



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

Crystal Cove Room (Bay 2D)

Thursday, September 9, 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 Fancher, 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)**

*Recommendation: Approve minutes as presented*

[Water Quality Draft Minutes 07012021](#)

- 5) **CURRENT BUSINESS (50 min)**

(a) City of Newport Beach Municipal Code Ordinance Updates (Chair Duffield/Jeremy Jung) (10 min) Review and/or approval of the proposed revisions to the following ordinances:

a. Municipal Code 6.27 - Carryout Bags

b. Municipal Code 11.04 - Parks, Park Facilities and Beaches

Recommendation: Committee Review and Approval/Denied/Other

(b) Committee Goals/Objectives (Bob Stein) (30 min) Review and status update on the committee's goals and objectives.

Recommendation: Committee Discussion

(c) Surfrider Ocean Friendly Restaurant Program (John Wadsworth) (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 (Monica Mazur) (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) (5 min)**

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

(b) City of Newport Beach Refuse Update (October 2021)

(c) City of Newport Beach Public Works Capital Improvement Program (CIP) (January 2022)

(d) Fecal Coliform Time Schedule Order (TSO) (Winter 2021)

(e) Bacteriological Rapid Testing Methods (Winter 2021)

(f) Trash Interceptor Public Outreach Plan (January 2022)

(g) Balboa Island Drainage Plan (Spring 2022)

(h) Shellfish Monitoring (Spring 2022)

(i) IRWD Siphon Reservoir Project (Spring 2022)

(j) 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: October 7, 2021*

10) **ADJOURNMENT**

**Date:** July 1, 2021  
**Time:** 3:00 p.m.  
**Location:** Newport Beach Civic Center, Crystal Cove Conference Room  
**Meeting Minutes prepared by:**

**1. Call meeting to order**

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

**2. Roll Call and Introductions**

**Committee Members Present:**

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

**Committee Members Absent:**

Councilmember/Chair Duffy Duffield

**Guests Present:**

Mark Corcoran, Surfrider Foundation  
Nancy Gardner, Orange Coast River Park  
Hoiyin Ip, Sierra Club  
Jim Mosher, Resident  
Nancy Skinner, Still Protecting Our Newport (SPON)  
John Wadsworth, Surfrider Foundation

**Staff Present:**

Shane Burckle, Water Conservation Coordinator  
Karen Gallagher, Administrative Assistant  
John Kappeler, Senior Engineer  
Chris Miller, Administrative Manager  
Bob Stein, Assistant City Engineer  
Dave Webb, Public Works Director

**3. Public Comment on Agenda Items**

Hoiyin Ip referenced a 2013 report compiled by the National Resource Defense Council (NRDC) regarding the hidden costs of litter clean-up and noted the public does not know enough about the City's cost of keeping the city clean. She suggested that the staff develop a comprehensive overview of the City's clean-up effort and costs and share with the Committee and City Council.

Nancy Skinner noted she was not in attendance at the last meeting and requested the minutes be corrected to reflect the error.

#### 4. Review and approval of minutes

Motion. Committee Member Black moved to approve the minutes as amended; Committee Member Fancher seconded; motion approved unanimously.

#### 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**

Assistant City Engineer Bob Stein advised Committee members that the Committee Goals were put together in 2017 and need to be updated since some projects have been completed or are nearing completion. He reported the current goal categories include Urban Runoff Regulation, Trash and Other Pollutant Reduction Projects/Programs, Harbor-Ocean Protection, and Partnering.

Assistant City Engineer Stein reported there are currently no active projects for a Harbor Hazardous Waste drop-off project due to permitting issues. Senior Engineer John Kappeler confirmed the existing Balboa Yacht Basin hazardous waste drop-off site has been refurbished and is available for use. Assistant City Engineer Stein advised the Committee needs to determine if they want to pursue looking for additional locations.

In response to Committee Member Houston's inquiry, Senior Engineer Kappeler advised the reaction from boat owners in the marina was positive but there were some issues raised by residents regarding the proposed site near Marina Park which ended the project.

