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K.C. ALFRED U-T

BOARD AIMS TO PREVENT ABUSIVE SPEECH

Meeting set today on proposed changes for public comments

BY PAUL SISSON & DEBORAH SULLIVAN BRENNAN

One week after public commenters used racial slurs to attack the region's top public health official during a routine COVID-19 update, the county Board of Supervisors will consider new rules designed to discourage "hate speech and racism" during their public meetings, according to a board letter proposed Tuesday.

Board Chair Nathan Fletcher and county Supervisor Nora Vargas introduced the board letter Tuesday and called a special meeting at 2 p.m. today to discuss and vote on the proposed rules. The meeting will be held online.

If approved, the proposed changes would take immediate effect and would be enforced at the next board meetings on Nov. 16 and 17.

Fletcher said the changes are necessary to protect unelected county workers from hostile workplace conditions caused by threatening or abusive comments from some members of the public and to prevent those speakers from creating such intimidating conditions at the meetings that other people feel they aren't free to speak.

"We will always protect the right of individuals to dissent, to disagree," Fletcher said. "We will always protect SEE BOARD • A10

THE SHOW MUST GO ON

San Diego State's boisterous student section, known as The Show, cheers on the men's basketball team Tuesday against UC Riverside at Viejas Arena. SDSU won its season debut, 66-53. The Aztecs' next game is Friday at BYU. Story, D1.

JAN. 6 HOUSE PANEL ALLOWED ACCESS TO TRUMP RECORDS, U.S. JUDGE RULES

Court says release is in public interest; ex-president appeals

BY SPENCER S. HSU

WASHINGTON A federal judge in Washington ruled late Tuesday that hundreds of pages of Trump White House records can be turned over to a congressional committee investigating the Jan. 6 attack on the U.S. Capitol despite the former president's objections.

The decision by U.S. District Judge Tanya Chutkan clears the way for the release of government records requested by Congress beginning Friday. Attorneys for former President Donald Trump immediately appealed and moved to bar release of the documents by the National Archives pending a ruling by the U.S. Circuit Court of Appeals for the District of Columbia Circuit.

The House panel and Justice Department "contend that discovering and coming to terms with the causes underlying the January 6 attack is a matter of un-

surpassed public importance because such information relates to our core democratic institutions and the public's confidence in them," Chutkan wrote in a 39-page opinion. "The court agrees."

"The court holds that the public interest lies in permitting — not enjoining — the combined will of the legislative and executive branches to study the events that led to and occurred on January 6, and to consider legislation to prevent such events from ever occurring again," the judge wrote.

House Democrats are probing Trump's communications and activities leading up to and during the mob riot by his supporters that contributed to at least five deaths and forced the evacuation of Congress as it met to confirm the 2020 presidential election results.

In court filings, the House has argued it needs the communications records "of the then-President who helped foment the breakdown in the rule of law" by assembling thousands of supporters in Washington after a monthslong effort to SEE TRUMP • A6



SUNROAD ENTERPRISES AND CARRIER JOHNSON + CULTURE

The proposed Sunroad Enterprises hotel on Harbor Island will have dual brands — limited service and extended stay — rising 12 to 15 stories.

PORT APPROVES CONSTRUCTION OF \$160M HARBOR ISLAND HOTEL

Per state coastal panel request, developer Sunroad Enterprises still needs to find solution to affordable accommodations issue

BY LORI WEISBERG

A yearslong effort to build a major hotel on Harbor Island cleared one of the last remaining hurdles Tuesday when San Diego port commissioners granted a required development permit that will allow construction of the \$160 million project to begin in two years.

Still a question, however, is whether the development will include any accommodations designed for lower cost stays, something that the California Coastal Commission has long pressed the Port of

San Diego to require. The developer, Sunroad Enterprises, has the option to instead pay \$11.3 million in fees that would be earmarked for an undefined, future affordable lodging project within the port's jurisdiction.

"Our hope would be to figure out a way to make (the low-cost lodging) inclusionary," Sunroad President Uri Feldman said in an interview following the port hearing. "I'd rather be able to use that money on a project than pay the fee but the question is, does that still give SEE HOTEL • A9

3 LOCAL ZIP CODES ON TOP-100 LIST OF PRICIEST HOMES IN U.S.

Rancho Santa Fe at No. 18; Coronado, Del Mar included

BY PHILLIP MOLNAR

In a year of explosive home price growth, three San Diego County ZIP codes have made their way onto a list of the nation's priciest.

