



# CITY OF NEWPORT BEACH WATER QUALITY/COASTAL TIDELANDS COMMITTEE AGENDA

Crystal Cove Conference Room

Thursday, July 1, 2021 - 3:00 PM

## ***Water Quality/Coastal Tidelands Committee Members:***

**Council Member Duffy Duffield, Chair**  
**Council Member Noah Blom, Vice Chair**  
**Peter Belden, Member**  
**Curtis Black, Member**  
**Louis Denger, Member**  
**Charles Francher, Member**  
**Lawrence Houston, Member**  
**Richard McNeil, Member**  
**George Robertson, Member**

## **Staff Members:**

**Jim Houlihan, Deputy Public Works Director/City Engineer**  
**John Kappeler, Senior Engineer**  
**Karen Gallagher, Administrative Assistant**

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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](mailto: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 (10 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)**

**Water Quality Draft Minutes 06032021**

[WQCT Draft Minutes 06032021](#)

- 5) **CURRENT BUSINESS (40 min)**

**(a) Committee Goals/Objectives (John Kappeler) (10 min) Review and status update on the committee's goals and objectives.**

**Recommendation: Committee Discussion**

**(b) City of Newport Beach Municipal Code Ordinance Updates (Chair Duffield/John Kappeler) (20 min) Review and/or approval of the proposed revisions to the following ordinances:**

- a. Municipal Code 6.26 - Regulations on the Sale, Distribution and Use of Balloons
- b. Municipal Code 6.27 - Carryout Bags
- c. Municipal Code 11.04 - Parks, Park Facilities and Beaches

**Recommendation: Committee Review/Approve/Denied/Other**

**(c) Newport Bay Caulerpa Update (Chris Miller) (10 min) Update and presentation on the key elements of the plan.**

**Recommendation: Committee Discussion**

**6) ON-GOING BUSINESS (5 min)**

**(a) Bay and Ocean Bacteriological Test Results (John Kappeler) (5 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) (15 min)**

**(a) City of Newport Beach Sustainability Plan (October 2021)**

**(b) Fecal Coliform Time Schedule Order (TSO) (Winter 2021)**

**(c) Trash Interceptor Public Outreach Plan (January 2022)**

**(d) Balboa Island Drainage Plan (Spring 2022)**

**(e) Shellfish Monitoring (Spring 2022)**

**(f) IRWD Siphon Reservoir Project (Spring 2022)**

**(g) City of Newport Beach Street Sweeping Program (Summer 2022)**

**8) PUBLIC COMMENTS ON NON-AGENDA ITEMS (10 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: September 2, 2021*

10) **ADJOURNMENT**

**Date:** June 3, 2021  
**Time:** 3:00 p.m.  
**Location:** Meeting in Council Chambers and via Zoom  
**Meeting Minutes prepared by:**

**1. Call meeting to order**

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

**2. Roll Call and Introductions**

**Committee Members Present:**

Councilmember/Chair Duffy Duffield  
Councilmember/Vice Chair Noah Blom  
Peter Belden  
Curtis Black  
Louis Denger  
Charles Fancher  
Tom Houston  
George Robertson

**Committee Members Absent:**

Richard McNeil

**Guests Present:**

Nancy Gardner, Orange Coast River Park  
Hoiyin Ip, Sierra Club  
Charles Klobe  
Bill Lane  
Jim Mosher, Resident  
Nancy Scarbrough  
Nancy Skinner, Still Protecting Our Newport (SPON)  
John Wadsworth, Surfrider Foundation  
Chace Warmington, University of California Irvine (UCI)  
Michelle Giron, Surfrider Foundation  
Dennis Baker, Orange Coast River Park

**Staff Present:**

John Kappeler, Senior Engineer  
Karen Gallagher, Administrative Assistant  
Mark Vukojevic, Utilities Director  
Paul Blank, Newport Beach Harbormaster  
John Pope, Public Information Manager  
Jeremy Jung, Deputy City Attorney  
Bob Stein, Assistant City Engineer  
Shane Burckle, Water Conservation Coordinator