Senior Engineer Kappeler explained harbor improvements such as seawalls or riprap will be subject to a mitigation requirement imposed by the California Coastal Commission and will need to be reviewed by the Committee.

Committee Member Chuck Fancher strongly encouraged the Committee to address sea level rising and the impact on the infrastructure. He noted the City and private residents along the waterfront will encounter a huge financial impact in dealing with the rising sea over the next several years. Vice Chair Blom advised these infrastructure projects will tie in directly to Public Works Capital Improvement Projects (CIP) and will need to be discussed with the Finance Committee and City Council for funding. Public Works Director Dave Webb advised there are some harbor improvements in the works but noted more can be done. Nancy Gardner remarked the projects cannot be limited to infrastructure and some effort will need to be made to save the beaches.

In response to Committee Member Tom Houston's inquiry, Public Works Manager Chris Miller advised environmental mitigation became a requirement when the California Coastal Act became law. Ms. Gardner advised the groynes at the peninsula were installed before the California Coastal Act was enacted and did not require mitigation. Committee Member Houston noted it makes sense to protect the beaches as they also protect the houses and noted geo bags could also be an option.

Vice Chair Noah Blom recommended structuring out the goal setting, circling back to this topic in the future, and assigning specific committee members to each goal. Committee Member Houston expressed frustration at government agencies that are making it difficult to be productive.

Assistant City Engineer Stein encouraged the Committee to review the proposed objectives and advise Senior Engineer Kappeler of any additions or changes before the next scheduled meeting. He advised the goal of the next meeting would be to vote on goals and develop a primary list and suggested a follow-up meeting with the Harbor Commission to compare goals. Committee Member Peter Belden concurred.

Vice Chair Blom opened public comments.

Ms. Gardner recommended assigning Committee Members to specific goals to focus on the objectives and report back to the Committee. Vice Chair Blom concurred and requested staff send an email out to Committee Members to obtain a list of goals they are interested in spearheading.

Ms. Ip supported Ms. Gardner's recommendation and noted other cities have sub-committees to help keep up the momentum and provide a monthly report back to the Committee.

Committee Member Fancher recommended the Committee address the Urban Water Management Contingency Plan and continue to investigate leveraging the Poseidon Water Desalination Plant and other options to ensure the City is in a better position to address any water concerns given the water issues in California. Committee Member Houston referenced a report from the Orange County Metropolitan Water District that looks positive on ways to solve the current water concerns. Committee Member Fancher recommended the article be circulated amongst the committee members for review.

Vice Chair Blom closed the public comment.

There was no further action taken on this item.

- (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:

**Recommendation: Committee Review and Approval**

Senior Engineer Kappeler recommended reviewing each ordinance and voting on them individually.

1. Municipal Code 6.26 – Regulations on the Sale, Distribution and Use of Balloons

In response to Committee Member Belden's inquiry, Vice Chair Blom noted Parks and Recreation will handle the community education portion and the regulation will be placed on balloon sellers.

Vice Chair Blom opened public comment.

Ms. Ip expressed excitement about the ordinance being recommended for approval and hopes it will be in place before the end of the summer.

Jim Mosher suggested the Committee recommend changing Municipal Code 6.26 – Regulations on the Sale, Distribution and Use of Balloons and Municipal Code 11.04 – Parks, Park Facilities and Beaches to identify what is allowed behavior in City parks and beaches. He also recommended the ordinance be reviewed by the Parks, Beaches, and Recreation Commission for their input before they presented to the City Council.

Ms. Ip advised she made a presentation to the Harbor Commission who supported the ordinance,

and a letter of their support was mentioned later.

Committee Member Curtis Black expressed support for the ordinance and noted his concern was mostly on enforcement and flexibility around enforcement. Senior Engineer Kappeler advised the City can promote public education, issue notice of violation letters, and issue tiered fines as the Municipal Code provides a lot of latitude when it comes to enforcement.

