



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

STUDY SESSION AND REGULAR MEETING

FEBRUARY 11, 2020

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

**STUDY SESSION - 5:00 P.M. (PUBLIC WELCOME)
CLOSED SESSION FOLLOWS STUDY SESSION
REGULAR MEETING - 7:00 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**

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**

**FEBRUARY 11, 2020
STUDY SESSION - 5:00 P.M. (PUBLIC WELCOME)
CLOSED SESSION FOLLOWS STUDY SESSION
REGULAR MEETING - 7:00 P.M.**

I. ROLL CALL - 5:00 p.m.

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

SS2. Recognition of Jim Mosher for Hours Devoted to City Business

SS3. Consideration of Prohibiting Motorized Uses on the Oceanfront Boardwalk

This item will discuss potential prohibition of electric bicycles and other types of motorized personal transportation devices used on the Oceanfront Boardwalk.

[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 LEGAL COUNSEL

ANTICIPATED LITIGATION - INITIATION OF LITIGATION

(Government Code § 54956.9 (d) (2) and (e) (3)): 1 matter

On January 28, 2020, the City of Newport Beach received a Notice of Intent to Commence Cease and Desist Order, Restoration Order, and Administrative Civil Penalties Proceedings from John Ainsworth the Executive Director of the California Coastal Commission related to alleged prohibited encroachments on Peninsula Point from a 250 feet southeast of E Street to Channel Road, in the City of Newport Beach. A second Notice of Intent related to this same matter was received from John Ainsworth on January 30, 2020. A copy of the Notices of Intent are available for public inspection at the City Clerk's Office located at 100 Civic Center Drive, Newport Beach, California 92660.

V. RECESS

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

VII. **ROLL CALL**

VIII. **CLOSED SESSION REPORT**

IX. **INVOCATION – Pastor Paul Hegele, Newport Harbor Lutheran Church**

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 - 18). 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 January 25, 2020 Planning Session and January 28, 2020 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.

ORDINANCE FOR INTRODUCTION

3. Ordinance No. 2020-6: Amendment to Section 9.04.430 of the Newport Beach Municipal Code to Adopt the Local Amendments to the 2019 Edition of the California Fire Code

a) Find the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, because they will not result in a physical change to the environment, directly or indirectly; and

b) Introduce Ordinance No. 2020-6, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 9.04.430 (Replacement to Chapter 49 Requirements for Wildland-Urban Interface Fire Areas) of the Newport Beach Municipal Code to Adopt Local Amendments to the 2019 Edition of the California Fire Code as Set Forth in Title 24, Part 9, of the California Code of Regulations*, and pass to a second reading on February 25, 2020.

[Staff Report](#)

[Attachment A - Ordinance No. 2020-6](#)

[Correspondence](#)

[Written Comments](#)

ORDINANCES FOR ADOPTION

4. Ordinance No. 2020-2: Amending Chapter 14.12 of the Newport Beach Municipal Code to Comply with SB 998, the Water Shutoff Protection Act

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. 2020-2, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 14.12 of Title 14 of the Newport Beach Municipal Code Relating to Water Service Discontinuation for Nonpayment*.

[Staff Report](#)

[Attachment A - Ordinance No. 2020-2](#)

5. Ordinance No. 2020-3: Lobbyist Registration, Reporting and Disclosure Requirements

a) Determine this action to be 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. 2020-3, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 1.12.020, Subsection J, and Adding Chapter 1.28 to Title 1 of the Newport Beach Municipal Code to Increase Transparency in Government Operations and Establish Lobbyist Registration, Reporting and Disclosure Requirements.*

[Staff Report](#)

[Attachment A - Ordinance No. 2020-3](#)

[Written Comments](#)

6. Ordinance No. 2020-4: Cottage Preservation (PA2019-181)

a) 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; and

b) Conduct second reading and adopt Ordinance No. 2020-4, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Code Amendment No. CA2019-006 to Amend Title 15 Entitled "Building and Construction" and Title 20 Entitled "Planning and Zoning" of the City of Newport Beach Municipal Code Related to Cottage Preservation (PA2019-181).*

[Staff Report](#)

[Attachment A - Ordinance No. 2020-4](#)

