



**CITY OF NEWPORT BEACH  
CITY COUNCIL AGENDA**

**STUDY SESSION  
AND  
REGULAR MEETING**

**MARCH 8, 2016**

**CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH  
STUDY SESSION - 4:00 P.M./CLOSED SESSION - AFTER STUDY SESSION/  
REGULAR MEETING - 7:00 P.M.**

**DIANE B. DIXON, Mayor  
KEVIN MULDOON, Mayor Pro Tem  
KEITH D. CURRY, Council Member  
DUFFY DUFFIELD, Council Member  
EDWARD D. SELICH, Council Member  
SCOTT PEOTTER, Council Member  
TONY PETROS, Council Member**

**DAVE KIFF - City Manager  
AARON HARP - City Attorney  
LEILANI BROWN - City Clerk  
CAROL JACOBS - Assistant City Manager**

**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.

**NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT**

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the City Clerk 24 hours prior to the scheduled City Council meeting.

**PUBLIC HEARINGS**

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

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, 2<sup>nd</sup> Floor. Staff reports or other written documentation have been prepared or organized with respect to each item of business listed on the agenda. Study Sessions are usually held on the second and fourth Tuesdays of each month at 4:00 pm (subject to change). 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](mailto:cityclerk@newportbeachca.gov)).

**NEWPORT BEACH CITY COUNCIL AGENDA**  
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**MARCH 8, 2016**  
**STUDY SESSION - 4:00 P.M./CLOSED SESSION - AFTER STUDY SESSION/  
REGULAR MEETING - 7:00 PM**

**I. ROLL CALL - 4:00 p.m.**

**II. CURRENT BUSINESS**

**SS1. Clarification of Items on the Consent Calendar (4:00 p.m.)**

**SS2. Encroachments along the Oceanfront (4:05 p.m.)**

There are multiple properties at Balboa Peninsula Point near The Wedge that, to some extent, can encroach onto the public beach as well as to a 15' wide City right-of-way. Several property owners received Notices of Violation from the Coastal Commission in 2013, and the City has been working with Coastal Commission staff, as well as residents, to try to resolve the matter. Staff will ask the City Council for its thoughts on these encroachments.

**SS3. CIP Early Look (4:50 p.m.)**

Every year, the Public Works Department summarizes what will be submitted to the Council in the upcoming budget for large capital projects. The "Capital Improvement Program" (CIP) is the document that the Council eventually adopts that tells what will be constructed, designed, or planned across the community. This "Early Look" allows the City Council and public to comment on the draft CIP well before it is submitted later in the spring.

**III. PUBLIC COMMENTS**

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*The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on items listed on the agenda and non-agenda items. Speakers must limit comments 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.*

**IV. CLOSED SESSION - After Study Session - Council Chambers Conference Room**

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**(Government Code § 54956.8): 1 matter**

**Property Address:** Balboa Theater, 707-709 East Balboa Boulevard, Newport Beach, CA 92661

**Agency Negotiator:** Dave Kiff, City Manager and Lauren Wooding, Real Property Administrator

**Negotiating Parties:** (1) The Cortland Company  
Brian Hopkins, President  
3500 East Coast Highway  
Corona del Mar, CA  
(2) Lab Holding, LLC  
Chris Bennett  
709 Randolph Avenue  
Costa Mesa, CA

- (3) 801 Balboa LLC  
Camille Rizko, Manager  
224 Via Eboli  
Newport Beach, CA
- (4) Save Newport  
Mike Glenn  
Michael.Glenn@devion.com

**Under Negotiation:** Price and terms of payment.

- 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**
- XI. **NOTICE TO THE PUBLIC**

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- XII. **CITY COUNCIL ANNOUNCEMENTS (NON-DISCUSSION ITEM)**
- XIII. **PUBLIC COMMENTS ON CONSENT CALENDAR**

*This is the time in which Council Members may pull items from the **CONSENT CALENDAR** for discussion (**ITEMS 1 - 9**). Public comments are invited on Consent Calendar from members of the audience. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Council Member, members of the public are invited to speak on each item for up to three (3) minutes per item.*

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

**XIV. CONSENT CALENDAR**

**READING OF MINUTES AND ORDINANCES**

**1. Minutes for the February 23, 2016 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.

**ORDINANCE FOR ADOPTION**

**3. Second Reading of Ordinance No. 2016-4 Relating to Special Events**

Conduct second reading and adopt Ordinance No. 2016-4, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Subsection 11.03.020(C) Relating to Special Event Permits.*

