



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

**SEPTEMBER 27, 2022
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660**

**CLOSED SESSION - 5:00 P.M.
REGULAR MEETING - 5:30 P.M.**

**KEVIN MULDOON, Mayor
NOAH BLOM, Mayor Pro Tem
BRAD AVERY, 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).

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

**SEPTEMBER 27, 2022
CLOSED SESSION - 5:00 P.M.
REGULAR MEETING - 5:30 P.M.**

I. ROLL CALL - 5:00 P.M.

II. PUBLIC COMMENTS

III. CLOSED 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: Newport Beach City Employees Association (NBCEA), and Newport Beach Professional and Technical Employees Association (NBPTEA).

IV. RECESS

V. RECONVENE AT 5:30 P.M. FOR REGULAR MEETING

VI. ROLL CALL

VII. CLOSED SESSION REPORT

VIII. INVOCATION - Representative from First Church of Christ, Scientist Newport Beach

IX. PLEDGE OF ALLEGIANCE

X. PRESENTATION

- **Friends of the Library Check Presentation**

XI. NOTICE TO THE PUBLIC

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 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 (NON-DISCUSSION ITEM)

- Consider creating a three-member Ad Hoc Citizens Advisory Committee, consisting of residents with background in public safety and criminal justice, to address residential burglary concerns and advise neighborhoods on preventative measures [Muldoon]

[Written Comments](#)

XIV. PUBLIC COMMENTS ON CONSENT CALENDAR

This is the time in which Council Members may pull items from the CONSENT CALENDAR for discussion (ITEMS 1 - 14). Public comments are also invited on Consent Calendar items. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Council Member, members of the public are invited to speak on each item for up to three (3) minutes per item.

All matters listed under CONSENT CALENDAR are considered to be routine and will all be enacted by one motion in the form listed below. Council Members have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the City Council votes on the motion unless members of the City Council request specific items to be discussed and/or removed from the Consent Calendar for separate action.

XV. CONSENT CALENDAR

READING OF MINUTES AND ORDINANCES

1. Minutes for the September 13, 2022 City Council Meeting

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

[Minutes](#)

[Written Comments](#)

2. Reading of Ordinances

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

RESOLUTIONS FOR ADOPTION

3. Resolution No. 2022-62: Request to Add Code Enforcement Officer I Position to the Community Development Department

- 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) Adopt Resolution No. 2022-62, *A Resolution of the City Council of the City of Newport Beach, California, Adding a Code Enforcement Officer Position to the Community Development Department*; and
- c) Approve Budget Amendment No. 23-022 transferring \$86,016 from the Code Enforcement Professional Services account to various salary and benefit accounts.

[Staff Report](#)

[Attachment A - Resolution No. 2022-62](#)

[Attachment B - Salary Structure and Job Description](#)

[Attachment C - Budget Amendment](#)

4. Resolution No. 2022-63: Acceptance of Oil Spill Response Equipment Staging Grant Funding from the California Department of Fish and Wildlife Office of Spill Prevention and Response

- 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) Adopt Resolution No. 2022-63, *A Resolution of the City Council of the City of Newport Beach, California, Accepting Grant Funds from the California Department of Fish and Wildlife, Office of Spill Prevention and Response for Oil Spill Response Equipment Staging*; and
- c) Approve Budget Amendment No. 23-019 recognizing \$5,000.00 in grant revenue from the California Department of Fish and Wildlife (10045451-431455) and appropriating \$5,000.00 to Account No. 10045451-881002.