Real estate tracker PropertyShark released its annual list of the 100 most expensive areas of the nation and Rancho Santa Fe (92067) comes in at No. 18

with a median sales price of \$3.4 million. It is the first time a San Diego County ZIP code cracked the top 20.

The most expensive ZIP code in the nation was Atherton in San Mateo County for the fifth year with a median sales price of \$7.47 million. The Bay Area community is a hub of Silicon Valley wealth. California made up 70 percent of the list's most expensive ZIP codes.

The other San Diego County ZIPs to make the list were Coronado (92118) at No. 63 with a median sales price of \$1.94 million and Del

Mar (92014) at No. 74 with a median of \$1.85 million.

PropertyShark has been doing the list for several years and 2021 represents a rise in the rankings for Rancho Santa Fe and Coronado. The exception is La Jolla, which has been on the list for several years but was bumped off in 2021. Del Mar dropped a few spots.

Rancho Santa Fe was No. 23 in 2020 with a median of \$2.7 million, Coronado was No. 64 with a median of \$1.72 million, Del Mar No. 69 with a median of \$1.69 million and La Jolla was No. 94 with a median of \$1.5 million.

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Number of times a county ZIP code has placed in the top 20 list of most expensive home prices in U.S., according to PropertyShark.

San Diego appeared to be riding a wave of rapid price appreciation in California that saw it surpass many established East Coast markets. This year was the first time no New

York City ZIP codes made the top 20.

Throughout the pandemic, affluent buyers seeking properties have sought out California as a place for more spread-out space and as a location with lower COVID-19 numbers (per capita) than much of the nation.

"I really think COVID changed everything," said Linda Sansone, a luxury real estate agent in Rancho Santa Fe. "Everybody stopped and thought: I need more space."

She said land is very lim-

SEE BOOSTERS • A10

PFIZER REQUESTS APPROVAL FOR MORE BOOSTERS

Authorization would allow all adults to receive extra dose

BY SHARON LAFRANIERE

WASHINGTON

Pfizer and BioNTech asked federal regulators Tuesday to authorize their coronavirus booster shot for those 18 and older, a move that would likely make every adult in America eligible for an extra injection.

The Food and Drug Administration is expected to grant the request, perhaps before Thanksgiving and well before Christmas travel and gatherings. The prospect of all 181 million fully vaccinated adults in the nation having access to extra shots is a turnaround from two months ago, when an expert advisory committee to the FDA overwhelmingly recommended against Pfizer-BioNTech's request to authorize boosters for all adult recipients of that vaccine.

At the time, several committee members raised doubts about whether young, healthy people needed boosters. But the Biden administration has been eager to offer extra shots widely since August, when President Joe Biden announced that "the best way to protect ourselves" SEE BOOSTERS • A10

FOOD

'SMALL PLANET' AT 50

Influential book's vegetable-forward diet still a key facet of sustainability half a century later. E1



U-T INDEX

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CORONAVIRUS PANDEMIC

WHISTLEBLOWERS KEY TO VACCINE MANDATE

OSHA doesn't have enough staff to track compliance with rule

BY PAUL WISEMAN

WASHINGTON

To enforce President Joe Biden's forthcoming COVID mandate, the U.S. Labor Department is going to need a lot of help. Its Occupational Safety and Health Administration doesn't have nearly enough workplace safety inspectors to do the job.

So the government will rely upon a corps of informers to identify violations of the order: Employees who will presumably be concerned enough to turn in their own employers if their co-workers go unvaccinated or fail to undergo weekly tests to show

they're virus-free.

What's not known is just how many employees will be willing to accept some risk to themselves — or their job security — for blowing the whistle on their own employers. Without them, though, experts say the government would find it harder to achieve its goal of requiring tens of millions of workers at companies with 100 or more employees to be fully vaccinated by Jan. 4 or be tested weekly and wear a mask on the job.

