
CITY OF NEWPORT BEACH CITY COUNCIL AGENDA

**REGULAR CITY COUNCIL MEETING
TUESDAY, OCTOBER 22, 2013
CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE
CLOSED SESSION - 5:30 P.M.
REGULAR MEETING - 7:00 P.M.**

**KEITH D. CURRY
Mayor**

**RUSH N. HILL, II
Mayor Pro Tem**

**MICHAEL F. HENN
Council Member**

**TONY PETROS
Council Member**

**LESLIE DAIGLE
Council Member**

**EDWARD D. SELICH
Council Member**

**NANCY GARDNER
Council Member**

**DAVE KIFF - City Manager
AARON HARP - City Attorney
LEILANI BROWN - City Clerk
STEVE BADUM - Assistant City Manager
TERRI CASSIDY - Deputy City Manager/Human Resource Director
DAVE WEBB - Public Works Director**

NOTICE TO THE PUBLIC

The City provides a yellow sign-in card for those wishing to address the Council to assist in the preparation of the minutes. The cards are available in the lobby of the Council Chambers. Speakers are not required to submit a card as a condition to addressing the Council. If you do fill out the card, please place it in the box at the podium.

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.

This agenda was prepared by the City Clerk and staff reports are available at the City Clerk's Office located at 100 Civic Center Drive, Bay E, 2nd Floor. Staff reports or other written documentation have been prepared or organized with respect to each item of business listed on the agenda. Regular meetings of the City Council are held on the second and fourth Tuesdays of each month at 7:00 p.m., except in the months of August and December when there will be at least one regular meeting in August and one regular meeting in December. 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. The agendas, minutes and staff reports are also available on the City's website: <http://www.newportbeachca.gov/CouncilAgendas>.

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 Leilani Brown, City Clerk, 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).

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.

**NEWPORT BEACH CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
OCTOBER 22, 2013
CLOSED SESSION - 5:30 P.M.
REGULAR MEETING - 7:00 P.M.**

I. STUDY SESSION – Cancelled

II. ROLL CALL – 5:30 p.m.

III. PUBLIC COMMENTS REGARDING CLOSED SESSION

The City Council will meet in Closed Session to discuss the agenda items and issues listed in Item IV (Closed Session). Prior to entering Closed Session, the City Council welcomes public comments on these items and issues. Public comments are generally limited to three (3) minutes per person for all closed session agenda items.

IV. CLOSED SESSION – 5:30 p.m.

A. CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6):

Heading Agency Designated Representatives: Dave Kiff, City Manager and Terri Cassidy, Deputy City Manager; Negotiators

Employee Organizations: All Labor Associations: Association of Newport Beach Ocean Lifeguards (ANBOL); Newport Beach City Employees Association (NBCEA); Newport Beach Employees League (NBEL); Newport Beach Firefighters Association (NBFA); Newport Beach Fire Management Association (NBFMA); Lifeguard Management Association (NBLMA); Newport Beach Police Association (NBPA); Newport Beach Police Management Association (NBPMA); Newport Beach Professional and Technical Association (NBPTEA); and Part-Time Employees Association of Newport Beach (PTEANB).

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code § 54957):

Title: Aaron C. Harp, City Attorney

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code § 54956.9(d)(2) and § 54956.9(e)(1)): 1 matter

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code § 54956.8): 1 matter

Property: 500 32nd Street

Agency negotiator: Dave Kiff, City Manager

Negotiating parties: Steve Mills, Real Estate Manager Partner, DART Development Group

Under negotiation: Instruction to Agency negotiator on price and terms of payment.

Testimony given before the City Council is recorded.

The timing light will turn yellow when the speaker has one minute left.
The timing light will turn red when the speaker has 10 seconds left.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection in the Office of the City Clerk located at 100 Civic Center Drive, Bay E, 2nd Floor, during normal business hours. In addition, such writings and documents will be posted on the City's website at www.newportbeachca.gov.

- V. **RECESS**
- VI. **RECONVENE AT 7:00 P.M. FOR REGULAR MEETING**
- VII. **ROLL CALL**
- VIII. **CLOSED SESSION REPORT**
- IX. **PLEDGE OF ALLEGIANCE**

X. **INVOCATION** - Pastor Don McClure

XI. **PRESENTATIONS**

Proclamation Designating November as *Pancreatic Cancer Awareness Month*

Southern California Edison Energy Leader Partnership Silver Plaque Presentation to the City of Newport Beach

XII. **NOTICE TO THE PUBLIC**

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The City Council of Newport Beach welcomes and encourages community participation. Public comments are generally limited to three (3) minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items. As a courtesy, please turn cell phones off or set them in the silent mode.