**RESOLUTIONS FOR ADOPTION**

**4. Accept the 2015 UASI Transfer Agreement**

- a) Adopt Resolution No. 2016-37, *A Resolution of the City Council of the City of Newport Beach, California, Approving the Transfer Agreement for Fiscal Year 2015 Urban Area Security Initiative Grant Program Purposes between the City of Newport Beach and City of Anaheim, approving the Agreement for Transfer or Purchase of Equipment/Services or for Reimbursement of Training Costs for FY 2015 Urban Areas Security Initiative ("Transfer Agreement"), and authorizing the City Manager and the Police Chief to act as the "Authorized Agents" to execute for, and on behalf of, the City any actions necessary to implement the Transfer Agreement and obtain federal financial assistance provided by the Federal Department of Homeland Security (DHS) and sub-granted through the California Office of Emergency Services (Cal OES); Grant Fund Training Allocation in the amount of \$3,409 to be utilized for reimbursement of training costs associated with approved DHS courses for emergency response personnel. The City of Anaheim UASI has designated \$3,409 to reimburse the City's approved UASI training instructors to conduct regional training;*
- b) Accept the FY 2015 UASI Grant Fund Training Allocation in the amount of \$3,409 to be utilized for reimbursement of training costs associated with approved DHS courses for emergency response personnel. The City of Anaheim UASI has designated \$3,409 to reimburse the City's approved UASI training instructors to conduct regional training; and
- c) Approve Budget Amendment No. 16BA-035 to accept UASI grant funds, increase revenue estimates by \$3,409 in account 01035352-431471-G1503, and increase expenditure appropriations by \$3,409 in account 01035354-713002-G1503.

**5. Adopt Resolution for Inclusion of Properties within the City's Jurisdiction in the California Municipal Finance Authority, Property Assessed Clean Energy Program**

- a) Find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines; and
- b) Adopt Resolution No. 2016-38, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the City's Consent to the Inclusion of Properties within the City's Jurisdiction in the CMFA PACE Program; Authorizing the California Municipal Finance Authority to Accept Applications from Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments within the City.*

**CONTRACTS AND AGREEMENTS**

**6. Tidegate Improvement Project - Award of Contract No. 6270 (Project No. 15H19)**

- a) Approve the project plans and specifications;
- b) Award Contract No. 6270 to Paulus Engineering, Inc. (Paulus) for the total base bid amount of \$168,710.00, and authorize the Mayor and City Clerk to execute the associated construction contract; and
- c) Include in the project construction contract encumbrance an additional contract contingency allocation of \$17,290.00, (approximately 11 percent of the total bid) to cover unforeseen conditions, extra work and/or material quantities.

**7. Request to Install Private Improvements within a Proposed New Sewer Easement at 1011 Kings Road**

- a) Find the easement realignment and replacement sewer construction exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3;
- b) Direct owner to realign the existing City sewer main as proposed to accommodate their proposed redevelopment of the property and to provide a new applicable sewer easement. Direct staff to process and record the new sewer easement. Authorize the City Manager and City Clerk to execute the acceptance of the new easement;
- c) Waive City Council Policy L-6, *Private Encroachments in the Public Rights-of-Way*, to allow the installation of stairs, handrails, pre-cast concrete stepping pads, low retaining wall, curbs, balcony with handrails and shade structure on or over a proposed new sewer easement, contingent upon all conditions of the Encroachment Permit process being met;
- d) Direct staff to enter into an Encroachment Agreement with Owners, and authorize the City Manager and City Clerk to execute the Encroachment Agreement within one calendar year upon receipt of approval; and
- e) Direct owner to provide a new 15-foot-wide sewer easement located along the southerly property line for future sewer purposes. Direct staff to process the new sewer easement, and authorize the City Manager and City Clerk to execute the acceptance of easement.

**8. Purchase of Lifeguard Rescue Vessel**

- a) Approve the purchase of one 29' Crystaliner Rescue Vessel from Willard Marine Inc. of Anaheim, California, for a total cost of \$394,710, and
- b) Approve and authorize the Mayor and City Clerk to sign the Purchase Agreement with Willard Marine, Inc.

**MISCELLANEOUS**

**9. Planning Commission Agenda for the March 3, 2016 Meeting**

Receive and file.

***ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED***

**XV. ITEMS REMOVED FROM THE CONSENT CALENDAR**

**XVI. 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.*

**XVII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES**

**XVIII. CURRENT BUSINESS**

**10. Agreement with Orange County Striping Services, Inc. for Striping & Sign Installation Services**

Approve the agreement with Orange County Striping Services, Inc. for a term of five years for a not to exceed amount of \$800,000, and authorize the Mayor and City Clerk to execute the agreement.

**11. Approve an Exclusive Negotiating Agreement between the City of Newport Beach and James Ulcickas and Richard Staunton of Bluewater Grill Restaurant, for Preliminary Design and Lease Negotiations for a New Restaurant at the End of the Newport Pier**

- a) Find the execution of the Exclusive Negotiating Agreement is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines; and
- b) Approve and authorize the Mayor and City Clerk to execute a one-year exclusive negotiating agreement with James Ulcickas and Richard Staunton, in substantially the same form as the attachment to the staff report.

**12. Beach Fire Rings: Repeal of 2013's Amendments to Rule 444 (Open Burning)**

Authorize the Mayor to send a letter to the South Coast AQMD Governing Board asking for a repeal of 2013's amendments to Rule 444 (Open Burning) relating to beach fire rings.

**XIX. MOTION FOR RECONSIDERATION**

*A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Council Members who voted with the prevailing side.*

**XX. ADJOURNMENT**

Testimony given before the City Council is recorded.  
The 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.

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.