"There is no army of OSHA inspectors that is going to be knocking on employers' doors or even calling them," said Debbie Berkowitz, a former OSHA chief of staff who is a fellow at Georgetown University's Kalmanovitz Initiative for Labor and the Working Poor.

"They're going to rely on workers and their union representatives to file complaints where the company is totally flouting the law."

Jim Frederick, the acting chief of OSHA, told reporters that his agency will focus on job sites "where workers need assistance to have a safe and healthy workplace."

"That typically comes through in the form of a complaint," Frederick added.

Critics warn that whistleblowers have often faced retaliation from their employers and that OSHA has offered little protection when they do.

The new mandate, which Biden announced last week, is the administration's most far-reaching step yet to prod more Americans to get vaccinated. The mandate will cover an estimated 84 mil-

lion employees.

The president called the move necessary to combat an outbreak that has killed 750,000 Americans and that continues to spread. Companies that fail to comply will face fines of nearly \$14,000 per "serious" violation. Employers found to be "willful" or repeat violators would be subject to fines of up to 10 times that amount.

The mandate has run into furious opposition, though, from leaders of mainly Republican-led states who have condemned the plan as an unlawful case of federal overreach and who immediately challenged the vaccine-or-test requirements in court. On Saturday, the Biden administration endured a setback when a federal appeals court in New Orleans temporarily

halted the mandate, saying it posed "grave statutory and constitutional issues."

Should the mandate survive its legal challenges, though, the task of enforcing it would fall on OSHA, the small Labor Department agency that was established 50 years ago to police workplace safety and protect workers from such dangers as toxic chemicals, rickety ladders and cave-ins at construction sites.

OSHA has jurisdiction in 29 states. Other states, including California and Michigan, have their own federally approved workplace safety agencies. These states will have an additional month — until early February — to adopt their own version of the COVID-19 vaccine mandate, equal to or tougher than OSHA's.

For a task as enormous as enforcing the new vaccine mandate, OSHA and its state "partners" are stretched thin. Just 1,850 inspectors will oversee 130 million workers at 8 million job sites. So the agencies must rely on whistleblowers.

OSHA urges workers to first bring unsafe or unhealthy working conditions to the attention of their employers "if possible." Employees could also file a confidential safety complaint with OSHA or have a case filed by a representative, such as a lawyer, a union representative or a member of the clergy. But they have no right to sue their employer in court for federal safety violations.

Wiseman writes for The Associated Press.

BOARD • Changes could limit time members of public can speak

FROM A1

individuals' right to have free speech. But it's clear that we've got to make some changes to the way that we communicate the people's business, the way we convene to debate, to discuss, to govern."

A marked-up copy of the board's current rules of procedure includes a new section that serves as a road map for responding to discriminatory or harassing remarks of the type made against Dr. Wilma Wooten and Vargas by a public speaker on Nov. 2.

Wooten declined through the county's media office Tuesday to comment on the rules, which also call for the county to adopt the National Conflict Resolution Center's Code of Civil Discourse for the meetings. The code asks those who engage in debate or dialogue to communicate in a way that is inclusive, understanding, respectful and fair, while avoiding personal attacks.

Fletcher and Vargas in a news conference Tuesday drew a distinction between criticism and even insults leveled at elected officials, and slurs or threats directed at public employees. While the former is generally a protected exercise in free speech, the latter can create a hostile work environment that violates other civil rights, they said.

"It really is unfortunate that we're here today, but it is our responsibility to make sure that we bring back decency, kindness and respect to our county meetings," Vargas said. "Our employees need to feel safe and free to do their jobs without being intimidated or harassed."

Under the new policy, the board chair would read the county's policy regarding discrimination and harassment to meeting attendees who make such comments and would also allow offended county employees to decline to attend the meetings due to those remarks.

Fletcher has frequently stopped meetings and has had some in the audience removed for interrupting other speakers.

The list of changes includes a prohibition against disorderly conduct that includes "the utterance of loud or threatening language,"



NELVIN C. CEPEDA U-T

Supervisors Nathan Fletcher and Nora Vargas meet with reporters Tuesday to announce that the San Diego County Board of Supervisors will vote today on a policy that will adopt a code of civil discourse.

whistling, clapping, stamping of feet, speaking over or interrupting the recognized speaker if those actions disrupt "the orderly conduct of any meeting."

