaign manager Dave Ellis as its head. Major funding for the NPC came from Residents for Reform who put in \$25,000, Duffield himself put in another \$25,000, local developer John Saunders added \$10,000 and Dixon, Peotter and Muldoon themselves put in \$5,000 each. Tom Larkin, a

wealthy dock owner from Lido Island added \$20,000. Larkin also gave \$25,000 to Residents for Reform and he made maximum donations to Duffield, Peotter and Dixon.

Some of the oddest contributions to the NPC came from Fritz Duda, the owner of Lido Plaza and his relatives and employees. On October 28, one week before the election and much too late to influence the outcome, Duda and two employees made identical, separate donations to the NPC for the benefit of Duffield, Peotter, Muldoon and Dixon and for negative mail aimed at Rush Hill. On December 18th, nearly two months after the election, another four Duda associates contributed individual contributions in amounts exactly half of the prior donations. Collectively, Duda affiliated donors gave \$22,625 to the NPC to support Team Newport and to attack Rush Hill.

The NPC spent in total \$96,182 to support Team Newport, with Dave Ellis piggybacking his own unsuccessful water board election on the mailings.

Other special interests also found ways to maximize their support for Team Newport. The owners of Woody's Wharf, a popular restaurant and bar on the Balboa Peninsula, then in litigation with the city over its operating permit gave directly and through their spouses \$4,900 to Peotter, and \$3,300 to Duffield.

Running as "fiscal conservatives" and with the Republican Central Committee endorsement, did not stop Team Newport from seeking support from the Newport Beach Police Officers Union. The union made independent contributions of \$10,022 each to support Duffield, Dixon and Muldoon. (Peotter's extreme views were too much for the police who supported his opponent Mike Toerge.)

The conservative Atlas PAC, run by Lee Lowrey, was used to attack Toerge and support Team Newport with contributions received from Ahmanson, McCaferty, and Duffield.

The Orange County Republican Central Committee can strike many as a collection of very conservative party activists, local politicians and staffers. In the spring of 2014, the committee nearly endorsed far-right candidate Tim Donnelly for governor. The committee serves a vital role however in determining who gets the party endorsement, even though only about 6 of the 60 or so members live in Newport Beach. Having Team Newport endorsed by the central committee was key to Ellis's strategy. As would happen, one of the most active members of the committee was Scott Peotter himself.

Even though Duffield had never been involved in Republican Party affairs, and incumbent Mayor Rush Hill was a former Reagan staffer who actually helped build the Santa Barbara County ranch with Reagan, the committee overwhelmingly endorsed Duffield and the other Team Newport members. This made Duffield, Peotter Muldoon and Dixon the "official" Republican candidates earning them a place on the party door hangers but more importantly, allowing Ellis to spend even more. Disclosure requirements are so opaque, with funds often shuttled between state and local party committees and among county party central committees that the actual donors and amounts remain a mystery.

Ellis instructed his candidates to duck the only debate during the campaign likely to show their lack of understanding of city issues as they all avoided the traditional “Feet to the Fire” debate featuring local journalists and moderated by Barbara Venezia.

A third front was opened against the establishment by the council’s decision to place a general plan amendment known as Measure Y on the ballot. A 2006 comprehensive general plan amendment had passed with strong support and had been the basis of the city’s excellent economic performance during the recession. Taking more than two years to negotiate with various community groups, the 2006 campaign largely silenced the anti-development sentiment in the city that had dominated politics for the previous two decades. But the 2006 plan was well crafted with tradeoffs many found attractive.

In 2014, the Irvine Company thought it could shift development rights to Newport Center using the same arguments as before. Early polling showed a content city with little controversy. But trying to rush to the ballot and the limited scope and benefits of Measure Y proved fatal. Grassroots activists quickly and effectively rallied to oppose this measure and Mayor Rush Hill, and the city in general, saw its credibility decline as a result of their efforts.