### 3. Public Comment on Agenda Items

Jim Mosher noted the Public Comment agenda item has changed over the years without any review from the Committee. He recalled the item used to be an announcement inviting public comment on each item as it came up during the meeting. He noted the agenda taken literally advises this is the only opportunity for public comment, that each speaker has five minutes to speak, and that all speakers have five minutes to comment on the entire agenda. He advised he submitted suggested edits to the approval of minutes. He expressed concern that some Committee Members may have a conflict of interest on the Food Service Ware Ordinances, particularly Vice Chair Blom who is tied to the food industry. He reminded the Committee they are required to file Conflict of Interest Disclosure Statements and must not influence anything in which they have a financial interest different than the public in general. Lastly, he commented that the Committee is concerned with the quality of recreational water in the bay and the tidelands and not tap or groundwater. He suggested another committee be formed to cover the broader scope of water quality and consider asking City Council to expand the Committee's scope to include that.

Nancy Gardner reported the Committee over the years has taken up potable water issues and was approved by the City Council. She requested the Committee introduce themselves before the meeting proceeds.

Committee Members Black, Belden, Fancher, Houston, and Denger introduced themselves and provided a brief history of their ties to Newport Beach.

### 4. Review and approval of minutes

Motion. Committee Member Houston moved to approve the minutes as presented; Committee Member Robertson seconded; motion approved unanimously.

Committee Member Denger inquired about Mr. Mosher's previous inquiry regarding the agenda. Vice Chair Blom noted Mr. Mosher's inquiry was regarding the change of the agenda over time. He advised the Committee will review his concerns and get back to him.

### 5. Current Business (55 min)

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

#### **Recommendation: Committee Discussion**

Senior Engineer Kappeler reported the Committee had previously discussed bringing back the short-term, medium-term, and long-term goals for review but is concerned the Food Ware Services Ordinance and Urban Water Management Plan discussion may be lengthy. He requested the Committee provide a recommendation on when to agendaize the goal review discussion.

Senior Engineer Kappeler reported the City has been replacing the vessel pump-out at the public docks around the Harbor. He advised the last two will be decommissioned on June 7th with new ones being installed early next week which will complete the project. He reported a resident designed a pre-filter that filters out any debris that can impact the unit itself. He advised 3 were installed as a pilot project in December and have been running flawlessly. He reported the City will retrofit the previously installed units with the pre-filter. He reported the City spends \$30,000 to maintain the units and hopes the pre-filter will drastically cut down on maintenance. Lastly, he reported Nancy Gardner and himself will be recording a video of the project next week.

Chair Duffield expressed support for the pre-filters and noted they will create great savings for the City.

- (b) Food Ware Services Ordinances (Hoiyin Ip/Jeremy Jung) (30 min) Update on the four ordinances for the committee's review/approval.

**Recommendation: Committee Review/Approval**

Hoiyin Ip provided a spreadsheet of jurisdictions with PFAS-free ware and/or serve-on-request policies, advised the City's plastic ban would also ban items with the plastic Per- and polyfluoroalkyl substances (PFAS) lining. She reported that neither Assembly Bill (AB) 1276: Serve-on-Request nor the Break Free from Plastic Pollution Act of 2021 (BFFPPA) entitles businesses to charge a fee for food ware items, but BFFPPA would require all retailers to charge a \$.10 bag fee of which \$0.06 would go to a clean-up fund. She reported Senator Ben Allen is a co-author of AB 1276 and a member of the California Ocean Protection Council, which gave the \$1.68 million grant to the trash wheel. She recommends adopting the ordinance in July, having the fees grandfathered before the legislative session ends.

In response to Committee Member Houston's inquiry, Ms. Ip advised she has spoken at the Newport Beach Restaurant Association meetings several times since 2018 and has spoken to individual restaurant owners regarding their input on the proposed ordinances. She advised Laguna Beach restaurants were very supportive to their recent ban.

Committee Member Houston would like no roadblocks for any business to reopen their business after the pandemic. He would like to put the ordinances on hold until the Newport Beach food industry has a consensus before the Committee makes any recommendation to the City Council. He advised he will vote against it as presented.

