



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

**OCTOBER 12, 2021
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 - 7:00 P.M.**

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

PUBLIC HEARINGS

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

NOTICE TO THE PUBLIC

Any times listed in this agenda are provided as a courtesy and the actual item may be heard either before or after the time given.

This agenda was prepared by the City Clerk and staff reports are available in the City Council Chambers lobby located at 100 Civic Center Drive. Staff reports or other written documentation have been prepared or organized with respect to the items of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation regarding any item of business on the agenda, please contact City Clerk staff at 949-644-3005. Agendas and staff reports are also available on the City's webpage at newportbeachca.gov/agendas.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact City Clerk Leilani Brown prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or cityclerk@newportbeachca.gov).

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**OCTOBER 12, 2021
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REGULAR MEETING - 7:00 P.M.**

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

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

SS2. Discussion on the Current Condition and Potential Rehabilitation of McFadden Plaza, Newport Pier and Ocean Front Parking Lot Areas

Council Members Dixon and Blom requested further discussion with the City Council, staff and the public regarding the current condition of the McFadden Plaza, Newport Pier and Ocean Front Parking Lot areas, and if the City and community should explore rehabilitation or reconstruction of these public facilities and spaces.

[Insider's Guide](#)

SS3. Discussion on Potential Exclusive Commercial Solid Waste Collection and Recycling Franchise Areas within the City

Council Member Brenner requested discussion with the City Council, staff and the public on whether the City should explore establishing one or more exclusive commercial solid waste collections and recycling franchise areas. Possible commercial business areas that could be considered include Corona del Mar Business District, Balboa Island and/or Balboa Village Business District.

[Insider's Guide](#)

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, Barbara Salvini, Human Resources Director, and Charles Sakai, Esq., Negotiators.

Employee Organizations: Association of Newport Beach Ocean Lifeguards (ANBOL), Newport Beach Police Association (NBPA), Newport Beach Firefighters Association (NBFA), and Newport Beach Employees League (NBEL).

**B. CONFERENCE WITH LEGAL COUNSEL
ANTICIPATED LITIGATION - INITIATION OF LITIGATION
(Government Code § 54956.9(d)(4)): 1 matter**

**C. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code § 54957.6): 3 matters**

Agency Designated Representative(s): Brad Avery, Mayor; and Kevin Muldoon, Mayor Pro Tem

Unrepresented Employees: Grace K. Leung, City Manager; Aaron C. Harp, City Attorney; and Leilani I. Brown, City Clerk

V. RECESS

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

VII. ROLL CALL

VIII. CLOSED SESSION REPORT

IX. INVOCATION - Reverend James Pike, Lutheran Church of the Resurrection, Huntington Beach

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

- **Consider taking all action necessary to call the June 7, 2022 Statewide Direct Primary Election or the November 8, 2022 General Municipal Election for the purpose of submitting proposed amendments to the Newport Beach City Charter to provide for the direct election of the Mayor, consistent with the initiative documents submitted to the City Clerk on Friday, September 3, 2021 [Blom]**

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 September 28, 2021 City Council Regular Meeting

Waive reading of subject minutes, approve as written, and order filed.

[Minutes](#)

[Written Comments](#)

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

ORDINANCES FOR ADOPTION

3. Ordinance Nos. 2021-19 and 2021-20: Zone Change and Development Agreement for a Residential Project at 150 Newport Center Drive (PA2020-020)

a) Find that the Residences at Newport Center project Environmental Impact Report (EIR) No. ER2021-002 (SCH No. 2020110087) certified by the City Council on September 28, 2021, by Resolution No. 2021-90 was prepared for the project in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3;

b) Conduct second reading and adopt Ordinance No. 2021-19, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Development Agreement No. DA2020-001 for the Residences at Newport Center Located at 150 Newport Center Drive (PA2020-020)*; and

c) Conduct second reading and adopt Ordinance No. 2021-20, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Zoning Code Amendment No. CA2020-008 and Planned Community Development Plan No. PC2020-001 Establishing the Residences at Newport Center Located at 150*

Newport Center Drive (PA2020-020).

[Staff Report](#)

[Attachment A - Ordinance No. 2021-19](#)

[Attachment B - Ordinance No. 2021-20](#)

4. Ordinance No. 2021-21: Zone Change from Multiple Unit Residential to Private Institutions at 1499 Monrovia Avenue (PA2021-068)

a) Find this action proposed herein is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) 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; and

b) Conduct second reading and adopt Ordinance No. 2021-21, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Zoning Code Amendment No. CA2021-003 to Change the Zoning Code Designation from RM 2420/3100 (Multiple Residential) to PI 0.49 FAR (Private Institutions) for the Property Located at 1499 Monrovia Avenue (PA2021-068).*

[Staff Report](#)

[Attachment A - Ordinance No. 2021-21](#)

RESOLUTIONS FOR ADOPTION

5. Resolution No. 2021-95: Request for Petition Certification and Funding for Expanding Underground Assessment District No. 120-2 (Santa Ana Avenue and Cliff Drive Area)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302(d) (conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding);

b) Adopt Resolution No. 2021-95, *A Resolution of the City Council of the City of Newport Beach, California, Accepting the Petition for the Formation of Underground Utility Assessment District No. 120-2;* and

c) Approve Budget Amendment No. 22-017 authorizing an advance from the General Fund in the amount of \$37,500 and appropriating said amount to Account No. 66902-941006 (AD-120 Assessment Engineering). Funds remaining in any fiscal year will be carried forward to future annual budgets per Council Policy F-3.

