



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

AUGUST 13, 2019

COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660

**STUDY SESSION FOLLOWS NEWPORT BEACH PUBLIC FACILITIES CORPORATION –
4:10 P.M. (PUBLIC WELCOME)/CLOSED SESSION FOLLOWS STUDY SESSION/REGULAR
MEETING - 7:00 P.M.**

**DIANE B. DIXON, Mayor
WILL O'NEILL, Mayor Pro Tem
BRAD AVERY, Council Member
JOY BRENNER, 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**

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. Agendas, minutes 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 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
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA
92660

AUGUST 13, 2019

STUDY SESSION FOLLOWS NEWPORT BEACH PUBLIC FACILITIES
CORPORATION –

4:10 P.M. (PUBLIC WELCOME)/CLOSED SESSION FOLLOWS STUDY
SESSION/REGULAR MEETING - 7:00 P.M.

I. ROLL CALL - 4:10 p.m.

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

SS2. Proclamation Recognizing Spaghetti Bender's 50th Anniversary

SS3. 2019 Water Rate Study

The Utilities Department is leading the effort to review the rates associated with the Water Enterprise Fund. The previous water rate study was completed in 2009 and the last rate increase for water users was in 2014. The purpose of this presentation is to present a PowerPoint summary of the financial analysis, the draft water rates, receive input, and seek the City Council's direction to bring back the item as a formal City Council agenda item.

[Staff Report](#)

[Attachment A - PowerPoint Presentation](#)

[Insider's Guide](#)

[Correspondence](#)

SS4. Marine Avenue Trees Maintenance

City staff will discuss the current and past tree maintenance practices with regard to City Street Trees along Marine Avenue on Balboa Island. The discussion will also review the current health and status of the trees, including a review of recent Arborist evaluation reports.

[Insider's Guide](#)

[Correspondence](#)

III. PUBLIC COMMENTS

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 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): 1 matter

Agency Designated Representatives: Grace K. Leung, City Manager, Carol Jacobs, Assistant City Manager, Barbara Salvini, Human Resources Director, and Peter Brown; Labor Negotiators.

Employee Organization: Lifeguard Management Association (LMA)

B. CONFERENCE WITH LEGAL COUNSEL

ANTICIPATED LITIGATION-INITIATION OF LITIGATION

(Government Code § 54956.9(D)(4): 1 matter

Based upon existing facts and circumstances, the City Council will be considering joining an amicus in the case of Robert Martin v City of Boise, Ninth Circuit Court of Appeals Case No. 15-35845, United States District Court for the District of Idaho, Case No. 1:09-cv-00540-REB, as an amicus curiae.

[Correspondence](#)

V. RECESS

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

VII. ROLL CALL

VIII. CLOSED SESSION REPORT

IX. INVOCATION - Pastor Christian Mungai, Mariners Church, Irvine

X. PLEDGE OF ALLEGIANCE

XI. NOTICE TO THE PUBLIC

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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.

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

XIII. 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.

XIV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the July 23, 2019 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.

RESOLUTION FOR ADOPTION

3. Resolution No. 2019-72: Approval and Award of Professional Services Agreement with Avenu Insights and Analytics, LLC (“Avenu/MuniServices”) for Sales and Use Tax Auditing and Analysis

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) Authorize the Mayor and City Clerk to execute a one-year Professional Services Agreement with the option to extend for an additional four years, in one-year increments, with Avenu Insights and Analytics, LLC, for sales and use tax auditing and analysis, for a total not-to-exceed amount of \$531,000 over five years;

c) Authorize the Mayor and City Clerk to execute a Contract Governing Access to Confidential Taxpayer Data with Avenu/MuniServices describing the legal requirements within California Revenue & Taxation Code (“RTC”) 7056; and

d) Adopt Resolution No. 2019-72, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Access to Sales or Transaction and Use Tax Records and Documents Pursuant to California Revenue & Taxation Code*

Section 7056(b).

[Staff Report](#)

[Attachment A - Professional Services Agreement](#)

[Attachment B - Access to Confidential Taxpayer Data Contract](#)

[Attachment C - Resolution No. 2019-72](#)

[Written Comments](#)

CONTRACTS AND AGREEMENTS

4. Bayside Drive and Jamboree Road/Marine Avenue Improvements - Notice of Completion for Contract No. 7224-1 (16R12)

- a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
- b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with the applicable portions of Civil Code; and
- c) Release Faithful Performance Bond one year after acceptance by the City Council.

[Staff Report](#)

[Attachment A - Location Map](#)

5. Bayview Heights Drainage Project - Notice of Completion for Contract No. 7109-1 (15X11)

- a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
- b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and
- c) Release the Faithful Performance Bond one year after acceptance by the City Council.