7. Ordinance No. 2020-5: Changes to the Newport Beach Municipal Code, Title 17 - Harbor Code

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. 2020-5, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 17 (Harbor Code) and Other Related Provisions of the Newport Beach Municipal Code Making Comprehensive Revisions Including, but not limited to, Updating Definitions, Regulating Marine Sanitation Devices to Protect Against Discharge of Waste in Newport Harbor, Amending Requirements for Mooring Sub-Permits, Adding a Procedure to Allow Mooring Length Extensions and Modifying and/or Adding Procedures for Issuance of Permits, Appeals/Calls for Review and Revocations.*

[Staff Report](#)

[Attachment A - Ordinance No. 2020-5](#)

[Attachment B - Ordinance No. 2020-5 \(redline\)](#)

[Correspondence](#)

[Written Comments](#)

RESOLUTIONS FOR ADOPTION

8. Resolution No. 2020-15: Amending the August 2020 City Council Regular Meeting Date

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. 2020-15, *A Resolution of the City Council of the City of Newport Beach, California, Amending the Date of the August 2020 City Council Regular Meeting.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-15](#)

9. Resolution No. 2020-16: Resolution in Support of Balanced Energy Solutions and Local Control

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. 2020-16, *A Resolution of the City Council of the City of Newport Beach, California, Supporting Balanced Energy Solutions and Maintaining Local Control of Energy Solutions.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-16](#)

[Written Comments](#)

10. Resolution No. 2020-17: Correcting Recently Approved Fire Protection Service Water Rates and Charges in Resolution No. 2019-103

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. 2020-17, A Resolution of the City Council of the City of Newport Beach, California, Establishing and Correcting Fire Protection Service Water Rates and Charges for the 1-inch, 1½-inch, and 2-inch Meter, Adopting the Water Rates and Charges for the 2½-inch Meter with Phased in Increases and Removing the Water Rates and Charges for the ¾-inch Meter.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-17](#)

[Written Comments](#)

11. Resolution No. 2020-18: Proposed City Council Policy - Offshore Mooring Extensions

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. 2020-18, A Resolution of the City Council of the City of Newport Beach California, Adopting a City Council Policy H-3 "Application to Request Modification of Mooring Permit to Accommodate a Larger Vessel."*

[Staff Report](#)

[Attachment A - Resolution No. 2020-18](#)

[Written Comments](#)

CONTRACTS AND AGREEMENTS

12. Restroom Buildings Maintenance Project - Notice of Completion for Contract No. 7509-1 (18F02)

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 Civil Code; and

c) Release Faithful Performance Bond one year after acceptance by the City Council.

[Staff Report](#)

[Attachment A - Location Map](#)

13. Central Library Chiller Maintenance and Condenser Replacement/Relocation - Award of Contract No. 7776-1 (20F02)

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(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. 7776-1 to Mesa Energy Systems, Inc., for the total bid price of \$302,609, and authorize the Mayor and City Clerk to execute the contract; and
- d) Establish \$45,000 (approximately 15 percent) contingency to cover the cost of unforeseen work not included in the original contract.

[Staff Report](#)

[Attachment A - Location Map](#)

14. Annual Concrete Replacement Program - Award of Contract No. 7682-1 (20R06) to S&H Civilworks, Inc.

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(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) Award Contract No. 7682-1 to S&H Civilworks, Inc. for the total bid price of \$763,500.00, and authorize the Mayor and City Clerk to execute the contract;
- c) Establish a contingency of \$39,000.00 (approximately five percent of total bid) to cover the cost of unforeseen work not included in the original contract; and
- d) Approve Budget Amendment No. 20-031 recognizing contribution funds of \$22,200 from Western Construction Specialists, Inc. in Account No. 13501-511050-20R06 and appropriating \$22,200 in increased expenditures for the Concrete Replacement Program (20R06) in Account No. 13501-980000-20R06.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Budget Amendment](#)

15. Approve an Agreement with Newport Bay Conservancy to Designate Funds for Restoration Work in Big Canyon Phase 2A (20X12)