[Staff Report](#)

[Attachment A - Resolution No. 2021-95](#)

[Attachment B - Budget Amendment](#)

[Correspondence](#)

[Written Comments](#)

6. Resolution No. 2021-96: Authorizing the Public Works Director, City Engineer or Designees to Execute Right-of-Way Certifications

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. 2021-96, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Public Works Director, City Engineer, and Their Designees to Execute Right-of-Way Certifications.*

[Staff Report](#)

[Attachment A - Resolution No. 2021-96](#)

CONTRACTS AND AGREEMENTS

7. Underground Utility Assessment District No. 116, 116B and Underground Utilities District No. 22 Phase I - Notice of Completion for Contract No. 7572-1 (19A11)

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](#)

8. Police Station Locker Room Remodel - Notice of Completion for Contract No. 7872-1 (21F12)

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](#)

[Written Comments](#)

9. Civic Center Park Pathway Replacement - Notice of Completion for Contract No. 7879-1 (21P12)

- 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](#)

[Written Comments](#)

10. Approval of Professional Services Agreement with Coastal Frontiers for Oceanfront Sand Monitoring Program (22H04)

- 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 Coastal Frontiers for Annual Oceanfront Sand Monitoring at a total not-to-exceed price of \$147,589, and authorize the Mayor and City Clerk to execute the Agreement.

[Staff Report](#)

[Attachment A - Professional Services Agreement](#)

11. Approval of Amendment No. 3 to Maintenance and Repair Services Agreement with GCI Construction Inc. for On-Call Beach Maintenance 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 Amendment No. 3 to the Maintenance and Repair Services Agreement with GCI Construction Inc. (C-8501-1) to add \$500,000 to the current contract for a total not-to-exceed amount of \$1,225,000;
- c) Authorize the Mayor and City Clerk to execute the amendment; and
- d) Approve Budget Amendment No. 22-016 appropriating \$350,000 in increased expenditures in Account No. 10001-980000-22H04 (Beach and Bay Sand Management) from the unappropriated Tidelands Maintenance fund balance.

[Staff Report](#)

[Attachment A - Amendment No. 3](#)

[Attachment B - Draft Public Notice](#)

[Attachment C - Budget Amendment](#)

12. Temporary Employment Agreement for a Senior Civil Engineer - Plan Check

- 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) Authorize the Mayor and Community Development Director to execute the Temporary Employment Agreement with Soon Cho to temporarily fill the position of a Senior Civil Engineer - Plan Check.

[Staff Report](#)

[Attachment A - Agreement](#)

MISCELLANEOUS

13. Planning Commission Agenda for the October 7, 2021 Meeting

Receive and file.

[Planning Commission Action Report](#)

[Planning Commission Agenda](#)

[Written Comments](#)

14. Annual Review of Visit Newport Beach Audited Financial Statements and Expenditure Report

- 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](#)

[Attachment A - VNB Audited Financial Statements with Management Letter](#)

[Attachment B - NB&Co Audited Financial Statements with Management Letter](#)

[Attachment C - VNB Expenditure Compliance Report](#)

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. 2021-22: Zoning Code Amendment Related to Setback Map Corrections (PA2020-006)

- a) Conduct a public hearing;
- b) Find this amendment statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3) and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2021-22, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Zoning Code Amendment No. CA2020-001 to Amend Title 20 (Planning and Zoning) of the City of Newport Beach Municipal Code Correcting Setback Map Errors (PA2020-006)*, and pass to second reading on October 26, 2021; and
- d) Adopt Resolution No. 2021-97, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2020-001 to the California Coastal Commission to Amend Title 21 (Local Coastal Program Implementation Plan) of the City of Newport Beach Municipal Code Correcting Setback Map Errors (PA2020-006)*.

[Staff Report](#)

[Attachment A - Ordinance No. 2021-22](#)

[Attachment B - Resolution No. 2021-97](#)

[Attachment C - Initiation](#)

[Attachment D - PC Reso 2021-020](#)

[Attachment E - PC Reso 2021-021](#)

[Attachment F - 7-22-21 PC Minutes](#)

[Attachment G - Setback Map Corrections](#)

[Attachment H - Directors Determination](#)

16. Resolution No. 2021-98: Notice of Intent to Override the Orange County Airport Land Use Commission's Determination of Inconsistency to the Draft Housing Element Update (PA2017-141)

- a) Conduct a public hearing;
- b) Find this project is not subject to 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 because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- c) Adopt Resolution No. 2021-98, *A Resolution of the City Council of the City of Newport Beach, California, Notifying the Orange County Airport Land Use Commission and the State Division of Aeronautics of the City's Intention to Find the General Plan Housing Element Update is Consistent with the Purposes of the State Aeronautics Act and Overrule the Orange County Airport Land Use Commission's Determination that the Housing Element Update is Inconsistent with the 2008 John Wayne Airport Environs Land Use Plan (PA2017-141).*

[Staff Report](#)

[Attachment A - Resolution No. 2021-98](#)

[Attachment B - ALUC Letter of Determination](#)

[Written Comments](#)

XIX. CURRENT BUSINESS

17. Resolution No. 2021-99: Ratifying the October 5, 2021 Proclamation of Local Emergency

- 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. 2021-99, *A Resolution of the City Council of the City of Newport Beach, California, (i) Ratifying the Proclamation of a Local Emergency Issued on October 5, 2021, by City Manager Grace Leung, the Director of Emergency Services of the City of Newport Beach, and (ii) Approving and Authorizing Certain Actions Relating Thereto.*

[Staff Report](#)

[Attachment A - Resolution No. 2021-99](#)

[Insider's Guide](#)

[Written Comments](#)

XX. 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.

XXI. 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.