Determined opposition by a broad coalition of neighborhood and community groups saw Measure Y defeated by nearly 70%.

Ellis shrewdly had instructed his candidates to support Measure Y, ensuring that the Irvine Company, and by extension the construction industry, apartment owners, business council and taxpayers association would not join in opposition to his slate. This denied to Hill and the other candidates traditional support and kept them from keeping up in the fundraising race.

Team Newport paid little price for support of Measure Y, but it added to the impression that the city was out of touch with its residents and did great damage to Hill. Ironically, this anti-growth campaign contributed to the election of one of the most pro-development councils in city history, much more pro-development than those who were defeated and those who preceded them. In fact, Diane Dixon had originally moved down to Newport Beach from Pasadena to take a job with the Irvine Company directing communications for what would become the Measure Y effort. After a few months, Dixon and the Irvine Company, which has a reputation of demanding excellence and results from its employees, had a parting of the ways and she decided to run for city council.

Another contributing factor to the victory of Team Newport was the sorry state of the media in 2014. For years, the *Daily Pilot* had been a voice for the community helping the residents discern the issues and facts in town. With the departure of Tom Johnson in 2008 however, the paper stopped making election endorsement editorials and a succession of editors and young reporters, many living out of the community, contributed to a declining influence in the city. Issues affecting Costa Mesa seemed to dominate the news as Newport was comparatively tranquil.

The *Orange County Register*, whipsawed from its own economic challenges, ramped up coverage in 2013, only to substantially scale back a year later.

Responding to changing newspaper economics, the *Pilot*, *Register* and *Newport Beach Independent* gave a forum to mostly unpaid “columnists”. Many of these were defeated council candidates or ideological warriors who had an axe to grind with the city and grind it they did. Jack Wu, Kurt English, and Scott Peotter himself, along with a few others, had a mostly unabated two years to attack the city for various offences, real and imagined, contributing to the impression of fiscal mismanagement with little checks and balances on their accuracy. In the end, all media outlets completely failed to report on how the campaign was funded.

Finally, with Governor Jerry Brown coasting to an easy reelection, no truly controversial measures on the ballot except the very unpopular Measure Y and an electorate highly upset with Washington, 2014 shaped up to be a record low turnout election. These circumstances always help those running the most ideologically extreme campaigns.

On Election Day, Duffy Duffield beat Rush Hill by 34 points and Diane Dixon was elected without opposition. Facing two opponents, Planning Commissioner and Chamber of Commerce President Tim Brown and Parks, Beaches and Recreation Commissioner Roy Englebrecht, Kevin Muldoon received 50.7 percent of the vote to win easily.

In the closest race, Scott Peotter surprised everyone by beating former Planning Commissioner and Corona del Mar neighborhood activist Michael Toerge by 872 votes citywide, while losing his own Corona del Mar council district. Ellis’ last minute mailings labeling Republican Toerge a “liberal” were just enough to push Peotter over the top. Turnout was at a near all-time low. To put the total vote in perspective, In 2008, Gloria Alkire and Dolores Otting each received about 17,350 votes and both *lost* by 10 percentage points. Duffield *won* by 34 points and received 16,504 votes. Peotter received less than 12,000 votes.

Ellis would later brag that the total campaign raised and spent over \$900,000.

Triumphant that they had won, the new councilmembers prepared for their December 9th swearing-in. When the day finally came, Bob McCaffrey ran full page ads in the *Daily Pilot* gloating on the victory of his candidates and promising to “keep an eye on them” to make sure they delivered. True to his word he was in the front row to watch his team take office.

After sitting uncomfortably through the tributes to outgoing council members Henn, Daigle, Gardner and Hill, the changeover was commenced by an un-agendized “sermonette” by Peotter’s pastor, followed by a lengthy invocation. Instead of the city clerk administering the oath, as was always done, Team Newport brought in judge, former congressman and Clinton impeachment prosecutor James Rogan to provide the oath.