Vice Chair Blom closed public comments.

Motion. Committee Member Houston moved to approve Municipal Code 6.26 – Regulations on the Sale, Distribution and Use of Balloons; Committee Member Fancher seconded; motion approved unanimously.

## 2. Municipal Code 6.27 – Carryout Bags

Senior Engineer Kappeler recapped the change within the code that states, “funds collected shall be retained by the affected establishment”.

Committee Member Black advised the research indicates environmental costs shift when moving from plastic to paper and expressed enforcement concerns. He encouraged obtaining input from impacted retailers.

Ms. Gardner advised the Styrofoam ordinance required cooperation from retailers and noted the enforcement was done gently. The public helped spread the word and the enforcement.

In response to Committee Member Belden’s inquiry, Senior Engineer Kappeler confirmed community education can go out with business license renewals. He advised much of code enforcement is complaint-based. Committee Member Fancher noted it is like the fee collected on plastic bottles and believes most retailers will comply.

In response to Committee Member Belden’s inquiry, Committee Member Fancher advised grocery stores ask customers if they want to use plastic bags. He advised the fee is to deter customers from using plastic bags.

Committee Member Black remarked if the community education is correct, and retailers can speak to talking points he is supportive of the ordinance and believes it is a positive policy.

Vice Chair Blom opened public comment.

Committee Member Beldon reported the UC Berkley studies were completed before China stopped recycling plastic and noted plastic is much more difficult to recycle.

Ms. Ip recalled the Committee discussed this issue, and decided to make it easier for businesses and let them use whichever kind of bags (paper or plastic) they’ve been using. Paper and plastic bags have different negative environmental impacts. The key is to reduce single-use consumption with the 10-cent fee.

Committee Member Fancher noted the goal is to remove plastic bags out of the stream of trash. He explained that imposing a fee for using the bags is the only way to deter consumption but noted consumers have many alternatives to using plastic bags.

Vice Chair Blom expressed concern regarding treating paper and plastic bags equally in the ordinance and noted while reduction is the goal, paper is sent to a landfill where it breaks down. He does not feel the Committee should issue an ordinance about something that does not affect water quality. He would like to see the ordinance focus on carryout bags made of plastic only. Committee Members Houston and Fancher concurred.

Committee Member Belden advised he has collected many plastic bags at beach clean-ups but does not recall ever collecting a paper bag. Committee Member Fancher requested the verbiage be changed to "Carryout bags, made of plastic" in the ordinance.

Vice Chair Blom closed public comments.

Motion. Committee Member Houston moved to Municipal Code 6.27 – Carryout Bags as amended; Committee Member Fancher seconded; motion approved unanimously.

### 3. Municipal Code 11.04 – Parks, Park Facilities and Beaches

In response to Committee Member Houston's inquiry, Senior Engineer Kappeler advised he will investigate if Section F should identify electric bikes.

In response to Committee Member Fancher's inquiry, Vice Chair Blom is unsure how the language would work in Section J if it is extended to include plastic bags because it covers distribution and selling. Vice Chair Blom clarified Section J is to outlaw Styrofoam in City parks, park facilities, and beaches.

Vice Chair Blom opened public comment.

Ms. Ip reported this set of ordinances was written in 2019 when she wished for a Styrofoam free Newport Beach. Recently, Laguna Beach banned single-use plastic foodware from restaurants, beaches, parks and trails.

Committee Member Belden recommended the verbiage be clarified to "distribute or sell any expanded polystyrene container products" to exclude surfboards and boogie boards that are made of the same materials.

Committee Member Fancher advised he would motion to approve the ordinance if an exception was included for identified water sports.

Vice Chair Blom recommended bringing the item back to clarify the ordinance. Committee Member Richard McNeil recommended fine-tuning Section J and deal with the specifics in the definitions. Vice Chair Blom concurred.

Committee Member Fancher withdrew his motion.

Committee Member Houston tabled the discussion.

