



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

**OCTOBER 13, 2020
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660**

**CLOSED SESSION - 4:00 P.M.
REGULAR MEETING - 4:30 P.M.**

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

**GRACE K. LEUNG, City Manager
AARON C. HARP, City Attorney
LEILANI I. BROWN, City Clerk
CAROL JACOBS, Assistant City Manager**

SPECIAL NOTICE REGARDING COVID-19

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which allows Council Members to attend City Council meetings telephonically. Please be advised that to minimize the spread of COVID-19, some, or all, of the Newport Beach City Council Members may attend this meeting telephonically.

Also, please be advised that on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allows for the public to participate in any meeting of the City Council telephonically or by other electronic means. Given the health risks associated with COVID-19, the City of Newport Beach has decided to not have City Council Chambers open to the public for this meeting. As a member of the public, if you would like to participate in this meeting, you can participate via the following options:

1. You can submit your questions and comments in writing for City Council consideration by sending them to the City Clerk at cityclerk@newportbeachca.gov. To give the City Council adequate time to review your questions and comments, please submit your written comments by Monday, October 12, 2020, at 5:00 p.m.
2. In addition, members of the public can participate in this meeting telephonically. Specifically, the meeting will be viewable on NBTV and live streamed on the City's website. If you are watching the meeting on NBTV or via the live stream, during the meeting, phone numbers for the public to call and to comment on specific agenda items will be posted on the screen. When you call, you will be placed on hold until it is your turn to speak. Please note that only twenty (20) people can remain on hold at a time. If you call in to speak on an item and the line is busy, please call back after a few moments. The City will ensure that it allows enough time per item for everyone to call in to comment.

Please know that it is important for the City to allow public participation at this meeting. If you are unable to participate in the meeting via the process set forth above, please contact the City Clerk at (949-644-3005 or cityclerk@newportbeachca.gov) and she will attempt to accommodate you. While the City does not expect there to be any changes to the above process for participating in this meeting, if there is a change, the City will post the information as soon as possible to the City's website.

The City of Newport Beach thanks you in advance for continuing to take precautions to prevent the spread of the COVID-19 virus.

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

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 in the City Council Chambers lobby located at 100 Civic Center Drive. Staff reports or other written documentation have been prepared or organized with respect to the items 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. Agendas and staff reports are also available on the City's webpage at 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 City Clerk Leilani Brown 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).

I. **ROLL CALL - 4:00 p.m.**

II. **PUBLIC COMMENTS [949-270-8165]**

The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on items listed on the agenda and non-agenda items. Speakers must limit comments to three (3) minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items.

III. **CLOSED SESSION - Council Chambers Conference Room**

A. **CONFERENCE WITH LEGAL COUNSEL
ANTICIPATED LITIGATION - INITIATION OF LITIGATION
(Government Code § 54956.9(d)(4)): 5 matters**

IV. **RECESS**

V. **RECONVENE AT 4:30 P.M. FOR REGULAR MEETING**

VI. **ROLL CALL**

VII. **CLOSED SESSION REPORT**

VIII. **INVOCATION**

IX. **PLEDGE OF ALLEGIANCE**

X. **NOTICE TO THE PUBLIC**

The City provides a yellow sign-in card to assist in the preparation of the minutes. The completion of the card is not required in order to address the City Council. If the optional sign-in card has been completed, it should be placed in the box provided at the podium.

The City Council of Newport Beach welcomes and encourages community participation. Public comments are generally limited to three (3) minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items. As a courtesy, please turn cell phones off or set them in the silent mode.

XI. **CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL
ON COMMITTEE ACTIVITIES**

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

- **Consideration of additional restrictions concerning survey use on the Peninsula [Dixon]**
- **Consideration of holding a discussion about the General Plan Update [Brenner]**

- **Consideration of maintaining outdoor dining after the COVID Emergency [O'Neill, Dixon, Muldoon]**

XIII. PUBLIC COMMENTS ON CONSENT CALENDAR [949-270-8165]

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.

