



**CITY OF NEWPORT BEACH  
CITY COUNCIL AGENDA**

**JANUARY 24, 2023  
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660**

**STUDY SESSION - 4:00 P.M. (PUBLIC WELCOME)  
CLOSED SESSION FOLLOWS STUDY SESSION  
REGULAR MEETING - 6:30 P.M.**

**NOAH BLOM, Mayor  
WILL O'NEILL, Mayor Pro Tem  
BRAD AVERY, Council Member  
ROBYN GRANT, Council Member  
LAUREN KLEIMAN, Council Member  
JOE STAPLETON, Council Member  
ERIK WEIGAND, Council Member**

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

**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.

**LEVINE ACT**

Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a contract (other than competitively bid, labor, or personal employment contracts), franchise, license, permit, or other entitlement for use, is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record.

**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](http://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](mailto:cityclerk@newportbeachca.gov)).

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

II. **CURRENT BUSINESS**

**SS1. Clarification of Items on the Consent Calendar**

**SS2. Inclusionary Housing Ordinance**

An inclusionary housing ordinance would set the minimum requirement for an applicant to provide affordable housing units when proposing a residential project. Staff will present an overview of the inclusionary housing ordinance, its basic requirements, and items to consider when drafting an ordinance.

[On the Agenda](#)

III. **PUBLIC COMMENTS**

*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.*

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

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**(Government Code § 54956.8): 1 matter**

**Property:** The American Legion Newport Harbor Post No. 291, located at 215 15th Street, Newport Beach California, 92663.

**City Negotiators:** Seimone Jurjis, Community Development Director and Lauren Wooding Whitlinger, Real Property Administrator.

**Negotiating Parties:** Evin D. Planto.

**Under Negotiation:** Instruction to City Negotiators regarding price and terms of payment.

**B. CONFERENCE WITH LABOR NEGOTIATORS**

**(Government Code § 54957.6): 2 Matters**

**1. Agency Designated Representatives:** Grace K. Leung, City Manager, Barbara Salvini, Human Resources Director, and Charles Sakai, Esq.

**Employee Organizations and Unrepresented Employees:** Association of Newport Beach Ocean Lifeguards (ANBOL); Newport Beach Employee League (NBEL); Newport Beach Lifeguard Management Association (NBLMA); Newport Beach City Employees Association (NBCEA); Newport Beach Firefighters Association (NBFA); Newport Beach Fire Management Association (NBFMA); Newport Beach Police Association (NBPA); Newport Beach Police Management Association (NBPMA); Part Time Employees Association of Newport Beach (PTEANB); Newport Beach Professional and Technical Employee Association (NBPTEA), and unrepresented employees not in positions designated as Key and Management.

**2. Agency Designated Representatives:** Noah Blom, Mayor, and William O'Neill, Mayor Pro Tem.

**Unrepresented Employees:** Grace Leung, City Manager, Aaron C. Harp, City Attorney, Leilani Brown, City Clerk, and unrepresented employees in positions designated as Key and Management.

**C. CONFERENCE WITH LEGAL COUNSEL**

**EXISTING LITIGATION - ANTICIPATED LITIGATION**

**(Government Code § 54956.9(d) (1) and (d) (4)): 2 matters**

*SoCal Recovery, LLC, a California Limited Liability Company et al. v. City of Costa Mesa*

United States District Court, Central District of California, Case No. 8:18-cv-01304-JVS-PJW

Ninth Circuit Court of Appeals, Case No. 20-55820

*Raw Recovery, LLC, v. a California Limited Liability Company v. City of Costa Mesa*

United States District Court, Central District of California, Case No. 8:18-cv-01080-JVS-PJW

Ninth Circuit Court of Appeals, Case No. 20-55870

(The reason for holding a closed session in regards to these matters is for the purpose of conferring with and/or receiving advice from the City's legal counsel and to receive direction from the City Council regarding the possible filing and/or participation in an amicus brief.)

V. **RECESS**

VI. **RECONVENE AT 6:30 P.M. FOR REGULAR MEETING**

VII. **ROLL CALL**

VIII. **CLOSED SESSION REPORT**

IX. **INVOCATION**

X. **PLEDGE OF ALLEGIANCE**

XI. **NOTICE TO THE PUBLIC**

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

XIII. **MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)**

- Consider adopting a resolution modifying City Council Policy A-1 (City Council) to require that "Matters which a Council Member has asked to be placed on a Future Agenda" be primarily focused on issues that directly impact the finances, property, authority, policies, or interest of the City of Newport Beach and/or finances, property, or rights of the residents of the City of Newport Beach [O'Neill]

[Written Comments](#)

**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 - 14). 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 January 10, 2023 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.