[Staff Report](#)

[Attachment A - Grant Application](#)

[Attachment B - Grant Agreement](#)

[Attachment C - Budget Amendment](#)

[Attachment D - Resolution No. 2022-63](#)

5. Resolution No. 2022-64: Supporting Restoring Local Authority in the Regulation of Group Residential Uses

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. 2022-64, *A Resolution of the City Council of the City of Newport Beach, California, Supporting the Restoration of Local Authority to Regulate Residential Care Facilities and Calling Upon the State of California to Increase its Oversight and Enforcement of Residential Care Facilities Until Local Authority is Restored.*

[Staff Report](#)

[Attachment A - Resolution No. 2022-64](#)

[Correspondence](#)

CONTRACTS AND AGREEMENTS

6. Fire Station No. 2 Project (Project 15F13) - Notice of Completion for Contract No. 8269-2

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](#)

7. Slurry Seal Program (Project No. 22R04) - Notice of Completion for Contract No. 8710-1

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. Approval of Professional Services Agreement with Griffin Structures for Library Lecture Hall Construction Management (Project No. 19F11)

- 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 a Professional Services Agreement (PSA) with Griffin Structures for the Library Lecture Hall construction management contract for a not-to-exceed amount of \$680,000, and authorize the Mayor and City Clerk to execute the agreement.

[Staff Report](#)

[Attachment A - Location Map](#)

[Attachment B - Agreement](#)

9. Approval of Amendment No. Three to Agreement for Beach Container Refuse Collection Service with Rainbow Disposal Co., Inc.

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(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. Three to Agreement with Republic Services, Inc. for Beach Container Refuse Collection Service to modify the compensation terms, increase the total not-to-exceed amount by \$1,153,439 for a total not-to-exceed amount of \$3,051,063, and extend the term to February 28, 2026; and
- c) Authorize the Mayor and City Clerk to execute the amendment.

[Staff Report](#)

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

10. School Resource Officer Program Agreement

- 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 the Agreement between the City of Newport Beach and NMUSD to participate in the School Resource Officer Program, and authorize the Mayor to execute the agreement on behalf of the City of Newport Beach.

[Staff Report](#)

[Attachment A - Agreement](#)

[Written Comments](#)

11. Contract with Arts Orange County to Manage Phase VIII of the Sculpture Exhibition in Civic Center Park

- 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 contract with Arts Orange County for project management of Phase VIII of the Sculpture Exhibition in Civic Center Park for a total amount not to exceed \$119,000, and authorize the Mayor and City Clerk to sign the agreement.

[Staff Report](#)

[Attachment A - Agreement](#)

MISCELLANEOUS

12. Budget Amendment to Accept a Check from the Friends of the Newport Beach Library and Appropriate Funds to the Library's Fiscal Year 2022-23 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 \$200,000 from the Friends of the Newport Beach Library and approve Budget Amendment No. 23-013 to increase expenditures by the same amount in Division 0106052 (Friends of the Library).

[Staff Report](#)

[Attachment A - Check](#)

[Attachment B - Budget Amendment](#)

[Written Comments](#)

13. Confirmation of Appointments to the Ad Hoc Municipal Code and Council Policy Review Committee

- 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) Confirm Mayor Kevin Muldoon's appointments of himself, Mayor Pro Tem Noah Blom, and Council Member Will O'Neill (Chair) to the Ad Hoc Municipal Code and Council Policy Review Committee.

[Staff Report](#)

[Attachment A - Resolution No. 2022-58](#)

[Written Comments](#)

14. Acceptance of the State of California Office of Traffic Safety Selective Traffic Enforcement Program Grant PT23055

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 Council to accept a \$350,000 Selective Traffic Enforcement Program (STEP) award granted to the NBPD by the OTS per City Council Policies F-3 and F-25. To comply with City Council Policy F-3, the City Council must formally accept the award of \$350,000 and create a new appropriation to expend the funds; and

c) Approve Budget Amendment No. 23-015 increasing NBPD revenue estimates and expenditure appropriations by \$350,000.