XIII. **CITY COUNCIL ANNOUNCEMENTS OR MATTERS WHICH COUNCIL MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)**

XIV. **PUBLIC COMMENTS ON CONSENT CALENDAR**

*Public comments are invited on **CONSENT CALENDAR (Items 1 - 15)**. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record. To the extent that 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. The City Council has 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**

A. **READING OF MINUTES AND ORDINANCES**

1. **MINUTES FOR THE OCTOBER 8, 2013 STUDY SESSION AND REGULAR MEETING.** Waive reading of subject minutes, approve as written, and order filed.
2. **READING OF ORDINANCES.** Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

B. RESOLUTION FOR ADOPTION

3. **RESOLUTION OF INTENTION TO ESTABLISH A PENALTY AMNESTY PROGRAM TO FORGIVE BUSINESSES THAT PAY CERTAIN DELINQUENT ASSESSMENTS FOR THE CORONA DEL MAR BUSINESS IMPROVEMENT DISTRICT FROM LIABILITY FOR PENALTIES.** a) Adopt Resolution 2013 -71, *A Resolution of the City Council of the City of Newport Beach Declaring its Intention to Establish a Penalty Amnesty Program to Forgive Businesses that Pay Certain Delinquent Assessments for the Corona del Mar Business Improvement District from Liability for Penalties*; and b) set the public hearing date for November 12, 2013.

C. CONTRACTS AND AGREEMENTS

4. **MARINA PARK PROJECT – SITE DEMOLITION AND TREE RELOCATION (BID PACKAGE 1) – AWARD OF CONTRACT NO. 3897(A).** a) Approve the project drawings and specifications; b) award Contract No. 3897(A) (Marina Park Project – Demolition and Tree Relocation) to Unlimited Environmental, Inc. of Signal Hill, California, for the total bid price of \$405,130.00 and authorize the Mayor and City Clerk to execute the contract; and c) establish a contingency of \$60,370.00 (15%) to cover the cost of unforeseen work.
5. **PROFESSIONAL SERVICES AGREEMENT WITH GMU GEOTECHNICAL, INC. FOR MARINA PARK SPECIALTY INSPECTION AND MATERIAL TESTING SERVICES.** Approve a Professional Services Agreement with GMU Geotechnical, Inc. of Rancho Santa Margarita, California, for the specialty inspection and material testing services needed for the Marina Park Project at a cost not to exceed \$186,511.00, and authorize the Mayor and City Clerk to execute the Agreement.
6. **INFORMATION TECHNOLOGY CONSULTING SERVICES WITH SYNOPTEK, INC. – AMENDMENT NO. ONE.** Authorize the Mayor to approve and sign the retroactive amendment of the contract.
7. **APPROVAL OF A NEW LEASE FOR THE BALBOA BAY RESORT.** Authorize the Mayor to sign the new lease for the Balboa Bay Resort, and find that the base rent, percentage rent, and extension rent are reflective of fair market value, as required by the Newport Beach Municipal Code, City Council Policy F-7, and the Beacon Bay Bill, as amended.
8. **PROFESSIONAL SERVICES AGREEMENT WITH AMEC FOR PREPARATION OF FACILITIES MANAGEMENT AND MASTER PLAN SERVICES.** a) Approve a Professional Services Agreement with AMEC for Facilities Management and Master Plan Services not to exceed \$133,480.00, and authorize the Mayor and City Clerk to execute the Agreement; and b) authorize the City Manager to execute any agreements necessary to implement the Professional Services Agreement.

D. MISCELLANEOUS

9. **PLANNING COMMISSION AGENDA FOR OCTOBER 17, 2013.** Receive and file.
10. **WOODY’S WHARF USE PERMIT APPEAL – 2318 NEWPORT BOULEVARD – USE PERMIT NO. UP2011-010 – VARIANCE NO. VA2013-006 (PA2011-055).** Continue the item to November 12, 2013, to allow additional time to finalize the draft resolution per the Council’s discussion and direction provided on October 8, 2013.

11. **APPROVE HARBOR COMMISSION OBJECTIVES FOR FY 2013-14.** Approve the Harbor Commission's FY 2013-14 Objectives.
12. **CODE AMENDMENT INITIATION FOR PROPERTIES LOCATED AT 2022, 2026, 2032, 2034, 2038 AND 2042 MIRAMAR DRIVE (PA2013-211).** Initiate an amendment to Setback Map No. S-2G of the Zoning Code changing the required rear alley setback from 6 feet to zero feet, consistent with the standard rear alley setback for other properties in the City when located adjacent to a 20-foot-wide alley.
13. **CITY HALL AND LIMITED OFF-SITE HOLIDAY CLOSURE (BEGINNING AT NOON ON DECEMBER 24, 2013, THROUGH JANUARY 1, 2014).** Approve closing City Hall and provide limited City services at off-site facilities beginning at noon on Tuesday, December 24, 2013, through and including New Year's Day, January 1, 2014, resuming normal services Thursday, January 2, 2014. The proposed City Hall closure does not apply to public safety or other essential functions that provide necessary operational services.
14. **ACCEPTANCE OF FUNDS FROM THE CALIFORNIA BOARD OF STATE AND COMMUNITY CORRECTIONS.** a) Approve Budget Amendment No. 14BA-017 to accept \$47,042.65 from the California Board of State and Community Corrections (BSCC) and deposit into Revenue Account No. 1820-486F for the Police Department; and b) appropriate \$20,000.00 to the Advertising Account No. 1810-8010 and appropriate the remaining \$27,042.65 to the Patrol Overtime, Safety Account No. 1830-7041.
15. **DIRECTION TO STAFF ON ONE ISSUE.** Direct the City staff to return with a staff report about a process to follow to open portions or all of the Lower Castaways park site for public recreational use as a longer-term plan is being developed.