There was no further action taken on this item.



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

**Recommendation: Committee Discussion**

Administrative Manager Chris Miller provided a brief update on the Caulerpa issue in Newport Harbor. He reported Caulerpa is an invasive algae that has never been seen before in Newport Harbor, and grows rapidly and spreads. He advised the City has been looking for Caulerpa for approximately 30 years and is a condition of the City's permits. He reported it was found 20 years ago in Huntington Harbor and northern San Diego County and was eradicated through the efforts of regulatory agencies.

Administrative Manager Miller reported Caulerpa was recently found in Newport Harbor and advised the same regulatory groups along with the City reconvened the Southern California Caulerpa Action Team and worked on a solution to remove the Caulerpa. He advised removal should begin on July 6th. He explained the Caulerpa is in a localized area in the China Cove public beach and advised the final Eradication Survey was completed last week. He noted the City is working on surveying other parts of the harbor.

Administrative Manager Miller explained the eradication process which includes suction dredging the plant out of the harbor. He further explained the suction dredge will remove the 3 to 5 inches of sand below the plant to remove the roots. He explained the dredged materials will be placed in a dewatering box which will be placed on China Cove Beach. He advised the Caulerpa will be placed on the beach to let dry and turn into mulch. He noted the sand will be reused and the water will be piped back into the bay.

Administrative Manager Miller reported it will take 4 to 5 years before the Caulerpa is deemed eradicated by the regulatory agencies. He advised swim buoys will cordon off the area to keep the public from disturbing the eradication process. He advised the harbor is on high alert and this will affect future dredge applications. He noted residents will need to complete a dive to look for Caulerpa to certify it is not there before they can dredge.

In response to Ms. Skinner's inquiry, Administrative Manager Miller advised this is a new eradication process. He noted the previous process covered the area with tarps to prohibit growth and injected chlorine in the area to kill the Caulerpa. He advised the City chose not to use the previous method since this is a high-swell area of China Cove and located directly next to the Federal navigation channel.

In response to Committee Member Fancher's inquiry, Administrative Manager Miller advised the City is looking for 100% containment. He advised it will be very precise with biologists in the water and will be very methodical.

In response to Ms. Gardner's inquiry, Administrative Manager Miller reported eelgrass will be removed as part of the process. He advised eradication operations will probably only impact half of China Cove Beach near the volleyball courts and does not believe there will be a huge impact to beachgoers.

In response to Ms. Skinner's inquiries, Administrative Manager Miller explained they originally intended to bury the sand but were reminded there are underground utilities underneath the beach. He advised the material will be stockpiled at the Public Works yard during the eradication operation to dry out and will be repurposed as necessary. He reported the depth of the algae is 7 to 10 feet below sea level and the Federal navigation channel is at approximately 18 feet below sea level.

Committee Member Belden encouraged completing the eradication during outgoing tides. Administrative Manager Miller explained the City is trapped in that they do not want it in the Harbor but also do not want it in the Areas of Special Biological Significance (ASBS) zones.

In response to Committee Member Belden's inquiries, Administrative Manager Miller advised Caulerpa is a fast-growing plant, and it needs to be eradicated as quickly as possible. He noted he is also confident the water output pipe will not contain the algae.

In response to Ms. Skinner's inquiries, Administrative Manager Miller reported dredging of the harbor is still in the permitting phase and noted an Environmental Impact Review was recently submitted to the regulatory agencies.

There was no further action taken on this item.

## 6) On-Going Business (5 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**

Senior Engineer Kappeler provided a brief overview of the testing results. He reported 35 locations are sampled in and around the bay weekly according to State standards. He advised if bacteria levels exceed the State standards it is tested the next day. He advised Newport Boulevard Bridge across from the old Arches is the location of 2 storm drains and has failed State water quality standards daily. He reported the City spent \$1 million to divert the two storm drains and is working with Orange County Health Environmental Health Services to review the data. He advised the area near the power plant and Magnolia regularly show poor water quality but noted it correlates with the high tide.