Fletcher said those provisions apply to audience members who interrupt a speaker, not to individuals at the podium.

Other proposed changes could limit the amount of time that members of the public are allowed to speak during meetings, to expedite the comment period on items where there are many speakers. Some recent meetings have extended up to 15 hours, as hundreds of speakers signed up to provide input.

Today each public speaker has two minutes to make their point, but the proposal would allow the board chair to cut that allotment in half, down to one minute per individual, if

there are more than 10 people wishing to comment on an item.

Changes are also proposed for group presentations, where three or more people can collectively talk on a topic for up to 10 minutes total. There is currently no limit on the time for any individual speaker in a group, but that would be capped at four minutes going forward.

Under the proposal, group presentations would be allowed only for land use decisions and appeals and would not be permitted for other matters, except with the board chair's consent.

Changes also were proposed for the board's consent calendar, a catch-all spot on its agenda where mundane matters are quickly dispatched with a single vote. Today members of the public can request to remove any item from the

consent list for full discussion. Under the proposed changes, only a supervisor or county administrative officer could ask for a removal.

The public could still comment on items in the consent calendar, but they would have just two minutes to discuss the whole list, instead of being able to comment for two minutes on each item. This change aims to reduce off-topic commentary on subjects other than the item at hand.

Another proposed addition to the board's rules of procedure appears to limit the overall amount of time that public comments are made on any agenda item. The chair will be able to set limits for each side of an issue or set a total time limit as appropriate when many people request to speak on an agenda item.

Recently commentary on the county's monthly

COVID-19 updates has stretched for several hours before the board members could begin their deliberations and take a vote.

The proposal would also require anyone from the public who wishes to show a presentation or video to bring their own electronic equipment to connect to county equipment installed at the speaker's podium. To use the county's presentation system, materials would have to be submitted at least 24 hours in advance to eliminate potential technical issues.

In a call to see its business "conducted in an orderly fashion," the board also mandates that public speakers shall not use "loud, threatening, profane or abusive language that disrupts, disturbs or otherwise impedes the orderly conduct of the board meeting" and grants the chair the right to

rule that a commenter is off topic "or otherwise unrelated to the agenda item under consideration."

The San Diego County Board of Supervisors is not the only government body trying to thread the needle between protecting free speech and cultivating civil discourse. Local school boards have faced similar issues, and the Los Angeles County Board of Supervisors has experienced a stark uptick in profanity during public comment.

Amy Reichert, co-founder of an organization called ReOpen San Diego, which has demonstrated against COVID-19 policies, issued a statement Tuesday afternoon condemning the proposed public speaking protocols.

She said that provisions to limit speakers' time, prohibit "whistling, clapping or stomping of feet," and authorize the board chair to decide when comments are disruptive or off topic are efforts to limit free speech and represent the "continued shredding of our United States Constitution."

Fletcher said, rather than restricting free speech, the changes would restore the opportunity to people whose comments have been overshadowed by louder, more provocative speakers.

"Dissent is a healthy part of any government," Fletcher said. "But I can't tell you how many people have reached out to me and said I'd like to come down and share my point of view and my perspective, but it is a hostile environment, it is a threatening environment. I've had individuals reach out and say, 'Fletcher, I may disagree with a whole lot of what you're doing, but so much of what I want to say in dissent is lost in the toxicity, the hostility and the over-the-top rhetoric.'"

The special meeting today will be online. The notice indicates that in-person attendance will not be allowed, although the public can view the proceedings online and make comments via a call-in option. Instructions are available at sandiegocounty.gov/telecomms.

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BOOSTERS

FROM A1

for every adult to get a booster.

Biden initially wanted Americans to start receiving boosters in late September, but the beginning of the campaign was delayed after regulators insisted they needed more time to review safety and efficacy data. Some global public health experts said it would be better to focus on getting initial shots to poorer countries with low vaccination rates than to distribute extra shots here so soon.

If regulators approve Pfizer's request, Biden will have made good on his pledge to offer every adult a booster shot — although the choice would be limited to Pfizer's vaccine for many.

