



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

CLOSED SESSION AND REGULAR MEETING

MARCH 24, 2020

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

CLOSED SESSION - 6:30 P.M.

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**

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 some, or all, of the Newport Beach City Council Members may attend this meeting telephonically.

If you wish to attend the City Council meeting in person, the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California 92660, will be open for this meeting and the public shall have the right to observe and offer public comment at this location. While you may attend this meeting in person, given the health risks associated with COVID-19, the City wants you to know that you can submit your comments and questions 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, March 23, 2020, at 5:00 p.m.

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).

I. **ROLL CALL - 6:30 p.m.**

II. **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 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.

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

A. **CONFERENCE WITH LEGAL COUNSEL
EXISTING LITIGATION**

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

*Susan Bidart Riddle v. City of Newport Beach & John Vallely
Orange County Superior Court Case No. 30-2015-00808124-CU-WM-CJC; Court of
Appeal, 4th Appellate District, Division 3, Case No. G057397*

IV. **RECESS**

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

VI. **ROLL CALL**

VII. **CLOSED SESSION REPORT**

VIII. **INVOCATION**

IX. **PLEDGE OF ALLEGIANCE**

X. **PRESENTATION**

- **Donate Life Proclamation**

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 and S19). 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 March 10, 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 ADOPTION

3. Ordinance No. 2020-9: Accessory and Junior Accessory Dwelling Units (PA2019-248)

a) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resource Code Section 21080.17 and Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding second units to implement provisions of Sections 65852.2 and 65852.22 of the Government Code. Additionally, the ordinance is categorically exempt pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15305 (Minor Alterations in Land Use/Limitations); and

b) Conduct second reading and adopt Ordinance No. 2020-9, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Zoning Code Amendment No. CA2019-009 to Repeal and Replace Section 20.48.200 (Accessory Dwelling Units) of Title 20 (Planning and Zoning) and Amend Related Provisions of the Newport Beach Municipal Code Applicable to Accessory Dwelling Units and Junior Accessory Dwelling Units Pursuant to State Law (PA2019-248).*

[Staff Report](#)

[Attachment A - Ordinance No. 2020-9](#)

[Written Comments](#)

RESOLUTIONS FOR ADOPTION

4. Resolution No. 2020-26: Specifying Uses for FY 2020-21 RMRA Funding from the Road Repair and Accountability Act of 2017

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. 2020-26, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a List of Projects for Fiscal Year 2020-21 Funded by SB 1, The Road Repair and Accountability Act of 2017.*

[Staff Report](#)

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

[Attachment B - Proposed Project List FY21](#)

[Insider's Guide](#)

5. Resolution of Intent to Conduct a Public Hearing to Grant New Non-Exclusive Solid Waste Franchises

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

b) Adopt Resolution No. 2020-27, *A Resolution of the City Council of the City of Newport Beach, California, Declaring its Intention to Conduct a Public Hearing to Consider Granting Non-Exclusive Commercial Solid Waste and Divertible Materials Handling Services Franchises.*

[Staff Report](#)

[Attachment A - Resolution No. 2020-27](#)

[Attachment B - Sample Agreement](#)

[Written Comments](#)

6. Resolution No. 2020-28: Supporting Submission of a Grant Application Under the Orange County Transportation Authority (OCTA) Measure M2 Tier 1 Environmental Cleanup Program

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. 2020-28, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing and Approving the Submittal of a Grant Proposal for Funding Under the Orange County Transportation Authority*

Environmental Cleanup Tier 1 Grant Program.

[Staff Report](#)

[Attachment A - Resolution No. 2020-28](#)

[Attachment B - Location Map](#)

CONTRACTS AND AGREEMENTS

7. Newport Bay Trash Wheel - Approval of Professional Services Agreement with Burns & McDonnell Engineering Company, 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 a Professional Services Agreement with Burns & McDonnell Engineering Company, Inc. at a not-to-exceed amount of \$464,925, and authorize the Mayor and City Clerk to execute the agreement; and
- c) Approve Budget Amendment No. 20-041 appropriating \$224,925 in increased expenditures from the Upper Bay Reserve unappropriated fund balance to the Public Works, Tidelands Maintenance account (10001-980000-17X12) for the Newport Bay Water Wheel project 17X12.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Professional Services Agreement](#)

[Attachment C - Budget Amendment](#)

[Attachment D - Tide and Submerged Lands](#)

[Insider's Guide](#)

[Correspondence](#)

[Written Comments](#)

8. Traffic Signal Rehabilitation Project - Fiscal Year 2019-20 - Award of Contract No. 7818-1 (20T01)

- a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1 (c) (maintenance of existing public facilities involving negligible or no expansion of use);
- b) Approve the project plans and specifications;
- c) Award Contract No. 7818-1 to Crosstown Electrical & Data, Inc. for the total bid price of \$893,244.00, and authorize the Mayor and City Clerk to execute the contract;
- d) Establish \$89,000.00 (approximately 10 percent) contingency amount to cover the cost of unforeseen work not included in the original contract; and
- e) Approve Budget Amendment No. 20-037 appropriating \$148,860 in increased expenditures from the Capital Improvement Fund unappropriated fund balance to the Traffic Signal Rehabilitation Project (Account No. 01201927-980000-20T01).

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Budget Amendment](#)

9. Water Transmission Main Valve Replacement - Phase 2 & Alta Vista Regulating Station Relocation Project (18W12 & 19W13) - Amendment No. 1 to Professional Services Agreement with Psomas Engineering, Inc. (Contract No. 7539-2)

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. 1 to Psomas Engineering, Inc.'s PSA, to add \$82,848.00 to the current contract for a total not-to-exceed amount of \$264,868.00; and

c) Authorize the Mayor and City Clerk to execute the amendment.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Amendment 1](#)

10. Award of On-Call Fencing Maintenance and Repair Services Agreements with Quality Fence Co., Inc. & Red Hawk Services, Inc.