Vice Chair Blom thanked Mr. Mosher for his input regarding his recusal and advised he was cleared to discuss the item by the City Attorney's office since this does not impact his income in any way. He advised as a restaurateur the industry wants to reduce serve-on-request items but noted there are some problems with the ordinance. He advised the City cannot enforce fees upon private enterprises for using plastic ware that they pass through to the customer. He advised he was unclear regarding the intent of the fee if a service is not being provided.

Vice Chair Blom advised there are not many options available to replace the plastic items in the marketplace. He noted another issue is that what is available is very expensive or does not have the appropriate supply chain. He expressed concern that the City will put an ordinance in place and the supply chain will not be able to keep up with the demand. He explained the food industry looked for environmentally friendly containers during the pandemic and found that they are green washed but are not compostable.

Vice Chair Blom explained private enterprise needs the cover from ordinances and believes providing plastic items only when requested will hit a reduction level that is far beyond a mandate. He believes a great starting point would be to put it back on private enterprise to start the process rather than implementing new ordinance from the dais.

Committee Member Black reported he spoke with Balboa Island Merchants Association to understand what the impact would be to restaurants. He noted there was positive feedback for different initiatives that lead to more renewable, compostable, and overall, less waste in the environment. He noted timing is a serious problem given there is an issue with the supply chain due to the pandemic.

He believes the plastic ban is the right thing to do in the long term but not the right thing to do currently since it is challenging to get the supplies.

In response to Committee Member Fancher's inquiry, Ms. Ip advised she has not shown the City of Palm Spring's ordinance to the Newport Beach City Council. He believes while there are different points of view, the City does incur costs in cleaning up the Harbor, streets, and sidewalks and a common-sense ordinance needs to be adopted by the City. He strongly encourages involving the restaurant community, so they have a voice in the conversation. He recommends the restaurants provide the take-out orders in compostable containers and provide and charge for food ware if requested which becomes the disincentive for the consumer to ask for the food ware. He would like to see a larger discussion on how the ordinance should read and noted it should be simple.

Committee Member Robertson inquired if the ordinances can be bifurcated and considered separately. Vice Chair Blom recommended staff come back with something before moving forward.

Ms. Ip expressed frustration with being repeatedly asked by the Committee if she has talked to Newport Beach restaurants. The Committee sent her to the Newport Beach Restaurant Association in 2018 and has been talking to them regularly since that time.

In response to Ms. Ip's inquiry, Committee Member Houston acknowledged he has not met with the Newport Beach Restaurant Association. He explained his thought process is to help business owners recover from the pandemic and imposing this ordinance would hinder their recovery. He advised he will not support anything that does not support the restaurant community in Newport Beach right now.

Ms. Ip reported the California Coastal Commission (CCC) and Ocean Protection Council are strong advocates of reusable ware due to the overflowing trash on the beaches. She noted the CCC has incorporated reusable ware into permit issuing, and denied the Ritz-Carlton Half Moon Bay's beach access and required the hotel to have no single-use plastics in rooms. She noted the City will need to apply for a permit with the CCC for the Trash Wheel and expressed concern that if the City does not do this on its terms, the State bills and the CCC may provide the enforcement.

Chair Duffield thanked the Committee Members for their comments and noted the Committee has the full intention to implement a well-thought-out ordinance.

There was no further action taken on this item.

(c) Urban Water Management Plan (Mark Vukojevic) (15 min) Update and presentation on the key elements of the plan.

**Recommendation: Committee Review/Approval**

Utilities Director Mark Vukojevic presented the Urban Water Management Plan (UWMP) that is being presented to City Council on June 8th. He reported this is coming before the Committee because one component of water quality is urban runoff which comes from water use or over water use on private property. He reported the UWMP is a State requirement and noted there are two new documents required which are the Water Shortage Contingency Plan and the Appendix J Addendum to the 2015 Urban Water Management Plan.

Utilities Director Vukojevic explained the UWMP must be prepared every 5 years which ensures and demonstrates to the State that the City has an adequate water supply for existing and future demands. He advised the City has been told by its two main water source agencies there is enough

water for future demands. He advised the Water Shortage Contingency Plan provides a plan to reduce the City's water use. He reported 30 years ago the City used 30% more water. He explained the assessment now focuses on near-term (5 years) and annual assessments and reporting to the State.