[Staff Report](#)

[Attachment A - Location Map](#)

[Written Comments](#)

6. 2018-2019 Playground Improvements Project - Notice of Completion for Contract No. 7582-1 (19P01)

- a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
- b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and
- c) Release the Faithful Performance Bond one year after acceptance by the City Council.

[Staff Report](#)

[Attachment A - Location Map](#)

7. Cameo Highlands Street Reconstruction Project (20R21) - Approval of Professional Services Agreement with Psomas - Contract No. 7067-1

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 a Professional Services Agreement with Psomas of Santa Ana, California, for the Cameo Highlands Street Reconstruction project at a not-to-exceed price of \$233,235.00, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Professional Services Agreement](#)

8. Via Lido Soud and Nord Water Main Replacement Project (20W12) - Approval of Professional Services Agreement with HDR Engineering, Inc. - Contract No. 7645-1

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 a Professional Services Agreement with HDR Engineering, Inc. of Irvine, California, for the Via Lido Soud and Nord Water Main Replacement project at a not-to-exceed price of \$232,700.00, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Professional Services Agreement](#)

9. Amendment No. One to Agreement with Rainbow Disposal Co., Inc. dba Rainbow Environmental Services (Rainbow) for Beach Container Refuse Collection Service

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. One to the Agreement with Rainbow for Beach Container Refuse Collection Service to modify the compensation terms from an annual not-to-exceed to a contract not-to-exceed amount, increase the total not-to-exceed amount by \$120,000.00 for a total not-to-exceed amount of \$1,497,624.30, and authorize the Mayor and City Clerk to execute the agreement.

[Staff Report](#)

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

[Written Comments](#)

10. Amendment No. Two with Global Power Group, Inc. for Maintenance and Repair Services of City Generators

- 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 the Maintenance/Repair Services Agreement with Global Power Group, Inc., for preventative maintenance and as-needed repair services for City generators, adding \$120,000 to the contract for a total not-to-exceed amount of \$495,000 for the remainder of the term of the agreement; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

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

11. Wastewater Flow Agreement with Costa Mesa Sanitary District

- 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 the Wastewater Flow Agreement with the Costa Mesa Sanitary District related to specific properties within the City of Newport Beach; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Agreement](#)

[Written Comments](#)

12. Replacement of the Outdoor Warning System

- 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 a Purchase and Installation Agreement with Mallory Safety & Supply, LLC for the purchase and installation of an LRAD Corporation outdoor warning system equipment for a not to exceed amount of \$200,534.71 plus a contingency amount of \$20,000 (approximately 10%) to cover unforeseen costs, for a total not-to-exceed amount of \$220,534.71, and authorize the Mayor and City Clerk to execute the Agreement; and
- c) Approve Budget Amendment No. 20-006-CC appropriating \$220,534.71 from the unappropriated General Fund capital project savings to Account No. 01201928-980000-20M15.

[Staff Report](#)

[Attachment A - Agreement](#)

[Attachment B - Quote](#)

[Attachment C - Budget Amendment](#)

[Insider's Guide](#)

MISCELLANEOUS

13. Planning Commission Agenda for the August 8, 2019 Meeting

Receive and file.

[Planning Commission Action Report](#)

[Planning Commission Agenda](#)

14. Community Programs Grants for Fiscal Year 2019-20

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) Pursuant to City Council Policy A-12, find that the organizations listed below provide services or programs that serve residents and are beneficial to residents' quality of life and authorize the allocation of \$67,000 in Community Programs Grants in the following manner:

Applicant	Recommendation
Advocate for Grandparent Grandchild Connection	\$ 1,000
Balboa Island Museum	20,000
Boys & Girls Club of Central Orange County	7,000
Helping Hands, Our Lady Queen of Angels	10,000
Newport Beach Sister Cities Association	2,000
Newport-Mesa Family YMCA of Orange County	7,000
Share Our Selves	15,000
<u>Youth Employment Services</u>	<u>5,000</u>
<u>Total</u>	<u>\$67,000</u>

[Staff Report](#)

[Attachment A - Council Policy A-12](#)

[Attachment B - Recommended Funding](#)

[Attachment C - Grant Guidelines](#)

[Correspondence](#)

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

XV. ITEMS REMOVED FROM THE CONSENT CALENDAR

XVI. 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.

XVII. PUBLIC HEARINGS

15. Mesa Drive Townhomes Call for Review (PA2017-218)

- a) Conduct a de novo public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment; and
- c) Adopt Resolution No. 2019-73, *A Resolution of the City Council of Newport Beach, California, Upholding the Planning Commission's Approval of Major Site Development Review No. SD2017-008 for an Eight-Unit Residential Condominium Project Located at 1501 Mesa Drive and 20462 Santa Ana Avenue (PA2017-218)* .