As the ceremony concluded, rather than the usual photo of the entire council, the four posed with themselves. It was to be the highpoint of Team Newport.

With no real private sector job to fill his time, Peotter took the lead in driving the agenda for Team Newport. A decision that would prove problematic for his teammates.

His first effort to make council invocations more overtly sectarian was defeated and after announcing initiatives to sell the civic center bunnies and defund the nationally recognized civic center sculpture exposition he beat a hasty retreat when he discovered to his surprise the bunnies were more popular than he was and that art had a strong constituency in the city.

He announced his intention to sell the old city hall site, a move that would significantly threaten the development of a hotel, something highly popular with the community. This idea was quietly withdrawn but not before Bob McCaffrey would call hotel developer Bob Olson and tell him that the proposal was coming and if he needed any help on the issue he should "call Dave Ellis".

Mayor Ed Selich used the annual Speak Up Newport Mayors' Dinner to publicly "smack down" Peotter and others for their "cartoonish" characterization of civic center. A comment that received a strong ovation.

One of the major planks of the Team Newport platform was that they would reduce the city's debt associated with the civic center. In advancing this idea, the candidates ignored a 2014 *Daily Pilot* editorial by Councilmember Henn that showed the additional costs associated with paying off the debt with either cash or refunding bonds would exceed \$20 million. Furthermore, the debt service burden of the city was actually very affordable, only \$8 million in a \$282 million budget, the Federal government paid 35% of the interest and all three of the bond rating agencies had given Newport the highest bond ratings in the nation due to its strong debt affordability.

The fact that refunding the civic center debt was not cost effective was again demonstrated in a memo by the city's independent financial advisors. Ignoring this information, Peotter proposed it anyway. When confronted by the additional cost, he suggested that bondholders might be willing to accept 30% less than the bonds were worth. Since PIMCO owned most of the bonds, this was simply evidence he had no idea what he was talking about. After a scathing retort by Councilman Curry, a former municipal bond consultant, the idea was scrapped but not before Muldoon and Duffield voted with Peotter.

When a routine action came to the council implementing a reduction in the Business License Tax passed by the prior council, Peotter moved to completely scrap Newport's tax structure and implement "how they do it in Irvine". There was no fiscal analysis to accompany his motion but later it was determined it would be a \$3.5 million revenue cut in the middle of the fiscal year. This is an amount equal to the cost of 20 police officers and would have had long term effects on the city's ability to fund its services. With Duffield and Muldoon backing Peotter, it was defeated 4-3.

In his first meeting, Peotter led the charge to re-introduce wood burning fire pits. Without any review by the Parks, Beaches or Recreation Commission, public meetings or staff analysis, he proposed a "temporary plan" that reintroduced 60 wood burning fire rings in the city. Peotter apparently bungled his motion however so after the meeting two paragraphs of language were retroactively added to the council minutes giving the city manager authority to develop multiple plans to be submitted to the Coastal Commission.

At the following meeting Keith Curry challenged the minutes and showed video of the prior meeting clearly demonstrating that the words in the motion were not spoken by Peotter.

City Attorney Aaron Harp ruled that the expanded language reflected “the overall consensus of the discussion”. This prompted Councilmember Tony Petros to ask “so if I say unicorns flew around the room followed by Elvis that would be ok?” To which Harp responded “if you can get four votes, yes”.

Ultimately, seventeen different plans, none of them voted on by the city council would be developed and circulated.

Implementing Peotter’s “temporary plan” required fire rings to be moved to locations where they had never been, setting off a “fire storm” in the community. Following dozens of resident complaints and evidence of stolen patio furniture being burned on the beach, Diane Dixon called for reconsideration of the plan and attempted to get a vote on which plans the council found acceptable but was defeated by her Team Newport colleagues.

