



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

**STUDY SESSION
AND
REGULAR MEETING**

AUGUST 8, 2017

**CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH
STUDY SESSION - 5:30 P.M./CLOSED SESSION - AFTER STUDY SESSION/
REGULAR MEETING - 7:00 P.M.**

**KEVIN MULDOON, Mayor
DUFFY DUFFIELD, Mayor Pro Tem
BRAD AVERY, Council Member
DIANE B. DIXON, Council Member
JEFF HERDMAN, Council Member
WILL O'NEILL, Council Member
SCOTT PEOTTER, Council Member**

**DAVE KIFF, City Manager
AARON HARP, City Attorney
LEILANI BROWN, City Clerk
CAROL JACOBS, Assistant City Manager**

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the City Clerk 24 hours prior to the scheduled City Council meeting.

PUBLIC HEARINGS

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

NOTICE TO THE PUBLIC

The City provides a yellow sign-in card for those wishing to address the City Council to assist in the preparation of the minutes. The cards are available in the lobby of the Council Chambers. Speakers are not required to submit a card as a condition to addressing the City Council. If you do fill out the card, please place it in the box at the podium. Any times listed in this agenda are provided as a courtesy and the actual item may be heard either before or after the time given.

This agenda was prepared by the City Clerk and staff reports are available at the City Clerk's Office located at 100 Civic Center Drive (Bay E, 2nd Floor). Staff reports or other written documentation have been prepared or organized with respect to each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation regarding any item of business on the agenda, please contact City Clerk staff at 949-644-3005. The agendas, minutes and staff reports are also available on the City's website: <http://www.newportbeachca.gov/agendas>.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or cityclerk@newportbeachca.gov).

NEWPORT BEACH CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH
AUGUST 8, 2017
STUDY SESSION - 5:30 P.M./CLOSED SESSION - AFTER STUDY SESSION/
REGULAR MEETING - 7:00 P.M.

I. ROLL CALL - 5:30 p.m.

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

SS2. Proclamation for International Literacy Day

SS3. Trauma Intervention Program (TIP) of Orange County

[Insider's Guide](#)

III. PUBLIC COMMENTS

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The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on agenda and non-agenda items, are generally limited to three (3) minutes. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items.

IV. CLOSED SESSION - After Study Session - Council Chambers Conference Room

A. CONFERENCE WITH LABOR NEGOTIATORS

(Government Code § 54957.6)

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

Employee Organizations: Newport Beach Police Association (NBPA)

B. CONFERENCE WITH LEGAL COUNSEL

ANTICIPATED LITIGATION

(Government Code § 54956.9(d)(2) (e)(1)): 1 matter

V. RECESS

VI. RECONVENE AT 7:00 P.M. FOR REGULAR MEETING

VII. ROLL CALL

VIII. CLOSED SESSION REPORT

IX. PLEDGE OF ALLEGIANCE

X. INVOCATION

XI. NOTICE TO THE PUBLIC

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XII. CITY COUNCIL ANNOUNCEMENTS (NON-DISCUSSION ITEM)

XIII. MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA

XIV. PUBLIC COMMENTS ON CONSENT CALENDAR

This is the time in which Council Members may pull items from the CONSENT CALENDAR for discussion (ITEMS 1 - 16). Public comments are also invited on Consent Calendar items. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Council Member, members of the public are invited to speak on each item for up to three (3) minutes per item.

All matters listed under CONSENT CALENDAR are considered to be routine and will all be enacted by one motion in the form listed below. Council Members have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the City Council votes on the motion unless members of the City Council request specific items to be discussed and/or removed from the Consent Calendar for separate action.

XV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the July 25, 2017 City Council Meeting

Waive reading of subject minutes, approve as written, and order filed.

[Minutes](#)

[Written Comments](#)

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

ORDINANCES FOR ADOPTION

3. Second Reading of Ordinance No. 2017-11 Establishing Regulations Regarding Accessory Dwelling Units (PA2017-069)

a) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA; and

b) Conduct second reading and adopt Ordinance No. 2017-11, *An Ordinance of the City of Newport Beach, California, adopting Zoning Code Amendment No. CA2017-003 to Implement New State Law Requirements Relating to Accessory Dwelling Units (PA2017-069).*

[Staff Report](#)

[Attachment A - Ordinance](#)

[Written Comments](#)

4. Second Reading of Ordinance 2017-12 Establishing a Pilot Program Allowing A-Frame Signs in Lido Marina Village (PA2014-054)

a) Find the project is categorically exempt under Section 15303, of the State CEQA (California Environmental Quality Act) Guidelines - Class 3 (Construction or Conversion of Small Structures); and

b) Conduct second reading and adopt Ordinance No. 2017-12, *An Interim Ordinance of the City Council of the City of Newport Beach, California, Allowing A-Frame Signs in Lido Marina Village.*

[Staff Report](#)

[Attachment A - Ordinance](#)

[Written Comments](#)