XIV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the September 22, 2020 City Council Regular 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.

ORDINANCE FOR INTRODUCTION

3. Ordinance No. 2020-25: Designating Portions of 61st and Lancaster Streets in Newport Shores as One-Way Streets

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) Waive full reading, read by title only, introduce Ordinance No. 2020-25, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 12.52.060 of the Newport Beach Municipal Code to Designate Portions of Streets as One-Way Traffic Only*, and pass to second reading on October 27, 2020.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Ordinance No. 2020-25](#)

[Attachment C - Ordinance \(redline version\)](#)

[Attachment D - Letter from Newport Shores Community Association](#)

[Written Comments](#)

ORDINANCE FOR ADOPTION

4. Ordinance No. 2020-24: Amending Chapter 12.54 of the Newport Beach Municipal Code Pertaining to the Oceanfront Boardwalk Safety Program

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) Conduct second reading and adopt Ordinance No. 2020-24, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 12.54 of Title 12 of the Newport Beach Municipal Code Pertaining to the Oceanfront Boardwalk Safety Program.*

[Staff Report](#)

[Attachment A - Ordinance No. 2020-24](#)

[Correspondence](#)

[Written Comments](#)

RESOLUTIONS FOR ADOPTION

5. Resolution No. 2020-86: Announcing Its Commitment to End Child Marriage and Authorizing the City Manager, or Designee, to Provide Educational Information Pertaining to Ending Child Marriage

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) Adopt Resolution No. 2020-86, *A Resolution of the City Council of the City of Newport Beach, California, Announcing Its Commitment to End Child Marriage by Calling for an "End Child Marriage Under 18, No Exceptions" Law and Authorizing the City Manager, or Designee, to Provide Educational Information Pertaining to Ending Child Marriage.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-86](#)

[Written Comments](#)

6. Resolution No. 2020-87: Adding Street Sweeping Parking Restrictions on Terrace Ridge

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) Adopt Resolution No. 2020-87, *A Resolution of the City Council of the City of Newport Beach, California, Establishing "No Parking" Restrictions on Designated Streets on Specific Days and Times to Improve Street Sweeping Effectiveness and Rescinding Resolution No. 2017-66.*

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Resolution No. 2020-87](#)

7. Resolution No. 2020-88: Emergency Management Performance Grant Authorization

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) Adopt Resolution No. 2020-88, *A Resolution of the City Council of the City of Newport Beach, California, Providing Written Authorization to the State of California Governor's Office of Emergency Services of the Standard Assurances Required to Apply for Grants from the Federal Department of Homeland Security, Federal Emergency Management Agency.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-88](#)

CONTRACTS AND AGREEMENTS

8. Concrete Alley and Street Replacement - Award of Contract No. 7753-2 (21R07)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(b)(c), Class 1 (maintenance of existing public facilities involving negligible or no expansion of use) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Award Contract No. 7753-2 to S&H Civilworks for the total bid price of \$1,288,025, and authorize the Mayor and City Clerk to execute the contract;

d) Establish a contingency of \$129,000 (approximately 10 percent of total bid) to cover the cost of unforeseen work not included in the original contract; and

e) Approve Budget Amendment No. 21-016 appropriating \$122,671 in increased expenditures in Account No. 65802-941003 from Assessment District 117 unappropriated fund balance.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Budget Amendment](#)

9. Mission Bay Drive Drainage Project - Award of Contract No. 7889-1 (21R03)

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 (minor alterations in the condition of land, water, and/or vegetation) of the CEQA Guidelines, as the project only entails minor trenching without removal of healthy, mature trees; installation of subdrain pipe; and backfilling to restore the original surface;
- b) Approve project drawings and specifications;
- c) Award Contract No. 7889-1 to Bunker Construction, Inc. for the total bid price of \$143,983, and authorize the Mayor and City Clerk to execute the contract;
- d) Establish \$14,400 (approximately 10 percent) contingency to cover the cost of unforeseen work not included in the original contract; and
- e) Approve a Cooperative Agreement with Spyglass Hill Community Association (Association) and accept the \$100,000 contribution included in the adopted FY2020-21 CIP budget for the project, and authorize the Mayor and City Clerk to execute the agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Cooperative Agreement](#)