[Staff Report](#)

[Attachment A - Budget Amendment](#)

[Attachment B - Agreement](#)

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 Nos. 2022-19 and 2022-20: Tennis Club at Newport Beach Project Amendment (PA2021-260)

- a) Conduct a public hearing;
- b) Adopt Resolution No. 2022-65, *A Resolution of the City Council of the City of Newport Beach, California, Adopting an Addendum to Mitigated Negative Declaration No. ND2010-008 for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260)*;
- c) Adopt Resolution No. 2022-66, *A Resolution of the City Council of the City of Newport Beach, California, Approving a General Plan Amendment, Amendment to Major Site Development Review No. SD2011-002, Amendment to Coastal Development Permit No. CD2017-039, Amendment to Vesting Tentative Tract Map No. NT2005-003, and Amendment to Limited Term Permit No. XP2011-004 for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260)*;
- d) Adopt Resolution No. 2022-67, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of a Local Coastal Program Amendment to the California Coastal Commission to Amend the Newport Beach Country Club Planned Community Development Plan (PC-47) for the Tennis Club Located at 1602 East Coast Highway (PA2021-260)*;
- e) Waive full reading, direct the City Clerk to read by title only, and introduce Ordinance No. 2022-19, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to the Newport Beach Country Club Planned Community Development Plan (PC-47) for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260)*, and pass on to second reading on October 11, 2022; and
- f) Waive full reading, direct the City Clerk to read by title only, and introduce Ordinance No. 2022-20, *An Ordinance of the City Council of the City of Newport Beach, California, Approving the Second Amendment to the Development Agreement (DA2008-001) for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260)*, and pass on to second reading on October 11, 2022.

[Staff Report](#)

[Attachment A - Resolution No. 2022-65](#)

[Attachment B - Resolution No. 2022-66](#)

[Attachment C - Resolution No. 2022-67](#)

[Attachment D - Ordinance No. 2022-19](#)

[Attachment E - Ordinance No. 2022-20](#)

[Attachment F - 9-8-22 PC Staff Report \(without attachments\)](#)

[Attachment G - 9-8-22 PC Minutes](#)

[Attachment H - Resolution No. PC2022-022](#)

[Staff Memo](#)

[On The Agenda](#)

[Correspondence \(Property Owner\)](#)

[Correspondence](#)

[Written Comments](#)

16. Call for Review - Denial of Reforestation Request for 938 Sandcastle Drive

a) Determine this action is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the activities are in the classes of projects which have been determined not to have a significant effect on the environment;

b) Conduct a public hearing on this Reforestation Request for 938 Sandcastle Drive; and

c) Review and reconsider the Parks, Beaches & Recreation Commission denial of the applicant's request for removal and replacement of a City Magnolia (*Magnolia grandiflora*) tree located at 938 Sandcastle Drive, and:

i. If it is desired to preserve the Magnolia tree, adopt Resolution No. 2022-68, *A Resolution of the City Council of Newport Beach, California, Denying the Applicants' Appeal of the Parks, Beaches and Recreation Commission's Decision to Prohibit the Removal of a City Magnolia Tree at 938 Sandcastle*; **OR**

ii. If it is desired to allow the removal and replacement of the City Magnolia tree, direct City of Newport Beach (City) staff to return with a resolution reversing the decision of the Parks, Beaches & Recreation Commission.

[Staff Report](#)

[Attachment A - 8-2-22 PBR Staff Report](#)

[Attachment B - Resolution No. 2022-68](#)

[Written Comments](#)

17. Ordinance No. 2022-21: Non-Exclusive Commercial Solid Waste Franchise Agreements

- a) Conduct a public hearing to consider the award of Non-Exclusive Commercial Solid Waste Franchises pursuant to Resolution No. 2022-55;
- 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; and
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-21, *An Ordinance of the City Council of the City of Newport Beach, California, Granting Non-Exclusive Franchise Agreements for Commercial Solid Waste and Divertible Materials Handling Services Within the City of Newport Beach*, and pass to second reading on October 11, 2022.

[Staff Report](#)

[Attachment A - Resolution No. 2022-55](#)

[Attachment B - Ordinance No. 2022-21](#)

18. Community Development Block Grant Program Year 2021-22, Consolidated Annual Performance and Evaluation Report

- a) Conduct a public hearing to receive comments on the Program Year 2021-22 CAPER;
- 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;
- c) Approve the Program Year 2021-22 CAPER; and
- d) Authorize the City Manager or her designee to submit the Program Year 2021-22 CAPER to HUD.

[Staff Report](#)

[Attachment A - CAPER](#)

[On The Agenda](#)

[Written Comments](#)

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.