



CITY OF NEWPORT BEACH WATER QUALITY/COASTAL TIDELANDS COMMITTEE AGENDA

Crystal Cove Conference Room, Building D, 2nd Floor

Thursday, February 6, 2020 - 3:00 PM

Water Quality/Coastal Tidelands Committee Members:

Council Member Jeff Herdman Chair
Council Member Duffy Duffield, Vice Chair
Dennis Baker, Member
Carl Cassidy, Member
Louis Denger, Member
Fred Galluccio, Member
Lawrence Houston, Member
Richard McNeil, Member
George Robertson, Member

Staff Members:

John Kappeler, Senior Engineer
Karen Gallagher, Administrative Assistant

The Water Quality/Coastal Tidelands Committee meeting is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Water Quality/Coastal Tidelands Committee agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Committee and items not on the agenda but are within the subject matter jurisdiction of the Water Quality/Coastal Tidelands Committee. The Chair may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

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 John Kappeler, Water Quality Enforcement Manager, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3218 or jkappeler@newportbeachca.gov.

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 Public Works Department 24 hours prior to the scheduled meeting.

- 1) **CALL MEETING TO ORDER**
- 2) **ROLL CALL AND INTRODUCTIONS**
- 3) **PUBLIC COMMENTS ON AGENDA ITEMS (5 min)**
Public comments are invited on agenda items. Speakers must limit comments to five minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Committee has the discretion to extend or shorten the speakers' time limit on agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.
- 4) **REVIEW AND APPROVAL OF MINUTES (5 min)**

[Meeting Minutes - January 9, 2020](#)
- 5) **CURRENT BUSINESS (50 min)**

(a) **Committee Goals/Objectives (John Kappeler/Bob Stein) (5 min) Review and status update on the committee's goals and objectives.**

Recommendation: Committee Discussion

(b) **Fecal Coliform Time Schedule Order (TSO) (John Kappeler) (10 min) Presentation on the Regional Water Quality Control Board's newly adopted order.**

Recommendation: Committee Discussion/Comments

(c) **City of Newport Beach Sewer Master Plan (Mark Vukojevic) (15 min) Presentation on the City's sewer master plan.**

Recommendation: Committee Discussion/Comments

(d) **Public Education Sub-Committee (Dennis Baker) (15 min) Update from the public education sub-committee, including their proposed public service announcement (PSA).**

Recommendation: Committee Discussion/Comments

(e) **Santa Ana Delhi Diversion Project (John Kappeler) (5 min) Discussion on date and time to schedule a field trip.**

Recommendation: Committee Discussion

6) ON-GOING BUSINESS (10 min)

(a) **Bay and Ocean Bacteriological Test Results (John Kappeler) (10 min) Review and discussion of recent water quality test results within Newport Bay and along the ocean shoreline.**

Recommendation: Receive and File

7) COMMITTEE ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM) (10 min)

(a) **Santa Ana Delhi Diversion Project Field Trip (March 2020)**

(b) **City of Newport Beach Street Sweeping Program (March 2020)**

(c) **Big Canyon Creek Water Testing (Spring 2020)**

(d) Shellfish Monitoring (Spring 2020)

(e) Orange County Sanitation District Micro-Plastics (Spring 2020)

(f) City of Newport Beach Sustainability Plan (Spring 2020)

(g) Assessment District for Seawall Replacement (Spring 2020)

(h) University of California Irvine (UCI) Beach Dynamics Study (Spring 2020)

(i) University of California Irvine (UCI) Collaborative Flood Modeling (Spring 2020)

(j) Balboa Island Drainage Plan (Summer 2020)

8) **PUBLIC COMMENTS ON NON-AGENDA ITEMS (5 min)**

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Committee. Speakers must limit comments to three minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Committee has the discretion to extend or shorten the speakers' time limit on non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

9) **SET NEXT MEETING DATE (5 min)**

Recommendation: March 5, 2020

10) **ADJOURNMENT**

Date: January 9, 2020
Time: 3:00 p.m.
Location: Crystal Cove Conference Room, 100 Civic Center Drive, Newport Beach, CA 92660
Meeting Minutes prepared by:

1. Call meeting to order

The meeting was called to order at 3:00 p.m. by Councilmember/Chair Herdman.