[Written Comments](#)

10. Via Lido Soud and Nord Water Main Replacement - Award of Contract No. 7645-2 (20W12)

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Class 2 Section 15302(c) (replacement of existing public facilities involving negligible or no expansion of capacity) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment;
- b) Approve the project plans and specifications;
- c) Award Contract No. 7645-2 to T.E. Roberts, Inc. for the bid amount of \$3,787,401 for the Via Lido Soud and Nord Water Main Replacement project and authorize the Mayor and City Clerk to execute the contract;
- d) Establish a contingency of \$378,000 (approximately 10% of total bid) to cover the cost of unforeseen work not included in the original contract; and
- e) Approve Budget Amendment No. 21-017 appropriating \$1,347,500 in increased expenditures in Account No. 70201931-980000-20W12 from the Water Enterprise Fund unappropriated fund balance.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Budget Amendment](#)

[Attachment C - Teichart Letter of Protest](#)

[Attachment D - TE Roberts Protest Response](#)

[Insider's Guide](#)

11. Amendment No. Two to Agreement for Beach Container Refuse Collection Service with Rainbow Disposal Co., Inc.

- 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) Approve Amendment No. Two to Agreement with Rainbow Disposal Co., Inc. for Beach Container Refuse Collection Service to modify the compensation terms to increase the total not-to-exceed amount by \$400,000.00 for a total not-to-exceed amount of \$1,897,624.30, and extend the contract to December 31, 2022; and
- c) Authorize the Mayor and City Clerk to execute the amendment.

[Staff Report](#)

[Attachment A - Amendment No. Two to Agreement](#)

[Correspondence](#)

[Written Comments](#)

12. Parking Meter Equipment Replacement Plan and Purchase Authorization

- a) Find this project 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 1578) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment;
- b) Authorize staff to purchase and install the minimum number of pay stations as may be required to ensure compliance with the City's Local Coastal Program Implementation Plan and the California Vehicle Code;
- c) Authorize the City Manager or designee to enter into an agreement for the purchase, installation and maintenance of the minimum number of multi-space pay stations required to replace single space parking meters, in an amount not to exceed \$661,004; and
- d) Waive the standard bidding requirements provided by City Council Policy F-14 and approve a single source award of the agreement to T2 Systems, Inc. (T2).

[Staff Report](#)

[Insider's Guide](#)

[Written Comments](#)

MISCELLANEOUS

13. Approval of Budget Amendment to Allocate Restricted Donations for Purchase of SWAT Team Protective Equipment

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) Approve Budget Amendment No. 21-012 increasing revenue estimates by \$33,570 in the Police Department Private Donations/Contributions account, 01035352-561005, and increasing expenditure appropriations to the Police Department SWAT Supplies expenditure account, 01035353-841024.

[Staff Report](#)

[Attachment A - Budget Amendment](#)

14. 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 Micah Schiesel, representing The Lounge Group, to the NBRA BID Advisory Board of Directors for term ending June 30, 2021.

[Staff Report](#)

[Attachment A - Application](#)

[Written Comments](#)

15. Grants and Donations Report for the Quarter Ending September 30, 2020

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) Receive and file.

[Staff Report](#)

16. City Council Support for Opening of Park Playgrounds

a) Determine this action is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, which provides “organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment” are not considered a project under CEQA, and pursuant to Section 15060(c)(3), actions that are not projects are not subject to CEQA; and

b) Receive and file.

[Staff Report](#)

[Attachment A - Outdoor Playgrounds and Other Outdoor Recreational Facilities](#)

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

XV. ITEMS REMOVED FROM THE CONSENT CALENDAR [949-270-8165]

XVI. PUBLIC COMMENTS ON NON-AGENDA ITEMS [949-270-8165]

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.