Peotter himself began to feel the heat and started to advance “Alternative 17”, which took advantage of the Americans with Disabilities Act loopholes to convert some rings to “handicapped accessible”. The plan reduced the number of wood burning pits to 36 and maintained some of the charcoal pits established by the prior council. Ironically, this was very similar to the plan adopted by the previous council in November of 2013. In early 2016, the council was asked to appropriate \$60,000 to fund the first phase of making the fire pits “handicapped accessible”.

Duffield had run as “knowing every inch of the harbor” and “having a plan for the harbor”. One month into the job the Fair Political Practices Commission (FPPC) issued a ten page letter, outlining substantial conflicts of interest and making it impossible for Duffield to even be in the room when most harbor issues were being discussed.

The FPPC concerns did not stop Duffield from trying to block the completion of Marina Park by re-engineering the docks using a different dock material. This would have delayed completion of the park, from December of 2015 for a year or more. Again with Peotter and Muldoon supporting Duffield, the motion was defeated.

During the budget hearings, Peotter made an odd effort to repeal the city’s Fiscal Sustainability Plan but was again defeated. Later in the year, Peotter was the only council member to vote against the city’s Sexual Harassment and Discrimination Prevention Policy.

Peotter demonstrated an obsession with trying to remove council members from the city Finance Committee and allow each council member to place a political appointee on the Committee as was done in Irvine. This was to provide cover for some of his financial ideas by having them come from the appointed committee. Defeated twice in his efforts to remove councilmembers, he succeeded in having those council members not on the committee being able to appoint representatives, ostensibly financial “experts”.

Peotter's appointee, while a successful businessman did not graduate from college and in fact was not a registered voter, (the minimum qualification for appointment), until the Sunday prior to the Tuesday council meeting where he was appointed.

Duffield's appointee was Republican activist Jack Wu. Wu was a frequent critic of the prior council and six months into his term was charged with embezzling \$173,000 from Congressman Dana Rohrabacher. He was convicted in 2017.

Muldoon appointed the vice chairman of the Orange County Republican Party. None of the appointees actually lived in the council district they were appointed to represent.

As frustration set in, Peotter used his e mail newsletters to attack Councilman Curry, in one case comparing him to notorious parent killers Eric and Lyle Menendez. The emails used the city seal which is illegal under the municipal code and drew the attention of *Daily Pilot* columnist Barbara Venezia. It also motivated Balboa Island community leader Jeff Herdman to send a complaint to the city attorney and district attorney.

Peotter continued to use the city seal on his e mail newsletters which included fundraising requests, endorsements in partisan political races and rants on the majority decisions by his council colleagues.

In his seventh e mail, he attacked the Supreme Court decision on gay marriage and made comments many in the gay and general community thought were hateful and completely inappropriate in a city communication. This resulted in two hearings on resolutions to censure Peotter. With Dixon unwilling to adopt a strong censure measure, the council adopted watered down denouncements of Peotter for violating the law and speaking for the city improperly. Muldoon and Duffield voted against even the watered down resolutions and Peotter remained unrepentant. The council did tighten up the rules for the use of the seal in direct response to Peotter.

More seriously, Herdman cited Peotter for violating the campaign contribution limits in the municipal code. Peotter had previously accepted excess contributions from the owners of Woody's Wharf and under pressure from the city clerk had returned the contribution. His own reports showed he took \$1150 from Duffield. When caught, he returned the overage but the law carries a penalty of removal from office that would apply to both Peotter for receiving, and Duffield for making an excess contribution.

Additionally, Peotter failed to report the return of the Woody's contribution and the payment of expenses related to a fundraiser held at Woody' as required by the Political Reform Act. Five months into office, Peotter found himself being investigated by the District Attorney and the Fair Political Practices Commission. Those investigations continue.

In July, the Fair Political Practices Commission opened up an investigation into the failure of Residents for Reform to properly report all of its expenditures and contributions.