2. Roll Call and Introductions

Committee Members Present:

Councilmember/Chair Jeff Herdman
Councilmember/Vice Chair Duffy Duffield
Dennis Baker
Louis Denger
Fred Galluccio
Richard McNeil
Tom Houston
George Robertson

Committee Members Absent:

Carl Cassidy

Guests Present:

Nancy Gardner, Orange Coast River Park
Hoiyin Ip, Sierra Club
Roger Yount, Little Balboa Island Homeowners Association
Nancy Skinner, Still Protecting our Newport (SPON)
Shane Coons, 4 Blue Waves
Ryan Chambliss, Resident
Griffith Snider, Resident
Declan Pene, Resident
Will Butler, Resident
Jim Mosher, Resident
John Wadsworth, Surfrider Foundation
Jeff Coffman, Surfrider Foundation
Peter Belden, Local business owner

Staff Present:

John Kappeler, Senior Engineer
Karen Gallagher, Administrative Assistant
Shane Burckle, Water Conservation Coordinator
Robert Stein, Assistant City Engineer

2. Public Comment on Agenda Items

John Wadsworth, Surfrider Foundation, committed his organization's attendance at monthly Water

Quality meetings. He expressed his support for the Disposable Food Service Ware Ordinance and offered Surfrider resources to assist with public education and event sponsorship as it aligns with Surfrider's mission. He noted that Surfrider is engaged first hand in the issue by hosting beach cleanups and collecting data on trash collection. He invited attendees to participate in beach cleanups which occurs on the first Saturday of every month.

In response to Chair Herdman's request for public comments on Disposable Food Service Ware Ordinance, Shane Coons, 4 Blue Waves, presented a prototype of an ocean degradable straws and noted new products are currently in development. Chair Herdman expressed his disappointment that no action was taken at the last meeting, based partially on comments by Mr. Coons, but feels the ordinance should be passed even if marine-degradable products currently do not exist. Mr. Coffman suggests the City pass an ordinance that helps with addressing the issue with materials that are available today. Mr. Coons answered the Committee Member's inquiries about his prototype straw circulating the room and clarified it takes six months to one year to degrade but is awaiting formal certification on the exact timeline.

3. Review and approval of minutes

Mr. Mosher offered a correction to the minutes. "In response to Jim Mosher's inquiry, Senior Engineer Kappeler advised there is not a direct obligation harbor-facing homeowners to dredge" should read "In response to Jim Mosher's inquiry, *Administrative Manager Miller* advised there is not a direct obligation *for* harbor-facing homeowners to dredge".

Motion. Committee Member Baker moved to approve the minutes; Committee Member Robertson seconded; motion approved with Committee Members Cassidy, absent.

4. Current Business (50 min)

- (a) Committee Goals/Objectives (John Kappeler/Bob Stein) (5 min) Review and status update on the committee's 2017/18 goals and objectives.

Recommendation: Committee Discussion

Robert Stein, Assistant City Engineer, announced the Water Wheel project will be presented to City Council on February 11 for design approval of the Trash Wheel. He noted the project requires seven (7) different permits and approvals. In response to Committee Member Denger's inquiry, Assistant City Engineer Stein confirmed Burns & McDonnell will serve as consultants. Senior Engineer John Kappeler noted that completion is expected to be in the fall of 2021.

Shane Burckle, Water Conservation Coordinator, invited attendees to an Inside the Outdoors environmental education event on January 18 at the Muth Interpretive Center from 8:00 a.m. to 11:00 a.m. to thank volunteers and students for their service in local environmental efforts. He encouraged the Surfrider Foundation to attend. Senior Engineer Kappeler advised that information regarding the upcoming event can be emailed out to the committee and staff members.

Chair Herdman opened public comments and hearing none, closed public comments.

There was no further action taken on this item.

- (b) Lower Newport Harbor Flood Protection (Bob Stein) (20 min) Presentation and update on flood protection for Lower Newport Harbor.

Recommendation: Committee Discussion/Comments

Assistant City Engineer Stein presented a PowerPoint regarding the Lower Newport Harbor Flood Protection. He identified special flood hazard areas, noted that a seawall system is in place and discussed the beach berming program. He noted a projected sea-level rise ranging from 2.1 to 6.7 feet by the year 2100. He reported that the City installed a high tide gauge and is working to make data collected available to the public. He presented three (3) types of strategies for flood protection which are to protect, accommodate, and retreat. In response to Committee Member Houston's inquiry, Committee Member Robertson advised the City needs to address the retreat issue but does not have to have a plan for retreat.

Assistant City Engineer Stein advised the goal is to prevent water from coming onto the Peninsula and the Island which requires closing the tide gates and pumping out the water. He presented a potential Big Island Drainage Concept and confirmed it would require laying a 46 to 48-inch pipe under the street. Committee Member Houston expressed concerns for electrical power during a storm. Assistant City Engineer Stein advised stand-alone generators would be available for that effort. Nancy Gardner expressed concern regarding the short-term solutions and suggested starting to identify triggers to develop a long-term solution.

Assistant City Engineer Stein presented propose flood protection actions which include increasing the height of seawall coping, creation of automated tide gates and stormwater pump stations, and periodically building up beach berms. He advised the City would like to explore private owners rebuilding their own seawalls. Ms. Gardner suggested forming Assessment Districts to partner with private groups to rebuild the seawall similar to utility undergrounding.