For now, only those 65 and older and adults who are at special risk because of medical conditions or where they work or live can get booster injections if they initially got Pfizer-BioNTech or Moderna's vaccine. The FDA authorized boosters for all Johnson & Johnson recipients because that vaccine offers less protection. People are allowed to choose

which of the three vaccines they want for their extra shot.

Nearly 25 million Americans have gotten boosters so far, including people with immune deficiencies who became eligible in August. That amounts to about 14 percent of people who have been fully vaccinated, a number that could rise sharply if all other adults become eligible for a Pfizer-BioNTech booster. While the eligibility categories are quite broad, at least 30 percent to 40 percent of vaccinated adults are still excluded, according to estimates.

Moderna is expected to soon submit its own request for the FDA to broaden eligibility for its booster. Some experts predict that the agency might authorize broader use of Moderna's booster but exclude young men, because of concerns about a rare condition linked to the vaccine that appears to affect them disproportionately. The condition, called myocarditis, is an inflammation of the heart muscle.

Some countries in Europe have already authorized booster shots for all adults; Israel is offering

them to everyone 12 and older. On Tuesday, Canadian officials authorized a booster dose of the Pfizer-BioNTech vaccine for everyone 18 and older.

In the United States, experts have been fiercely divided over whether booster shots are necessary for the entire population. Many say the vaccines continue to offer robust protection against severe disease and hospitalization, especially for younger people without underlying medical conditions.

There is virtually unanimous agreement that vaccinating the roughly 60 million Americans older than 11 who have yet to receive even their first shot should remain the government's highest priority.

For younger, healthy people, the benefits of a booster injection will be marginal, according to Dr. Eric Rubin, a member of the FDA's advisory panel and an adjunct professor of immunology at the Harvard T.H. Chan School of Public Health.

Even so, some leading experts argue that the case for booster shots has grown stronger. Dr. Nahid Bhadelia, director of Boston University Center for Emerging Infectious Dis-

eases Policy and Research, said that "there's some stronger data" now than there was in September, when the FDA advisory committee rejected Pfizer's initial request.

She added, "I think that the boosters now seem to look like they may help severe disease for a lot more people than we thought previously."

Rubin said he was reassured by the fact that as Israel began vaccinating younger people, "they really weren't seeing any significant safety signals."

Earlier this month, Dr. Anthony Fauci, the federal government's top infectious disease expert, said the most recent data from Israel shows that its aggressive booster campaign has limited the rates of severe disease, hospitalization and death there. He called the results "rather dramatic."

Federal officials have been watching Israel's experience closely because its vaccination campaign took off quickly — starting at the end of July — and it has a nationalized health system that allows outcomes to be more easily monitored than in the United States.

An Israeli study pub-

lished in the scientific journal *The Lancet* in late October compared about 730,000 people who had received a booster dose in August or September with individuals who had received only two doses of the Pfizer-BioNTech vaccine at least five months earlier. The study included recipients 12 and older; the median age was 52.

Compared with the two-dose recipients, the boosted recipients had a 93 percent lower risk of hospitalization, 92 percent lower risk of severe disease and 81 percent lower risk of death, the study found. The boosted recipients were evaluated between one week and nearly two months after their third dose.

Pfizer and BioNTech said their request is based on data from a clinical trial in the United States and elsewhere that included more than 10,000 volunteers. They said the third injection countered the vaccine's waning potency over time. After the third shot, the vaccine's efficacy rate against symptomatic disease was up to about 95 percent, they said.

The FDA has the authority to modify Pfizer-BioN-

Tech's current emergency use authorization and is not expected to reconvene its advisory panel. Rubin said he was fine with that.

"The FDA got a good sense of what the panel was concerned about, and they're in a good position to make a judgment themselves now," he said.

Moderna could follow with a request much like Pfizer's. But winning authorization may be more complicated because of concerns about rare cases of myocarditis, especially in men under the age of 30 who have received two doses of Moderna's vaccine. Similar concerns have been raised about the Pfizer-BioNTech vaccine, but to a lesser extent.

If regulators approve Pfizer's request, it will to some extent just officially condone what health officials say they already see happening frequently. Many Americans appear to be getting booster shots whether or not they are officially eligible, so holding on to complicated eligibility categories may be futile, some officials said.

LaFraniere writes for The New York Times.