Also in July, Peotter was forced to read an apology at the council meeting for comments he made at the Costa Mesa Tea Party that revealed closed session information and characterized those in recovery as

“felons”. A video of Peotter’s remarks had been widely circulated and posted on the web. When it was discovered that his remarks violated the Brown Act, Peotter attempted to alter the video to delete a critical five minutes in a routine reminiscent of Watergate.

Diane Dixon began to take notice that her “team members” were not on the same page as she was when it came to protecting the peninsula neighborhoods from the impacts of bars, fire rings or crime. Proposals to cut revenues also threatened her ability to add police services and improve public facilities in her district so she began to chart an independent course on the council.

Dixon became key during the 2015-16 budget deliberations when Peotter attempted to kill the rebuilding of the Corona del Mar library and fire station and proposed to arbitrarily reduce the proposed increase in peninsula police protection by more than \$500,000. Muldoon raised the issue of eliminating the proposed Westside Community Center. Duffield attempted to arbitrarily change the cost of rebuilding aging docks in the harbor and suggested the city’s beaches be turned over to the state in order to eliminate the cost of lifeguards and public safety on the beach. Duffield was apparently unaware that the use of the State Parks Department to operate Corona del Mar Beach (an actual state beach), was reviewed in 2014 by the prior council and rejected because state parks costs are higher and there was vehement community opposition to eliminating the city’s lifeguards.

The Peotter cuts to city facilities however were not designed to save money or reduce the budget. He proposed the funds be re-allocated for “sea walls”. This ignored the fact that there was more than \$700,000 in the budget to do the analysis and engineering for sea walls and that staff could not spend the additional money in a cost effective way during the next fiscal year. In addition, community outreach was continuing to determine the size and scope of the project in order to respond to community desires. Even after his proposals to cut facilities were defeated, Peotter proposed to increase spending by \$5 million for sea walls with no revenue source offsets. This move was designed to cover the fact that he was cutting Tidelands Revenues from dock owners which would have otherwise funded sea wall projects. A \$5 million-plus budget deficit would have resulted from Peotter’s motion. Dixon joined with Selich, Curry and Petros to keep the budget in balance and reject the excess spending and arbitrary revenue cuts proposed by Peotter. The budget was approved on a 4-3 vote. A six year trend of reducing city staff by the prior council was reversed as city employees were projected to increase under the first Team Newport budget.

One area where Team Newport achieved remarkable success was in rewarding their friends.

Residential dock fees were reduced for the 884 affected residents. About 626 of those would receive a fully phased in benefit of 4.7% or about \$18.00 annually. A few however, based on the definition of docks introduced by Muldoon, would get substantially more. Tom Larkin for example gets a 40.2% reduction worth approximately \$737 annually according to city staff.

Mooring holders received a \$500,000 cut in their fees, despite the fact that 60% of mooring holders were not residents of Newport Beach. Mooring holders also received additional ability to “sell” their public moorings to others at substantial personal profit.

Fritz Duda and the city reached a negotiated agreement on a long standing lawsuit that favorably resolved his access and easement issues with the neighboring old city hall site.

The council voted to reverse itself and not appeal its case against Woody's Wharf. The bar operators received substantial concessions in terms of how they are able to operate as well as \$355,000 in taxpayer funds.

The Howard Ahmanson created Friends of the Fire rings are expected to settle their suit with the city seeking taxpayer funds on favorable terms.

In January of 2016, Southside Towing, represented by Team Newport donor Steve Baric, was ranked last by the Newport Beach Police Department evaluation for city towing services. The council majority substituted Southside for the top ranked firm and awarded them a lucrative towing contract.

Peotter's proposal to defund the Corona del Mar library and fire station and eliminate the Westside Community Center in order to fund sea walls ahead of any analysis of the project costs would appear to make no sense, until it is understood that one of the first phases of this project would be along the Grand Canal. Right in front of Bob McCaffery's house.