Committee Member Belden remarked it was odd that it was not reflected at Orange Street. Senior Engineer Kappeler explained it is usually around the power plant.

In response to John Wadsworth's inquiry, Senior Engineer Kappeler explained the water upstream in the Santa Ana river is diverted in the summer and is monitored by Orange County Public Health and Santa Ana Watershed Project Authority (SAWPA). Mr. Wadsworth reported the Surfrider Foundation cleans the river approximately 5 miles upstream and noted that flow makes it to the ocean.

In response to Committee Member Louis Denger's inquiries, Senior Engineer Kappeler explained Big Canyon Creek is close to BackBay Drive and the BackBay Drive Drain is near BackBay Drive and the Hyatt. He noted the BackBay Drive Drain is also diverted.

In response to Committee Member Denger's inquiry, Senior Engineer Kappeler explained the counts were high on May 17th due to high tide. He further explained freshwater has different testing standards which is why it is not reflected as purple in the report. He further explained the test water for salt water and fresh water does not correlate.

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)

- (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)

Vice Chair Blom requested placing tide walls and impending refuse changes as items on a future agenda.

Senior Engineer Kappeler requested the Committee review the potential dates that were assigned to the list.

Committee Member Houston suggested the Trash Interceptor Public Outreach Plan include residents submitting requests for its renaming. Senior Engineer Kappeler advised Baltimore conducted a campaign for renaming its Trash Interceptor. He further explained funding for the project has been identified, project design is 75% complete, and applications for permits will be submitted this summer. He noted outreach will include marketing for the Trash Interceptor and can include a naming campaign.

Committee Member Houston commended staff for getting the project funded and underway. Senior Engineer Kappeler reported the Ocean Protection Council grant-funded 100% with no City match required.

Committee Member Fancher requested to bring back the disposal service ware item for discussion and possible action.

## **8) Public Comments on Non-Agenda Items (10 min)**

Committee Member Belden requested investigating a wintertime rain event rapid testing program. Senior Engineer Kappeler reported that there was a pilot rapid testing program in the past where approximately 6 sites were sampled. He noted the State statute requires a 72-hour warning, but it can be changed. He explained the problem is the logistics in obtaining samples, getting them to the lab, and obtaining the results. He noted the results can be obtained within an hour. Committee Member Belden expressed strong interest in taking the lead on restarting the program. Vice Chair Blom requested more information be presented on what was learned during the previous pilot program.

In response to Committee Member Denger's inquiries, Senior Engineer Kappeler confirmed rapid testing is not an approved method and noted a certified lab must do the testing. He also advised approved rapid testing is currently under development. Committee Member Houston recommended discussing a surf waiver as part of a private sector rapid testing program.

Vice Chair Blom opened public comments.

Mr. Wadsworth expressed disappointment that the Disposal Food Ware ordinance has stalled and advised the Surfrider Foundation collects 7,000 pounds of trash off the beach every year. He reported they have a new program called Ocean Friendly Restaurants (OFR) which is designed to stop pollution at the restaurant level through awareness, behavior change, and alternatives. He requested making a quick presentation regarding the program and possibly partnering with the City on an awareness campaign. He advised more information could be found at <https://www.surfrider.org/programs/ocean-friendly-restaurants>.

Vice Chair Blom expressed support of exploring the OFR program and noted it is aligned with Committee Member Fancher request to bring back the disposal service ware discussion. Committee Member Belden remarked it would be beneficial to obtain the perspective of the restaurants. Mr. Wadsworth explained OFR is a voluntary program and provides a database of cost-effective alternatives for restaurants.

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

Recommendation: September 2, 2021

Committee Member Fancher requested to have an informal meeting in August. Vice Chair Blom expressed concern and noted that may bring forward Brown Act violations.

Vice Chair Blom set the next meeting for September 9, 2021.

**10) Adjournment**

The meeting was adjourned at 4:37 p.m.

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Chair / Duffy Duffield