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. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

XIX. PUBLIC HEARINGS

16. **APPROVAL OF MASTER FEE SCHEDULE (COST OF SERVICES PORTION) AND CHANGE IN SUBSIDIES .** a) Conduct a public hearing; b) adopt Resolution No. 2013-72, *A Resolution of the City Council of the City of Newport Beach Amending the City's Master Schedule of Fees to be Charged for User Services*, approving the cost-of-services fees (highlighted within the Master Fee Schedule), as recommended by staff; c) introduce Ordinance No. 2013-18, *An Ordinance of the City Council of the City of Newport Beach Amending Section 3.36.030 of the Newport Beach Municipal Code*, and pass to second reading on November 12, 2013; and d) introduce Ordinance No. 2013-19, *An Ordinance of the City Council of the City of Newport Beach Amending Newport Beach Municipal Code Sections 5.04.210 and 12.68.040* to refer to the appropriate fees, and pass to second reading on November 12, 2013.

17. **CODE AMENDMENT NO. CA2013-005 FOR THE RESIDENTIAL EQUESTRIAN DISTRICT OF THE SANTA ANA HEIGHTS SPECIFIC PLAN (PA2013-114).** a) Conduct a public hearing; and b) introduce Ordinance No. 2013-21, *An Ordinance of the City Council of the City of Newport Beach Adopting Zoning Code Amendment No. CA2013-005 Amending Section 20.90.60 (Residential Equestrian District: SP-7 (REQ)) Removing Annual Use Permits for the Keeping of Three to Six Horses in the REQ (Residential Equestrian) District of the SP-7 (Santa Ana Heights Specific Plan) Zoning District (PA2013-114)*, 1) finding that this Code Amendment is not subject to 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, and 2) approving Code Amendment No. CA2013-005; and pass to second reading on November 12, 2013.
18. **ANNUAL REVIEW OF ZONING IMPLEMENTATION AND PUBLIC BENEFIT AGREEMENT FOR SOBER LIVING BY THE SEA, INC. (PA2010-150) - 505 29TH STREET, 126 44TH STREET UNITS A AND B (CLOSED), 5004 NEPTUNE AVENUE UNITS A AND B, 5101 RIVER AVENUE UNIT B, 3980 SEASHORE DRIVE (CLOSED), 4711 AND 4711½ SEASHORE DRIVE, 4800 SEASHORE DRIVE UNITS A AND B, 6111 SEASHORE DRIVE, 6110 W. OCEAN FRONT, 4138 PATRICE ROAD, 2809 VILLA WAY, AND 2800 LAFAYETTE AVENUE.** a) Conduct a public hearing; b) find this review exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this review enforces an entitlement for use adopted by the City and has no potential to have a significant effect on the environment; c) find that Sober Living by the Sea has demonstrated good faith compliance with the terms of the Zoning Implementation and Benefit Agreement; and d) receive and file documents submitted by Sober Living by the Sea to demonstrate good faith compliance with the terms of the Zoning Implementation and Public Benefit Agreement.

XX. CURRENT BUSINESS

19. **PARKING RESTRICTIONS - CORONA DEL MAR HIGH SCHOOL AREA.** a) Adopt Resolution No. 2013-73, *A Resolution of the City Council of the City of Newport Beach Limiting the Parking of Vehicles on Streets on Aralia Street, Domingo Drive, and Amigos Way*, establishing a One-Hour Parking Time Limit between 7:00 a.m. and 4:00 p.m. on School Days on Aralia Street between Aleppo Street and Alta Vista Drive; on Amigos Way; and on the south side of Domingo Drive; **OR** b) adopt Resolution No. 2013-73, *A Resolution of the City Council of the City of Newport Beach Limiting the Parking of Vehicles on Streets on Aralia Street, Domingo Drive, and Amigos Way*, and introduce Ordinance No. 2013-20, *An Ordinance of the City Council of the City of Newport Beach Amending Section 12.68.060 of the Newport Beach Municipal Code to Establish a Residential Parking Permit Program for Aralia Street, Domingo Drive, and Amigos Way*, establishing a Preferential Parking Zone for a One-Hour Parking Time Limit, 7:00 am – 4:00 pm on School Days, except by permit; for parking on Aralia Street between Aleppo Street and Alta Vista Drive; on Amigos Way; and on the south side of Domingo Drive, and pass to second reading on November 12, 2013; **OR** c) provide staff with alternative direction regarding this issue.

XXI. MOTIONS 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.

XXII. ADJOURNMENT