- 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 City Manager to execute an Agreement with Newport Bay Naturalists and Friends (DBA Newport Bay Conservancy) to designate \$1,688,731 of grant funds for restoration work in Big Canyon Nature Park; and
- c) Approve Budget Amendment No. 20-033 recognizing contribution funds of \$1,688,731 from Newport Bay Conservancy in Account No. 13801-511050-20X12 and appropriating \$1,688,731 in increased expenditures for the Big Canyon - Phase 2A (20X12) in Account No. 13801-980000-20X12.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Agreement](#)

[Attachment C - CDFW Agreement](#)

[Attachment D - SCC Agreement](#)

[Attachment E - 1-22-19 Council Staff Report](#)

[Attachment E1 - Resolution No. 2019-9](#)

[Attachment F - Budget Amendment](#)

[Insider's Guide](#)

[Written Comments](#)

16. Approval and Award of Professional Services Agreement with JorgensenFM for the Facilities Maintenance Master Plan Update

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 (PSA) with JorgensenFm for the Facilities Maintenance Master Plan Update for a not-to-exceed price of \$254,247, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Agreement](#)

17. Approval and Award of On-Call Maintenance and Repair Services Agreement with United Site Services of California, Inc. for Portable Toilet 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 a three-year agreement with United Site Services of California, Inc. to provide on-call portable toilet services for a total not-to-exceed amount of \$200,000, and authorize the Mayor and City Clerk to execute the agreement.

[Staff Report](#)

[Attachment A - On-Call Maintenance and Repair Agreement](#)

MISCELLANEOUS

18. Newport Beach Wine and Food Festival Request for Waiver of City Council Policy B-13

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 under Class 4 (Minor Alterations to Land), because it has no potential to have a significant effect on the environment; and

b) Recommend approval to waive Council Policy B-13, Regulations and Restrictions, Section A1, Use of Alcohol to allow for NBWFF to be conducted at Peninsula Park. Approval of waiver would allow the NBWFF to move forward with the Special Event Permit Process. Event approval would be contingent upon Special Event Permit approval.

[Staff Report](#)

[Attachment A - Letter from NBWFF](#)

[Attachment B - Council Policy B-13](#)

[Written Comments](#)

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 HEARING

19. Ordinance No. 2020-7: Amending the Newport Beach Municipal Code for Lido Isle Hedge Heights (PA2019-132)

- a) Conduct a public hearing;
- b) 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;
- c) Waive reading, read by title only, introduce Ordinance No. 2020-7, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 Entitled "Planning and Zoning" of the City of Newport Beach Municipal Code Related to Hedge Heights in Front Setbacks Abutting Stradas Within Lido Isle (PA2019-132)*, and pass to second reading on February 25, 2020; and
- d) Adopt Resolution No. 2020-19, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2019-002 to the California Coastal Commission to Amend Title 21 Entitled "Local Coastal Program Implementation Plan" of the City of Newport Beach Municipal Code Related to Hedge Heights in Front Setbacks Abutting Stradas Within Lido Isle (PA2019-132)*.

[Staff Report](#)

[Attachment A - Ordinance No. 2020-7](#)

[Attachment B - Resolution No. 2020-19](#)

[Attachment C - Letter of Request from LICA](#)

[Attachment D - Resolution No. 2019-78](#)

[Attachment E - Planning Commission Resolution No. 2019-035](#)

[Attachment F - Planning Commission Resolution No. 2019-036](#)

[Attachment G - 12-5-19 Planning Commission Hearing Minutes](#)

[Attachment H - Map of Lido Isle](#)

[Attachment I - Map of Coastal Zone](#)

XVIII. CURRENT BUSINESS

20. Ordinance No. 2020-8: Amending the Newport Beach Municipal Code for Short Term Lodging

a) Find 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, direct the City Clerk to read by title only, introduce Ordinance No. 2020-8, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 1.05.020 Subsection (F), Section 3.16.060 and Chapter 5.95 of the Newport Beach Municipal Code Relating to Short Term Lodging*, and pass to second reading on February 25, 2020.

[Staff Report](#)

[Attachment A - Ordinance No. 2020-8](#)

[Attachment B - Redline](#)

[Attachment C - Correspondence](#)

[Insider's Guide](#)

[Additional Correspondence](#)

[Amendment to Section 5.95.050 A](#)

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.