Utilities Director Vukojevic advised the assessment looks at where the City's annual water supply is coming from, water demand, and demand projections. He advised water shortages are then plugged into the assessment and mitigation plans are then developed. He presented a brief overview of the City's water use and water supply and noted it has been relatively stable over the last decade. He reported the projection is to remain stable between now and 2025. He noted the City is projected to obtain 82% of its water supply from groundwater in 2045 due to the Orange County Water District (OCWD) increasing the amount of water they are recycling. He advised the City is pumping 90% of its supply through groundwater due to some special incentives and the City projects to reduce its reliance on the imported water supply to 14.5% in 2045. He reported there is a very small component of recycled water that is used at large golf courses and some of the City's landscaping areas and medians.

Utilities Director Vukojevic reported the Reliability Assessment looks at the local pipe system, where the City is obtaining the water, and how reliable is the source. He reported the key findings of the City's UWMP are that the City has long-term water service reliability under an average year, single dry year, and five consecutive dry years, the City has near-term supply capabilities sufficient for a drought period lasting five consecutive years, and the City has plans for supply implementation and water use efficiency investments to meet its projected demands. He advised Newport Beach has the largest potable water reservoir in the County.

Utilities Director Vukojevic provided a brief overview of the Water Shortage Contingency Plan (WSCP) which is a standalone document that asks each agency to identify six steps to reduction. He advised staffing is working on changing the City's Municipal Code to address the WSCP. He explained the City has 4 different shortage levels built into the Municipal Code based on 2013 water usage. He noted the new requirement is to have 6 steps which include varying levels of mandatory conservation requirements based on the conditions. He advised mandatory conservation are things like water days, target usage requirements, code enforcement, and public education. He noted staff is working on water conservation programs to educate residents to use water wisely.

Utilities Director Vukojevic provided a brief overview of the Addendum to 2015 UWMP which shows the City will be compliant in reducing its reliance on the Delta. He advised this reduction will happen by not increasing the City's surface water use and increasing groundwater use. He explained the City is relying on digital water meters for reduced water use as it detects water leaks easier, especially on private property. He provided a brief overview of the UWMP timeline and concluded that the City is on track to meet the July 1st deadline for submission.

In response to Committee Member Houston's inquiry, Utilities Director Vukojevic reported the Poseidon (Poseidon) Desalination Project is not being considered in the UWMP. He explained the City Council has not taken a position on Poseidon and noted the major player in that project is OCWD. He advised the City's current position is to wait and see what happens.

Chair Duffield opened public comments.

Charles Klobe noted Irvine being a newer City has a dual transmission water system that transmits recycled water also known as the purple pipe to many areas of the City. He noted Newport Beach does not project recycled water use getting past 3.5% through 2045. He advised the Orange County



Sanitation District (OCSD) pumps 100 million gallons of recycled water into the ocean every day. He explained the City has not had a plan to advance the purple pipe distribution within the City. He inquired if the Committee could make a recommendation to the City to begin developing purple pipe infrastructure planning in the coming years.

Utilities Director Vukojevic reported that one of the City's goals is to create a Recycled Water Master Plan (RWMP) and noted the City is working on a white paper to try to identify what can be done with recycled water. He explained the challenge is the cost of the infrastructure and where to place the infrastructure.

Nancy Scarbrough reported the Southern California Association of Governments (SCAG) is allocating 183,000 new residential units as part of its Regional Housing Needs Assessment (RHNA) over the next 8 years. She inquired if water agencies are taking into account this demand and how it will impact water in Orange County for residential use.

Utilities Director Vukojevic advised the City has spent quite a bit of time on this issue and is also concerned. He explained the planned housing has not been incorporated into zoning and general plans so trying to identify future demand is difficult and believes the City will have to pick up the pieces of this growth in 2025. He noted new housing development uses much less water than an existing home due to the reduced landscaping and building code efficiencies. He also noted it is unclear if growth will be on land with existing water use or new development. He advised the Water Shortage Contingency Plan addresses the problem.

Chair Duffield closed public comments.

There was no further action taken on this item.