To try to kick start the Team Newport agenda, the tired idea of an "audit" of the civic center was revived in June. During the debate it was disclosed that members of Team Newport had been working behind the scenes to steer part of the audit work to campaign contributor Bill Dunlop. More troubling was the fact that in violation of the Brown Act, some member of the city council leaked a confidential memo from the city attorney suggesting that former Assistant City Manager Steve Badum may not have reported all of his gifts and meals. Badum had overseen the city hall project. These allegations were sized upon by Team Newport supporters to justify the audit. When Badum was ultimately vindicated and cleared by the District Attorney, Team Newport once again found itself embarrassed and in legal hot water. The idea that Team Newport were interested in saving taxpayer money was shown to be false when they voted to raise the budget on the audit from \$100,000 to \$350,000 in November with a total estimated cost of their political folly now at \$600,000.

What is unknown is how much money Dave Ellis may have made to lobby his team on issues before the council.

As 2015 drew to a close, with Peotter in the lead, the "team" was increasingly marginalized into positions that were unpopular with the public, fiscally incoherent and in some cases simply incompatible with a well-run city. The team reverted into campaign mode, as McCaffery and Ellis tried to drum up recall talk against Councilman Curry and revived a stale campaign on the costs of the civic center. Residents began referring to them as "Team New to Newport". As the year came to an end, Barbara Venezia excoriated the bloc and Dixon in particular for her announced support of Muldoon for 2016 Mayor Pro Tem, violating tradition and once again passing over Tony Petros to preserve the "power" of the Ellis slate. Duffield appeared both bored and befuddled at each council meeting.

As an inexperienced mayor, Dixon stumbled often, even though she used a prepared script to run the meetings. She bungled the adoption of the sewer fee increase, first proposing and then abandoning additional restrictions on “dog beach” and flip flopping on the issue of political reform.

Councilman Curry had proposed closing loopholes use by Team Newport to evade the \$1,100 contribution limits, prohibit fundraising except in the year of the election, (Dixon held a fundraiser for her 2018 campaign in December of 2015), and to require lobbyists to register with the city. The last element was aimed at Dave Ellis who was lobbying in the background for the 25 story Museum Tower project with the council members he had helped elect. Dixon had originally supported the idea, but at the behest of Ellis, proposed a “citizens committee” to review proposals. When the issue came back to the council she flip flopped and opposed the proposals, suggesting instead they be deferred until after the election when Curry would be gone.

In an effort to do something different than the previous council, Dixon and Peotter appointee to the Finance Committee Patti Gorczyca advanced a risky idea to take taxpayer dollars and instead of paying down the pension liability, using the funds to speculate in the stock market. When Councilman Curry called them out on this Dixon and Team Newport angrily removed him as chairman of the Finance Committee for his opposition to this proposal and for having the temerity to call out Dixon on her campaign finance tactics. Two weeks later, Dixon and Duffield Finance Committee appointee Will O’Neill inexplicably picked up Peotter’s idea to refinance the civic center debt, despite its well documented \$20 million in additional costs. Clearly Ellis was having his candidates set the stage to re-run on the 2014 issues given the lack of actual accomplishment in the two years Team Newport had been in charge.

The adoption of the 2016-17 budget proved to be another example of bizarre decision making, with Peotter as the financial point man for Team Newport. To avoid negative amortization of the city’s pension obligations, with resulting massive increases in the unfunded liability, staff proposed a new “fresh start” the strategy used by the prior council. Peotter led opposition to this but was defeated. Peotter also floated his discredited idea to slash the business license tax by \$3.5 million and to use an additional \$3.5 million in general fund money to backfill the sewer enterprise structural deficit created when Team Newport failed to approve proposed rate increases. Duffield announced he had looked at the city’s docks and piers and “they looked good to me” so he had the \$300,000 budgeted for routine maintenance removed from the Capital Improvement Budget. Within seconds, Dixon had reallocated the “savings” to repair the field at Newport Elementary School. Dixon also supported an additional \$180,000 in projects for the Peninsula. In the end, no significant cuts to the budget were approved.