RESOLUTIONS FOR ADOPTION

5. Non-Exclusive Solid Waste Franchises

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

b) Adopt Resolution No. 2017-52, *A Resolution of the City Council of the City of Newport Beach, California, Approving a Model Agreement Template for Non-Exclusive Solid Waste Franchises;* and

c) Adopt Resolution No. 2017-53, *A Resolution of the City Council of the City of Newport Beach, California, Declaring Its Intention to Conduct a Public Hearing to Consider Granting Non-Exclusive Solid Waste Franchises.*

[Staff Report](#)

[Attachment A - Resolution - Model Agreement Template](#)

[Attachment B - Draft Non-Exclusive Franchise Agreement for Commercial Solid Waste Handling Services Template](#)

[Attachment C - Responses](#)

[Attachment D - Resolution - Calling Public Hearing](#)

[Written Comments](#)

6. Resolution Amending the Capital Improvement Program Budget to Include Funding from the Road Repair and Accountability Act of 2017 (RMRA) and Budget Amendment No. 18BA-002

a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly; and

b) Approve Resolution No. 2017-54, *A Resolution of the City Council or the City of Newport Beach, California, Amending the Adopted Capital Improvement Program Budget for Fiscal Year 2017-18 to Include Road Maintenance and Rehabilitation Account (RMRA) Funding Under the Road Repair and Accountability Act of 2017 - Local Streets and Roads Program and Approving Budget Amendment No. 18BA-002*, increasing revenue estimates by \$481,309.00 in Account 12101-431127 and appropriating \$481,309.00 to Account 12101110-980000-18R23 for MacArthur Boulevard/University Drive Pavement Rehabilitation project.

[Staff Report](#)

[Attachment A - Resolution](#)

[Attachment B - RMRA Project List](#)

[Attachment C - Budget Amendment](#)

[Insider's Guide](#)

[Written Comments](#)

CONTRACTS AND AGREEMENTS

7. Big Canyon Reservoir Flow Metering Vault and Treatment Improvements - Award of Contract No. 6104 (16W13)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 (c) Class 2, (replacement or reconstruction of existing utility systems involving negligible or no expansion of capacity) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Award Contract No. 6104 to Schuler Constructors, Inc. for the total bid amount of \$1,610,500.00, and authorize the Mayor and City Clerk to execute the contract;

d) Establish a contingency of \$161,000.00 (approximately 10% of Total Bid) to cover the cost of unforeseen work not included in the original contract; and

e) Approve Budget Amendment No. 18BA-003 appropriating \$200,000.00 from the Water Capital Fund (Non Master Plan) to Account No. 70201932-980000-

16W13 for Big Canyon Reservoir Flow Metering Vault and Treatment Improvements.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Budget Amendment](#)

[Written Comments](#)

8. Amended Final Tract Map No. 17772A and Amendment No. One to Subdivisions Agreement for 81-Unit Residential Condominium Development Located at 1560 Placentia Avenue

- a) Find that all significant environmental concerns for the proposed project have been addressed in the previously adopted Ebb Tide Residential Mitigated Negative Declaration (SCH#2015071007) (MND). Amended Final Tract Map No. 17772A and amendment to the Subdivision Agreement, including the Rider to its construction securities, are within the scope of the previously adopted MND in accordance with the California Environmental Quality Act (CEQA);
- b) Review and approve Amended Final Tract Map No. 17772A located at 1560 Placentia Avenue pursuant to Section 19.60.010 of the Municipal Code;
- c) Review and approve Amendment No. One to the Subdivision Agreement for Amended Final Tract No. 17772A pursuant to Section 19.36.010 of the Municipal Code, and authorize the Mayor and City Clerk to execute Amendment No. One to the Subdivision Agreement; and
- d) Review and approve the Rider to the construction securities for Amended Final Tract No. 17772A pursuant to Section 19.36.030 of the Municipal Code, and authorize the inclusion of the Rider in Amendment No. One to the Subdivision Agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Amended Tract Map No. 17772A](#)

[Attachment C - Proposed Easement Modifications](#)

[Attachment D - Recorded Final Tract Map 17772](#)

[Attachment E - Amendment No. One](#)

[Attachment F - Subdivision Agreement and Surety Bonds](#)

[Attachment G - Letter Request](#)

[Attachment H - Planning Commission Resolution 1990](#)

[Written Comments](#)

9. Irvine Avenue Pavement Rehabilitation Project - Approval of Professional Services Agreement with Stantec Consulting Services, Inc. (17R21)

- a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly; and
- b) Approve a Professional Services Agreement with Stantec Consulting Services, Inc. of Irvine, California, for the Irvine Avenue Pavement Rehabilitation project at a not-to-exceed price of \$198,188.00, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Professional Services Agreement](#)

[Insider's Guide](#)

[Written Comments](#)

10. Approve Professional Services Agreement with Mark Thomas and Company for the Bayside Drive Improvement Project - Contract No. 6406 (16R12)

a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly; and

b) Approve a Professional Services Agreement with Mark Thomas and Co. of Irvine, California, for a design and construction support services at a not-to-exceed fee of \$352,751.00, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Professional Services Agreement](#)

[Insider's Guide](#)

11. Approval of Amendment No. 1 to the Professional Services Agreement with Willdan Engineering for On-Call Transportation Engineering Staff Services

a) Determine that the action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

b) Approve Amendment No. 1 to the current Professional Services Agreement with Willdan Engineering for on-call Transportation Engineering Staff Services. Add \$150,000 to the agreement and authorize the Mayor and City Clerk to execute Amendment No. 1 of the Agreement.