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

b) Approve On-Call Fencing Maintenance and Repair Services Agreements with Quality Fencing Co., Inc., and with Red Hawk Services, Inc.; with each agreement being for a term of two-years and a total not-to-exceed amount of \$110,000.00, and authorize the Mayor and City Clerk to execute the agreements

[Staff Report](#)

[Attachment A - Agreement with Quality Fence Co., Inc.](#)

[Attachment B - Agreement with Red Hawk Services, Inc.](#)

[Written Comments](#)

11. Final Tract Map No. 18135 for a Residential Condominium Development Located at 1244 Irvine Avenue

a) Determined 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) Review and approve the Subdivision Agreement for Final Tract Map No. 18135 pursuant to Section 19.36.010 of the Municipal Code, and authorize the Mayor and City Clerk to execute the Subdivision Agreement;

c) Review and approve the required construction securities for Final Tract No. 18135 pursuant to Section 19.36.030 of the Municipal Code, and authorize the

Public Works Director to execute and release securities; and
d) Review and approve Final Tract Map No. 18135 located at 1244 Irvine Avenue pursuant to Section 19.60.010 of the Municipal Code.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Final Tract Map No. 18135](#)

[Attachment C - Subdivision Agreement](#)

[Attachment D - Surety Bonds](#)

[Attachment E - Planning Commission Resolution](#)

[Written Comments](#)

12. Approval and Award of Printing Services Agreement with Trend Offset Printing for Newport Navigator and Summer Camp Brochure

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) Award a five (5) year printing services contract for the *Newport Navigator* and summer camp brochure to Trend Offset Printing for the total not to exceed bid price of \$650,000 or \$130,000 each year (2% annual increase included), and authorize the Mayor and the City Clerk to execute the contract agreement.

[Staff Report](#)

[Attachment A - Agreement](#)

MISCELLANEOUS

13. Budget Amendment to Accept a Check from the California State Library for Literacy Services (CLLS) and Appropriate Funds to the Library's FY 2019-20 Maintenance and Operation 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 \$23,874 from the California State Library for Literacy Services (CLLS) and approve Budget Amendment No. 20-038 to increase expenditures by the same amount in the Literacy account.

[Staff Report](#)

[Attachment A - Copy of Check](#)

[Attachment B - Budget Amendment](#)

14. 2019 General Plan Progress Report and Housing Element Progress Report (PA2007-195)

- a) Find the preparation, review, and submission of the 2019 General Plan Progress Report is not subject to the California Environmental Quality Act (CEQA) as the actions are not a project as defined by Section 15378(b)(2) of the Public Resources Code;
- b) Review and comment on the 2019 General Plan Progress Report, including the Housing Element Annual Progress Report; and
- c) Authorize the Community Development Director to submit the 2019 General Plan Progress Report to the California Office of Planning and Research and the submittal of the Housing Element Annual Progress Report to the State Department of Housing and Community Development.

[Staff Report](#)

[Attachment A- OPR Guidance](#)

[Attachment B- General Plan Annual Progress Report 2019](#)

[Written Comments](#)

S19. Amendment No. Three to Professional Services Agreement with Harris Miller Miller & Hanson, Inc. for Aircraft Noise Consulting 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 Amendment No. Three to Professional Services Agreement with Harris Miller Miller & Hanson, Inc. for John Wayne Airport - Aircraft Noise Abatement Departure Procedure Analysis for additional noise consulting services, add \$95,000 to the contract for a total not-to-exceed amount of \$235,000, extend the term to April 1, 2021, and authorize the Mayor and City Clerk to execute Amendment No. 3 to the agreement.

[Staff Report](#)

[Attachment A - Amendment No. Three to Professional Services Agreement](#)

[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 HEARINGS

15. Appeal of Planning Commission Approval for The Garden Office and Parking Structure Proposed at 215 Riverside Avenue: Coastal Development Permit No. CD2019-023 and Conditional Use Permit No. UP2019-003 (PA2019-023)

Continue this item to the April 14, 2020 Regular City Council Meeting.

[Staff Report](#)

16. Approval of the Fee Study Update

- 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) Adopt Resolution No. 2020-29, *A Resolution of the City Council of the City of Newport Beach, California, Adopting and Revising Certain Fees Within the Schedule of Rents, Fines, and Fees and Updating the Methodology for Annual Consumer Price Index Calculations*;
- d) Adopt Resolution No. 2020-30, *A Resolution of the City Council of the City of Newport Beach, California, Updating the Parking Violation Penalty Schedule*; and
- e) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2020-10, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Exhibit A to Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery*, and pass to second reading on April 14, 2020.

[Staff Report](#)

[Attachment A - Resolution No. 2020-29](#)

[Attachment B - Resolution No. 2020-30](#)

[Attachment C - Ordinance No. 2020-10](#)

[Attachment D - Redline NBMC 3.36](#)

[Attachment E - Application of Indirect Costs](#)

[Attachment F - Fiscal Impact](#)

[Insider's Guide](#)

[Correspondence](#)

17. Community Development Block Grant Program - Public Hearing for Preparation of 2020-24 Consolidated Plan

- a) Hold a public hearing to receive comments on the Program Years 2020-24 Consolidated Plan; and
- b) Find this activity exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

[Staff Report](#)

XVIII. CURRENT BUSINESS

18. Novel Coronavirus (COVID-19) Update

An oral report will be provided.

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 Bill Moses

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.