Committee Member Baker suggested that when making tide information publically available it would be beneficial to display the actual tide with the projected tide. Committee Member Galluccio suggested including historical tide changes. In response to Committee Member Denger's inquiry, Assistant City Engineer Stein advised the raising the seawalls will cost \$750 million and stormwater pump stations will cost \$10 million. Committee Member Houston suggested reaching out to cities around the world who are dealing with this problem to assist with planning.

Chair Herdman opened public comments.

Ms. Skinner suggested the City take action to prevent global warming. Committee Member Baker gave an example of the vehicle charging stations as a preventative action to global warming. Assistant City Engineer Stein noted that all vehicle charge stations are currently being used by the public. Committee Member Galluccio suggested giving residents tax breaks for privately purchasing charging stations. Committee Member Baker suggested the City introduce sustainability in the General Plan. Ms. Gardner expressed concern that the housing element and the City's Regional Housing Needs Assessment (RHNA) will take priority.

Chair Herdman closed public comments.

There was no further action taken on this item.

- (c) Disposable Food Service Ware Ordinance (Fred Galluccio/Hoiyin Ip) (20 min) Presentation on proposed Municipal Code revisions.

Recommendation: Committee Discussion/Comments

Chair Herdman recapped the last meeting review of the Municipal Code. He reported that the Section

6.26, Section 11.08 and Section 11.04 ordinance revisions were reviewed and approved by the committee at the December 5, 2019 meeting. He advised that the Section 6.05 and 6.27 ordinance revisions will be reviewed during the meeting.

Hoiyin Ip provided an update and review of revisions and changes to the Section 6.05 Disposable Food Service Ware ordinance. Utensils, lid plugs, stirrers, picks and skewers remain as “natural fiber.” Lids, cups, straws, containers, plates, bowls, cartons and trays are changed to compostable certified by Biodegradable Products Institute (BPI) or other third-party recognized by the City, and must be free of fluorinated chemicals (PFAS). She showed some of the products from Ralph’s and Smart & Final. She announced the plastic ocean art will be on display from May through July at the library.

Chair Herdman opened public comments.

Mr. Coffman expressed concern that the disposable food service ware will need to be composted at an industrial facility and if they are not, the items will be going to the landfill making this the wrong choice. Recyclable is a better choice. Committee Member Galluccio said recycling is not working as expected, we need to shift away from plastics.

Committee Member Robertson noted there will never be a perfect solution. He advised that CR&R Environmental Services does digest green waste. Committee Member Galluccio, seconded what Committee Member Robertson is saying and feels things are moving along in the right direction.

Mr. Belden expressed concern of the higher cost of the required products. Ms. Ip cited what then-councilmember Gardner said in 2008 about banning polystyrene foam food service ware: When more people use the alternatives, they will become cheaper.

Chair Herdman expressed concern in asking the Council to approve ordinances they will not be able to implement. Committee Member Baker stated the adjustments were made to accommodate a variety of products. Chair Herdman cited an email from a community member who inquires if the City is going to follow the lead of Sacramento and dictate how residents will live.

Motion. Chair Herdman called for the vote to approve the revisions and changes to Section 6.05 Disposable Food Service Ware ordinance; motion was approved 4-3 with Vice Chair Duffield and Committee Members Baker, Galluccio and Robertson voting yes, Chair Herdman and Committee Members Denger and Houston voting no, Committee Member McNeil abstaining and Committee Members Cassidy absent.

Chair Herdman summarized the main points of the 6.27 Carryout Bags ordinance which establishes the pass-through charge, the cost of the charge and the enforcement consequences. Senior Engineer Kappeler clarified the funds collected will go to the establishment and can be used at their discretion. In response to Ms. Skinner’s inquiry, Chair Herdman clarified the fine for an infraction would be imposed on the establishment who did not charge the \$0.10 fee. In response to Ms. Gardner’s inquiry, Ms. Ip clarified the \$0.10 per bag fee would not be in addition to the state-imposed fee already established at grocery stores.

Committee Member Baker, citing California Public Resources Code Section 42283.7, clarified the fee shall be retained by the store and can be used to recoup costs associated with compliance, costs of recycled bags or reusable bags and costs of educational materials.

Chair Herdman opened public comments.

Ms. Gardner expressed support for business owners making their own determination on how to use the \$0.10 fee collected. Committee Member Houston stated that while the goal is to eliminate plastic bags, the fee simply adds the cost to the consumer. Committee Member Baker expressed his support for allowing the business owner to keep the fee collected and remove Section D of the proposed ordinance.