[Staff Report](#)

[Attachment A - Amendment No. 1](#)

[Written Comments](#)

12. Approval and Award of Agreement to Zebron Contracting, Inc. for As-Needed Sewer Manhole Lining Services

a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly; and

b) Approve the agreements with Zebron Contracting, Inc. for as-needed sewer manhole lining services for a three-year term, and authorize the Mayor and City Clerk to execute the agreements.

[Staff Report](#)

[Attachment A - Agreement](#)

[Written Comments](#)

13. Request for Waiver of City Council Policy L-6 at 2209 Private Road

- a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly;
- b) Waive Council Policy L-6, *Private Encroachments in the Public Rights-of-Way*, to allow the existing six-foot high concrete block wall and appurtenances that encroach into the Private Road public right-of-way to remain in place, contingent upon all conditions of the Encroachment Permit process being met; and
- c) Direct staff to enter into an Encroachment Agreement with the Owner and authorize the City Manager and City Clerk to execute the Encroachment Agreement within one (1) calendar year upon receipt of approval; or
- d) Provide other direction to staff.

[Staff Report](#)

[Attachment A - Project Site Plan](#)

[Attachment B - Location Map](#)

[Attachment C - City Council Policy L-6](#)

[Attachment D - Property Photograph](#)

[Written Comments](#)

MISCELLANEOUS

14. Pending Coastal Development Permit Waivers for De Minimis Development Located at 128 40th Street (PA2017-081) and 216 Evening Canyon Road (PA2017-098)

- a) Determine this action is not a project as defined and is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action is to receive and file only and will not result in a physical change to the environment, directly or indirectly; and
- b) Receive and file. This action will result in no Coastal Development Permit (CDP) being processed for either of the proposed developments.

[Staff Report](#)

[Attachment A - Billings Residence Waiver for De Minimis Development](#)

[Attachment B - Costa Residence Waiver for De Minimis Development](#)

15. Confirmation of Appointment to the Newport Beach Restaurant Association Business Improvement District Advisory Board of Directors

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Appoint Thaddeus Foret, representing The Winery Restaurant and Wine Bar, as the 11th member to the NBRA BID Advisory Board of Directors for term ending June 30, 2018.

[Staff Report](#)

[Attachment A - Application](#)

16. City Position in Opposition to SB 54 (de León), Relating to Law Enforcement Cooperation with Federal Immigration Officers

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Authorize the City Manager to send a letter in opposition to SB 54 (de León), relating to law enforcement cooperation with US Immigration officers.

[Staff Report](#)

[Attachment A - Draft Letter in Opposition on SB 54](#)

[Attachment B - Current Text of SB 54 \(de León\)](#)

[Written Comments](#)

ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED

XVI. ITEMS REMOVED FROM THE CONSENT CALENDAR

XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the City Council. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record.

XVIII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

XX. CURRENT BUSINESS

17. Appointments of New City Arts Commissioners to Fill Unscheduled Vacancies

- a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly; and
- b) Appoint two individuals to fill the unexpired balance of Jennifer Van Bergh's and Lynn Selich's terms on the City Arts Commission.

[Staff Report](#)

[Attachment A - Applications](#)

18. City Council Policy Update 2017

- a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly;
- b) Approve City Council Resolution No. 2017-55, *A Resolution of the City Council of the City of Newport Beach, California, Adopting Revised City Council Policies*;
- c) Provide direction to staff and the City's Finance Committee to review the Finance "F" Policies for future City Council consideration;
- d) Provide direction to staff and the Harbor Commission to review the Harbor and

Beaches “H” Policies for future City Council consideration; and

e) Provide direction to staff and the Planning Commission to review the Public Works/Traffic/Utilities “L” Policies for future City Council consideration.

[Staff Report](#)

[Attachment A - Resolution - Council Policies](#)

[Attachment B - Summary of Changes](#)

[Attachment C – Redline Version of Policy Changes](#)

[Insider's Guide](#)

19. Balboa Island Seawall Coping Extension - Update and Status Report, Contract No. 7066-1 (15H11)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and

b) Authorize staff to advertise and publicly bid the project for construction, which will add an approximate 9-inch high concrete cap to the existing seawall on the north, south and west sides of Balboa Island; or

c) Provide further direction to staff as to how to proceed.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Notice of Determination](#)

[Exhibit A - Proposed Cap Extension](#)

[Exhibits B and C - Access onto Private Docks](#)

[Insider's Guide](#)

XXI. MOTION FOR RECONSIDERATION

A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Council Members who voted with the prevailing side.

XXII. ADJOURNMENT

Testimony given before the City Council is recorded.

The timing light will turn yellow when the speaker has one minute remaining.

The timing light will turn red when the speaker has 10 seconds remaining.

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.