## 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**

Chair Duffield advised that due to the holiday there is no report this month. Senior Engineer Kappeler agreed to present 2 months of data at the next regular meeting.

There was no further action taken on this item.

## 7) Committee Announcements on Matters which Members would like placed on a future agenda for discussion, action or report (Non-Discussion Item) (5 min)

Chair Duffield requested direction on how to put some of these items into a working environment.

Committee Member Belden requested staff provide a brief overview of the items to bring new Committee Members up to speed. Chair Duffield advised they were just topics but were never discussed.

Committee Member Denger recommended the Committee receive an update on the status of the IRWD Siphon Reservoir Project, the Sediment Removal (Dredging) Project, Shellfish Monitoring, and Big Canyon Phase 2 as they are in progress or are completed.

Senior Engineer Kappeler recommended setting the agenda for the next meeting so staff can be

prepared. Vice Chair Blom directed staff to take a look at the list, remove items that have been accomplished, provide updates for items for which there is information, and then agendaize the remaining items at a future meeting for an overview.

Senior Engineer Kappeler recommended bringing back Committee goals at the next meeting and add 1 other agenda item and then can provide a brief overview of the other times. All Committee Members concurred.

Committee Member Black recommended bringing back the ordinance regarding the sale of metal foil balloons within the City.

Committee Member Robertson recommended removing the Orange County Sanitation District Micro-Plastics discussion as it will not be available for some time. He requested Senior Engineer Kappeler provide an update on the Caulerpa situation at the entrance of the Harbor. Senior Engineer Kappeler advised Chris Miller is leading the effort and will provide an update at the next meeting.

In response to Committee Member Fancher's inquiry, Chair Duffield advised staff will come back with additional information on the Food Service Ware Ordinance. Committee Member Fancher expressed a sense of urgency in pressing for some action on the topic. Vice Chair Blom volunteered to work with Senior Engineer Kappeler over the next few weeks to develop a presentation for the Committee. Committee Member Fancher volunteered to assist in this effort.

- (a) Trash Interceptor Public Outreach Plan
- (b) Fecal Coliform Time Schedule Order
- (c) Balboa Island Drainage Plan
- (d) Shellfish Monitoring
- (e) Orange County Sanitation District Micro-Plastics
- (f) City of Newport Beach Street Sweeping Program
- (g) City of Newport Beach Sustainability Plan
- (h) University of California Irvine (UCI) Beach Dynamics Study
- (i) Orange County Sanitation District (OCSD) Coordination
- (j) Ocean Kelp Project (Spring 2021)
- (k) IRWD Siphon Reservoir Project
- (l) Sediment Removal (Dredging) Project

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

Nancy Gardner encouraged dedicating more time to the next meeting to discuss important topics in detail. Chair Duffield explained the meetings are normally not as rushed and hope to be more accommodating in the future.

Assistant City Engineer Bob Stein reported the City is getting close to submitting the first submittal to Orange County Flood Control for the Trash Interceptor. He advised the Trash Interceptor is a way for the City to monitor and document the amount of trash that is still coming down of San Diego Creek. He advised the permit application will be submitted to the California Coastal Commission later this year. He advised there will probably be a need for an ordinance in place for the Trash Interceptor Project.

Chief Duffield expressed his annoyance that the City received the funding almost 4 years ago and the Trash Interceptor is only coming to fruition now but does understand the installation was more complex than initially expected. He agreed the upstream cities need to be more aware of the situation.

Ms. Ip reported Irvine banned citywide smoking pre-Covid-19 so there are probably fewer cigarette butts coming down San Diego Creek. She reported that much to her frustration upstream cities have explained it is economical for them to let the trash come downstream. She also noted they agree source reduction is important, but they do not plan to do anything about it until Newport Beach takes charge.

Chair Duffield noted some of the trash in San Diego Creek gets stuck in the reed grass and is unable to be retrieved.

**9) Set Next Meeting Date (5 min)**

Recommendation: July 1, 2021

Vice Chair Duffield set the next meeting for July 1, 2021.

**10) Adjournment**

The meeting was adjourned at 4:15 p.m.

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Chair / Duffy Duffield