Led by Dixon, Team Newport began to express its frustration in political retribution. In addition to removing Curry as chair of the Finance Committee, Dixon and the rest of Team Newport flip flopped on a Curry proposed charter amendment to require a supermajority vote to put tax measures on the ballot. Led by Peotter, they hijacked the measure, put their own names on it, and raised money for the ‘Yes’ campaign that was used to support their endorsed candidates. Long time Planning commissioner Tim Brown was denied reappointment to the commission, Peotter removed long time Corona del Mar

community leader Bud Rasner from the aviation committee and Team Newport passed over Planning Commission applicants Debbie Stevens and Tim Stoaks despite widespread community support.

As the 2016 election approached, a new “Team Newer to Newport” began to take shape. Shelly Henderson, an Inglewood resident, living in Newport since 2014, was recruited by Scott Peotter to run against Tony Petros in District 2. She called Peotter her “mentor.” When Petros unexpectedly withdrew from the race, Peotter abandoned Henderson and backed Harbor Commissioner Brad Avery who had wide community support. Avery won, but Henderson, who hardly ever showed up for campaign events polled a surprising 41.7%.

Conservative activist, developer and Atlas PAC leader Lee Lowrey was moved from Corona del Mar to Balboa Island by Ellis to run in Ed Selich’s open District 5 seat. Lowrey’s PAC donations attacking Mike Toerge were as responsible as anything for Peotter’s narrow victory. Lowrey is also a business partner with Costa Mesa council member and Tea Party favorite Jim Righeimer. Lowrey was caught taking an excess donation from the Southern California Coalition of Businesses and Taxpayers PAC (SCCBT), an Inland Empire group used to launder donations so that the true donor is not revealed. Once again, the city council declined to enforce its own laws and the matter was referred to the District Attorney and FPPC. One donor to the SCCBT that could be identified was Steve Baric, the lobbyist for Southside Towing. Baric and Southside were active donors to Team Newport following their award of a city towing contract. Mike Glenn, an independent community activist, who called out Team Newport for failing to fulfill their campaign promises also ran in District 5.

In the end, long time community leader Jeff Herdman, who had been an active Team Newport critic was elected, despite an effort by Bob McCaffery to disqualify Herdman that was rejected by the courts.

Fresno-born Will O’Neill, who embraced Peotter’s “financial strategy” of trying to refund bonds that were not refundable, was recruited to run in District 7. Resisting the entreats by many in the community to avoid Ellis, he finally decided to throw in with Ellis as his campaign manager.

The District 7 race was marred by an effort by Bruce Peotter, brother of Scott Peotter to require Fred Ameri to run using the name “Farouk”. This effort was considered racist and rejected by the courts.

An even more shameful episode occurred when signs in Farsi were put up in “support” of Ameri, again, designed to make the 50 year Newport resident look “foreign.” The signs did not indicate the party paying for them as required by law.

Following the election, Councilman Curry introduced a resolution to condemn this racist tactic but a nearly hysterical Diane Dixon furiously gaveled him down and Team Newport refused to condemn this action. In the end, O’Neill won, defeating both Ameri and local lawyer Phil Greer. O’Neill was held to just under 50% of the vote.

As in 2014, developers, city contractors and other special interests spent heavily through independent expenditure committees to circumvent the city campaign contribution limits on behalf of the 2016 Team Newport Candidates.

Howard Ahmanson gave more than \$84,000, much of it to attack Herdman and Greer. The Bruce Peotter run Peninsula Small Business Committee spent \$54,000 to attack Herdman, Greer, Ameri and Glenn. Most of the funding coming from local developers and the owners of Woody's Wharf.

Lobbyists for the controversial Museum House Condominium Tower contributed to the California Homeowners Association PAC that spend \$11,000 attacking Herdman and Greer.

The Newport Beach Police Officers Union spent \$50,000 in support of Avery, O'Neill and Lowrey.