Motion. Committee Member Baker moved to recommend revisions to Section 6.27 to the City Council and forward to the City Attorney for review, seconded by Committee Member Galluccio.

Committee Member McNeil noted the definition of carryout bag doesn't differentiate between plastic or other materials and suggested it be reworded. Ms. Ip noted the intent was to include all carryout bags, which have handles. Committee Member Robertson clarified that produce bags and meat bags are not included. Committee Member Galluccio expressed his support for including meat bags and suggests the customer ask to have the item wrapped in butcher paper. Ms. Skinner cited the restaurant Pick Up Stix and noted that call ahead are already bagged and is unsure how this will impact customers wanting to use their own bags. Committee Member Baker stated that customers will pay for the bags if they do not indicate they will use their own bag or are unable to such as in the scenario of Pick Up Stix.

Motion. Committee Member Baker amended his motion to move the regulation without 6.27.020 Carryout Bag Cost Pass-Through Section D. Committee Member Galluccio agreed to the amendment. A resident recommended that the City study the effectiveness of the pass-through fee and start benchmarking with other cities.

Chairman Herdman called for the vote. The motion was approved with Committee Member Houston abstaining and Committee Member Cassidy absent.

Chair Herdman recapped that a total of 5 revised ordinances will be presented to City Council. Chair Herdman thanked Hoiyin Ip for all her hard work on these ordinances.

There was no further action taken on this item.

Chair Herdman noted a deviation from the agenda per Vice Chairman Duffield's request.

Vice Chairman Duffield spoke briefly about the status of the Confined Aquatic Disposal (CAD) project which has hit a delay. He noted the Water Quality Committee was great in writing a letter lending its support. He presented a letter from the Lido Island Homeowners Association indicating they are not in support of the project and continually used the word "toxic." He clarified that the materials are not toxic and asked the committee for its input on moving forward. Chair Herdman noted the Lido Island Homeowners Association has sent their letter to other homeowner's associations.

Committee Member Baker feels the committee should not ignore this but come back with factual responses that the materials are not toxic and back it up with facts from environmental groups. Committee Member Denger stated that he expressed concern early on there would be groups who would take issue with the item and it was minimized.

Director of Public Works, Dave Webb, clarified the materials are not toxic and are within the limits of the U.S. Environmental Protection Agency (EPA). He reported they would be meeting with the Lido Island Homeowners Association to present testing results. In response to Committee Member Houston's inquiry, Public Works Director Webb noted that the material in question is already in the Harbor.

Ms. Gardner suggested that the new City's Public Information Officer get involved and share the information with the public. Chair Herdman noted he has had the same issue on Balboa Island and it is important to present factual information and refute the misinformation. He suggested holding a Town Hall meeting with Lido Island residents. Ms. Skinner suggested that if there is anything toxic that the public be informed on the City's plan for its removal. Chair Herdman discouraged the use of the word "toxic" as it may send the wrong message. Public Works Director Webb clarified the project is simply displacing material and in this scenario, the element Mercury is the problem. He further clarified that the element Mercury is a heavy metal and will stay below the displacement. Committee Member Denger suggests providing the public with facts about Mercury's behavior to the public and providing EPA when it is finally approved.

- (d) Santa Ana Delhi Diversion Project (John Kappeler) (5 min) Discussion on date and time to schedule the field trip.

Recommendation: Committee Discussion

The item was moved to the next meeting.

6) On-going Business (10 min)

- (a) Bay and Ocean Bacteriological Test Results (John Kappeler) (10 min) Review and discussion of recent water quality test results within Newport Bay and along the ocean shoreline.

Recommendation: Receive and File

The item was moved to the next meeting.

7) Committee Announcements on Matters which Members would like placed on a future agenda for discussion, action or report (Non-Discussion Item) (10 min)

- (a) Big Canyon Creek Water Testing (December 2019)
- (b) City of Newport Beach Water and Sewer Master Plans (December 2019)
- (c) City of Newport Beach Eel Grass (December 2019)
- (d) Shellfish Monitoring (January 2020)
- (e) Orange County Sanitation District Micro-Plastics (January 2020)
- (f) Santa Ana Delhi Diversion Project Field Trip (February 2020)
- (g) Vessel greywater discharge limitations (Winter 2020)
- (h) City of Newport Beach Sustainability Plan (Winter 2020)
- (i) Public Education Plan – Phase II (Winter 2020)

Chair Herdman would like to consider forming Assessment Districts for private seawall replacement.

8) Public Comments on Non-Agenda Items (5 min)

There were no public comments.

9) Set Next Meeting Date (5 min)

Recommendation: February 6, 2020

Chair Herdman set the next meeting for February 6, 2020.

10) Adjournment

The meeting was adjourned at 5:00 p.m.

Chair / Jeff Herdman