[Staff Report](#)

[Attachment A - Resolution No. 2019-73](#)

[Attachment B - Planning Commission Staff Report](#)

[Attachment C - Planning Commission Resolution](#)

[Attachment D - Planning Commission Minutes](#)

[Attachment E - Call for Review Application](#)

[Attachment F - Planning Commission Public Comments](#)

[Attachment G - RMD Public Comments](#)

[Attachment H - Density Analysis](#)

[Attachment I - Costa Mesa Collision Report](#)

[Attachment J - Public Comments on Call for Review](#)

[Attachment K - Project Plans and Renderings](#)

[Insider's Guide](#)

16. Consideration of Planning and Land Use Entitlements for Vivante Senior Housing, Located at 850 and 856 San Clemente Drive (PA2018-185)

- a) Conduct a public hearing; and
- b) Take the following actions to approve the project:
 - i. Adopt Resolution No. 2019-74, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Environmental Impact Report Addendum No. ER2016-002 and Approving a Mitigation Monitoring and Reporting Program for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*;
 - ii. Adopt Resolution No. 2019-75, *A Resolution of the City Council of the City of Newport Beach, California, Approving General Plan Amendment No. GP2018-003 to Change the Land Use Designation from Private Institutional (PI) to Mixed-Use Horizontal (MU-H3), and Adopting California Environmental Quality Act Findings of Fact and a Statement of Overriding Considerations for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*;
 - iii. Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2019-13, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Planned Community Development Plan No. PC2018-001 Amending the San Joaquin Plaza Planned Community (PC-19) Located at 850 and 856 San Clemente Drive (PA2018-185)*, and pass on to a second reading on September 10, 2019;
 - iv. Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2019-14, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Development Agreement No. DA2018-005 for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*, and pass on to a second reading on September 10, 2019; and
 - v. Adopt Resolution No. 2019-76, *A Resolution of the City Council of the City of Newport Beach, California, Approving Major Site Development Review No. SD2018-003, Conditional Use Permit No. UP2018-019, and Lot Merger No. LM2018-004, and Revocation of Use Permit No. UP2005-017-017 and Modification Permit No. MD2004-059 for the Vivante Senior Housing Project Located at 850 and 856 San Clemente Drive (PA2018-185)*.

[Staff Report](#)

[Attachment A - Resolution No. 2019-74](#)

[Attachment B - Resolution No. 2019-75](#)

[Attachment C - Ordinance No. 2019-13](#)

[Attachment D - Ordinance No. 2019-14](#)

[Attachment E - Resolution No. 2019-76](#)

[Attachment F - Fiscal Impact Analysis](#)

[Attachment G - High Rise and Shoreline Height Limitation Map](#)

[Attachment H - Newport Center Building Heights](#)

[Attachment I - Statistical Area L1 Section 423 Table](#)

[Attachment J - ALUC Determination Letter](#)

[Attachment K - Planning Commission Resolution](#)

[Attachment L - Draft Planning Commission Minutes 7-18-19](#)

[Attachment M - Planning Commission Staff Report](#)

[Attachment N - Public Comments](#)

[Attachment O - Police Department Memo and Statistics](#)

[Attachment P - Visual Simulations](#)

[Correspondence](#)

[Insider's Guide](#)

XVIII. CURRENT BUSINESS

17. Approval of a Service Agreement with Bear Electrical, Inc., for Citywide Streetlight 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;
- b) Approve the Services Agreement with Bear Electrical, Inc., for Citywide streetlight maintenance and as-needed repair services for a five-year term with a total not-to-exceed amount of \$950,522; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Service Agreement](#)

18. Approval of a Services Agreement for Citywide Storm Drain System Cleaning Services with Downstream Services, 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 the Services Agreement with Downstream Service, Inc., for Citywide storm drain system cleaning services for a five-year term with a total not-to-exceed amount of \$1,750,000; and
- c) Authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Service Agreement](#)

19. Park and Beach Public Restroom Janitorial 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;
- b) Approve a three-year Janitorial Services Agreement with Ed Building Maintenance for cleaning / servicing 30 standalone City restrooms for a total not-to-exceed amount of \$2,415,000 (3 years at approximately \$803,784.00 per year); and
- c) Approve Budget Amendment No. 20-007-CC transferring \$140,000 from Public Works account 01090901-811031 to the Public Works account 0109041-811012, and also appropriating \$350,000 in increased expenditures from the General Fund unappropriated fund balance to the Public Works account 0109041-811012.

[Staff Report](#)

[Attachment A - Agreement](#)

[Attachment B - Beach and Park Restroom Facilities](#)

[Attachment C - Budget Amendment](#)

[Insider's Guide](#)

20. Appointment of a New City Arts Commissioner to Fill an Unscheduled Vacancy

- 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 Krystal Anderson, Maureen Flanagan or Carrie Williams to fill the unexpired balance of Barbara Glabman's term on the City Arts Commission ending June 30, 2021.

[Staff Report](#)

[Attachment A - Applications](#)

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 – In memory of Orange County Auditor-Controller Eric H. Woolery

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.