**RESOLUTIONS FOR ADOPTION**

**3. Resolution No. 2023-6: Supporting Efforts to Eliminate the Threat of Fentanyl to the Newport Beach Community**

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. 2023-6, *A Resolution of the City Council of the City of Newport Beach, California, Supporting Efforts to Eliminate the Threat of Fentanyl to the Newport Beach Community.*

[Staff Report](#)

[Attachment A – Resolution No. 2023-6](#)

**4. Resolution No. 2023-7: Big Canyon Habitat Restoration Project - Phase 3: Adoption of License Agreement and Design Plan**

a) Find this Project exempt from the California Environmental Quality Act ("CEQA") pursuant to California Public Resources Code Section 21080.56; and

b) Adopt Resolution No. 2023-7, *A Resolution of the City Council of the City of Newport Beach, California, Approving the Big Canyon Habitat Restoration Project Phase 3, Approving a License Agreement and Memorandum of Understanding with the California Department of Fish and Wildlife, and Authorizing Submittal of an Application to the California Coastal Commission (PA2022-034).*

[Staff Report](#)

[Attachment A - Resolution No. 2023-7](#)

[Attachment B - PBR Minutes](#)

[Attachment C - CEQA Letter](#)

[Written Comments](#)

**CONTRACTS AND AGREEMENTS**

**5. Newport Beach Mariners Library, Corona del Mar Lifeguard Substation, and Ben Carlson Lifeguard Headquarters Heating, Ventilation, and Air Conditioning Replacement Project - Award of Contract No. 8760-1 (22F02)**

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1 Section 15301(d) (maintenance of existing public facilities and mechanical equipment involving no expansion of existing use) 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. 8760-1 to Western Allied Corporation for the bid price of \$427,497 for the Newport Beach Mariners Library, CdM Lifeguard Substation, and Ben Carlson Lifeguard Headquarters HVAC Replacement Project, and authorize the Mayor and City Clerk to execute the contract; and
- d) Establish a contingency of \$43,000 (approximately 10 percent of total bid) to cover the cost of unforeseen work not included in the original contract.

[Staff Report](#)

[Attachment A - Location Maps](#)

[Written Comments](#)

**6. Goldenrod Pedestrian Bridge Improvements Project - Award of Contract No. 8871-1 (23R12)**

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1 Section 15301(d) (maintenance of existing public facilities involving no expansion of existing use) 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. 8871-1 to Diamond Construction and Design for the bid price of \$158,223 for the Goldenrod Pedestrian Bridge Improvements Project, and authorize the Mayor and City Clerk to execute the contract; and
- d) Establish a contingency of \$23,000 (approximately 15 percent of total bid) to cover the cost of unforeseen work not included in the original contract.

[Staff Report](#)

[Attachment A - Location Map](#)

[On the Agenda](#)



**7. Approval of On-Call Professional Services Agreements for Project Management Services**

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 On-Call Professional Services Agreements with Ardurra Group, Inc., DMC Engineering, and Z&K Consultants, Inc. for professional project management services, with each agreement being for a term of three years and a total not-to-exceed amount of \$200,000, and authorize the Mayor and City Clerk to execute the agreements.

[Staff Report](#)

[Attachment A - Ardurra Group Agreement](#)

[Attachment B - DMC Engineering Agreement](#)

[Attachment C - Z&K Consultants Agreement](#)

[Written Comments](#)

**8. Award of On-Call Plumbing Maintenance and Repair Services Agreements with Pacific Plumbing of Southern California, Verne's Plumbing, Inc. and ACCO Engineered Systems.**

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 On-Call Maintenance and Repair Service Agreements with Verne's Plumbing Inc., Pacific Plumbing of Santa Ana (dba Pacific Plumbing of Southern California), and ACCO Engineered Systems Inc., with each agreement being for a term of three years and total not-to-exceed amount of \$200,000 per agreement, and authorize the Mayor and City Clerk to execute the agreements.

[Staff Report](#)

[Attachment A - Verne's Plumbing Agreement](#)

[Attachment B - Pacific Plumbing Agreement](#)

[Attachment C - ACCO Agreement](#)

[Written Comments](#)

**9. Amendment No. 8 to CAD/RMS Software Maintenance Agreement with Superior, LLC**

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 Amendment No. 8 to the Software Maintenance Agreement with Superior, LLC of Lake Mary, Florida, for a not-to-exceed cost of \$1,424,012.47 over ten years, and authorize the Mayor and City Clerk to execute the Amendment.