XVII. PUBLIC HEARINGS

17. Resolution Nos. 2020-89 and 2020-90: Approving General Plan Amendment No. GP 2020-005 and Tentative Parcel Map No. NP2020-007 for a Residential Subdivision at 2400 Santiago Drive (PA2020-041) [949-270-8165]

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment;
- c) Adopt Resolution No. 2020-89, *A Resolution of the City Council of the City of Newport Beach, California, Approving General Plan Amendment No. GP2020-003 for a Residential Subdivision Located at 2400 Santiago Drive (PA2020-041); and*
- d) Adopt Resolution No. 2020-90, *A Resolution of the City Council of the City of Newport Beach, California, Approving Tentative Parcel Map No. NP2020-007 for a Residential Subdivision Located at 2400 Santiago Drive (PA2020-041).*

[Staff Report](#)

[Attachment A - Resolution No. 2020-89](#)

[Attachment B - Resolution No. 2020-90](#)

[Attachment C - July 23, 2020 Planning Commission Hearing Minutes](#)

[Attachment D - Airport Land Use Commission Determination Letter](#)

[Attachment E - Project Plans](#)

[Written Comments](#)

18. Ordinance No. 2020-26: Short-Term Lodging Amendments to Chapter 5.95 and Title 21 of the Newport Beach Municipal Code (PA2020-048) [949-270-8165]

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
- c) Waive full reading, read by title only, introduce Ordinance No. 2020-26, *An Ordinance of the City Council of Newport Beach, California, Amending Portions of Chapter 5.95 of the Newport Beach Municipal Code Relating to Short Term Lodging*, and pass to second reading on October 27, 2020; and
- d) Adopt Resolution No. 2020-91, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2020-007 to the California Coastal Commission, an Amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Related to Short-Term Lodging (PA2020-048)*.

[Staff Report](#)

[Attachment A - Ordinance No. 2020-26](#)

[Attachment B - Resolution No. 2020-91](#)

[Attachment C - Resolution No. 2020-37](#)

[Attachment D - Ordinance No. 2020-15](#)

[Attachment E - Planning Commission Resolution No. PC2020-027](#)

[Attachment F - 9/9/20 City Council Study Session Minutes](#)

[Attachment G - Chapter 5.95 Redline](#)

[Attachment H - Title 21 Redline](#)

[Insider's Guide](#)

[Correspondence](#)

[Written Comments](#)

XVIII. CURRENT BUSINESS

19. Resolution Nos. 2020-92 and 2020-93: Authorizing an Appeal of the Regional Housing Needs Assessment and Amending the Purpose of the Housing Element Update Advisory Committee [949-270-8165]

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. 2020-92, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Filing of an Appeal of the Southern California Association of Governments Final Draft Regional Housing Needs Assessment Allocation for the City of Newport Beach Sixth Cycle Housing Element (PA2018-225)*;

c) Adopt Resolution No. 2020-93, *A Resolution of the City Council of the City of Newport Beach, California, Amending the Purpose & Responsibilities of the Housing Element Update Advisory Committee Related to the Circulation Element of the General Plan and Delegating Those Responsibilities to the Planning Commission*; and

d) Authorize the Mayor to send letters to SCAG in support of other Orange County cities' RHNA Allocation Appeal.

[Staff Report](#)

[Attachment A - Resolution No. 2020-92](#)

[Attachment B - Resolution No. 2020-93](#)

[Attachment C - Resolution No. 2020-6](#)

[Attachment D - Housing Action Plan](#)

[Insider's Guide](#)

[Staff Memo and Amended Letter](#)

[Correspondence](#)

[Written Comments](#)

20. Coronavirus (COVID-19) Update [949-270-8165]

An oral report will be provided.

[Correspondence](#)

XIX. 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.

XX. ADJOURNMENT

Testimony given before the City Council is recorded.

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.