At the final full 2016 meeting of the City Council on November 29, the council considered the controversial Museum House, a 25 story condominium project that was a lobbying client of Dave Ellis. With Peotter calling the project opponents "liars" and Peotter, Muldoon and Duffield being unwilling to designate developer fees to specific projects as requested by Dixon, the project was approved. The council not only approved the project but in a cynical move, incorporated the EIR and other documents into the adopting ordinance in order to make citizen efforts to qualify a referendum on the project more difficult and expensive by making the petition documents several thousand pages long. As a result, the petitions cost \$400 each to print and weighed ten pounds. Nonetheless, over 14,000 signatures, (more than Peotter and Muldoon received in votes) were obtained in less than two weeks. The council subsequently repealed the approvals for the project with Peotter arguing that it should still go to a vote.

The actions of Team Newport raised several disturbing questions for the community:

1. What does it mean in a community where people often preface their remarks with the number of years they have lived in the city, when three newcomers with no community experience or involvement can get elected to the city council?
2. What does it mean when less than a dozen people can organize and spend money to buy the city council? And then, to enjoy the financial benefits of a friendly governing body? Is Newport Beach ready for Chicago-style boss government?
3. What are the implications for the rule of law when the city attorney finds the longstanding campaign contribution limit, one followed by candidates for decades, is "not enforceable" by his office? And what good are penalties like removal from office if prosecutors and regulators do not enforce the law?
4. After avoiding the civic embarrassments of neighboring Irvine and Costa Mesa for more than eight years, what are the implications of a city council that looks to these cities for inspiration?
5. What kind of community can develop when councilmembers (as Peotter has been very clear to say), believe we have too many parks and too much library space? Leaders who believe we should simply

stop trying to anticipate the needs of future generations of residents. Is personal selfishness the new ethic of Newport Beach?

6. Can democracy survive when the media fails its most basic job to be the “first draft of history” and keep the politicians honest? Who do we become when truth becomes what those with the most money say it is?

The Fundamental Problem?

The fundamental problem with “Team New to Newport” is that with the exception of Duffield, none of the candidates had familiarity with the unique concerns and perspectives of Newport Beach residents. Our neighbors want government to be small and efficient, but at the same time, they also demand the highest quality and level of services.

Using the overwhelming financial backing from special interests, the Team ran on a series of false premises; this city does not have excessive debt, the cost of the city hall, site preparation to protect views, library expansion, community center, emergency center, parking structure, park and connecting bridge were not cheap, but neither did they financially stress the city.

The city hall project must also be compared to the alternative that would have been built if Councilman Peotter had been in charge: It would have been a tilt up building, with a surface parking lot instead of a park and no expansion of the library leaving the entrance of the library and city hall on different levels of a hill. There would have been no community center or emergency center. The building would likely be at least three stories higher as he would not have excavated to protect the view from Mac Arthur. This would have been completely unacceptable to the community.

The Team Newport approach for reducing debt simply did not make any economic sense; in fact it would have increased costs by more than \$20 million. When faced with real budget decisions, Team Newport increased spending above what was recommended by the city manager, rather than making cuts. This happened in two consecutive years. Having rolled back Tidelands fees to benefit a few donors, the Team found itself searching for a way to pay for major seawall renewal projects rendered underfunded by their actions.

In short, Team Newport attempted to govern by ideological slogans, Tea Party rhetoric and wishful thinking. They assumed that because they don’t use our parks, libraries, community centers or senior center, or because they don’t appreciate public art, that nobody else in the city wants them either. That is the fundamental problem with electing people unconnected to the community.

Team Newport reflects contempt for city government, its employees, services and duties, rather than the traditional assumptions that our city council was committed to the long term betterment and enhancement of the community. In a very low turnout election this can have appeal, but there is simply no example in any community, anywhere in the nation, that this is a strategy that leads to the creation of long term public value and enhancement of the quality of life.