[Staff Report](#)

[Attachment A - Amendment No. 8](#)

[Written Comments](#)

**10. Maintenance/Repair Services Agreement with C3 Office Solutions LLC dba C3 Tech for Copier Maintenance and Repair Services**

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 the Maintenance/Repair Services Agreement with C3 Office Solutions LLC dba C3 Tech for copier maintenance services for a five-year term, ending January 25, 2028, and a total not-to-exceed amount of \$260,443.60, and authorize the Mayor and City Clerk to execute the agreement.

[Staff Report](#)

[Attachment A - Agreement](#)

[Written Comments](#)

**MISCELLANEOUS**

**11. Planning Commission Agenda for the January 19, 2023 Meeting**

Receive and file.

[Planning Commission Action Report](#)

[Planning Commission Agenda](#)

[Written Comments](#)

**12. Budget Amendment to Accept a Check from the California State Library for Literacy Services (CLLS) and Appropriate Funds to the Library's FY 2022-23 Budget**

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) Accept a check in the amount of \$43,022 from the California State Library for Literacy Services (CLLS) and approve Budget Amendment No. 23-045 to increase expenditures by the same amount in the Literacy accounts.

[Staff Report](#)

[Attachment A - Check](#)

[Attachment B - Budget Amendment](#)

**13. Grants and Donations Report for the Quarter Ending December 31, 2022**

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](#)

**14. Status on Planning Commission's Efforts Related to Fractional Homeownership (PA2022-0202)**

Receive and file.

[Staff Report](#)

[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. PUBLIC HEARINGS**

**15. Ordinance No. 2023-1 and Resolution Nos. 2023-4 and 2023-5: General Plan Amendment to Increase the Development Limit for Bay Island**

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 - Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
- c) Adopt Resolution No. 2023-4, *A Resolution of the City Council of the City of Newport Beach, California, Approving General Plan Amendment No. GP2022-001 to Change the Development Limit Specified for Bay Island from 23 Dwelling Units to 25 Maximum Dwelling Units (PA2022-087)*;
- d) Adopt Resolution No. 2023-5, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Submittal of Local Coastal Program Amendment No. LC2022-003 to Change the Development Limit Specified for Bay Island from 23 Dwelling Units to 25 Maximum Dwelling Units (PA2022-087)*; and
- e) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2023-1, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Zoning Code Amendment No. CA2022-005 to Change the Development Limit Specified for Bay Island from 23 Dwelling Units to 25 Maximum Dwelling Units (PA2022-087)* and pass to second reading on February 14, 2023.

[Staff Report](#)

[Attachment A - Resolution No. 2023-4](#)

[Attachment B - Resolution No. 2023-5](#)

[Attachment C - Ordinance No. 2023-1](#)

[Attachment D - 1-10-23 Staff Report](#)

[Correspondence](#)

**16. Ordinance No. 2023-2: A Code Amendment Updating Accessory Dwelling Unit Regulations to Implement Council Policy K-4 and to Comply with State Law (PA2021-113)**

- a) Conduct a public hearing;
- b) 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;
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2023-2, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Code Amendment No. CA2021-005 Amending Section 20.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code to Implement Council Policy K-4 (Reducing the Barriers to the Creation of Housing) and New State Law Requirements Related to Accessory Dwelling Units (PA2021-113)*, and pass to second reading on February 14, 2023; and
- d) Adopt Resolution No. 2023-8, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2021-003 to the California Coastal Commission to Amend Section 21.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code to Implement Council Policy K-4 (Reducing the Barriers to the Creation of Housing) and New State Law Requirements Related to Accessory Dwelling Units (PA2019-248)*.

[Staff Report](#)

[Attachment A - Ordinance No. 2023-2](#)

[Attachment B - Resolution No. 2023-8](#)

[Attachment C - Existing ADU Matrix](#)

[Attachment D - ADU Handout](#)

[Attachment E - Redline Strikeouts](#)

[Attachment F - Major Transit Stops](#)

[Attachment G - Coastal Zone Map](#)

[Attachment H - PC Resolution No. PC2023-004](#)

[Attachment I - PC Resolution No. PC2023-005](#)

[On the Agenda](#)

**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.**

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

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

**PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.**