



# NEWPORT BEACH

## City Council Staff Report

Agenda Item No. 20  
July 10, 2012

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** City Manager's Office  
Dave Kiff, City Manager  
949-644-3002, dkiff@newportbeachca.gov

**PREPARED BY:** Rob Houston, Assistant to the City Manager

**APPROVED:** 

**TITLE:** 2012 Charter Update Committee Report

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### **ABSTRACT:**

The City Council formed a Charter Update Committee ("Committee") comprised of seven residents to review selected provisions from the City's Charter for possible amendment. The Committee completed its work on June 28, 2012 and submits the attached report to the City Council for its review.

### **RECOMMENDATION:**

Receive and review the attached 2012 Committee report, accept, reject, or amend the proposed recommendations, and determine if a Charter amendment measure(s) should be placed on the November 2012 ballot.

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

The Committee was established by Resolution No. 2012-32 of the Newport Beach City Council on May 8, 2012. After an application process, the City Council appointed seven citizens to the Committee on May 22, 2012. The Committee was tasked with reviewing selected sections of the Charter and making recommendations for changes. The sections reviewed include those which could be modernized to reflect modern-day practices and improve the efficiency of the City and sections that could benefit from possible update for policy reasons.

The Committee convened its first meeting on May 24, 2012 and met five more times at various locations around town (Library, City Hall, OASIS) during May and June, 2012.

Mayor Gardner and/or Council Member Rosansky attended each meeting. The Committee took public comments on the suggested changes multiple times during each meeting – typically at the start of each meeting, at appropriate junctures prior to changes being recommended for adoption, and again at the end of the meetings. The Committee held its final meeting on June 28, 2012.

The Committee considered a total of 43 Charter sections. Of these, the Committee recommends that five be left unchanged, 31 be amended, and seven be repealed.

**ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action 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.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

Submitted by:



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Rob Houston  
Assistant to the City Manager

Attachments: A. Charter Update Committee Report



**CITY OF NEWPORT BEACH**  
**2012 CHARTER UPDATE COMMITTEE**

**Report to the City Council**

Paul Watkins, Chairperson  
David Bahnsen  
Paul Glowienke  
Jeff Herdman  
Suzanne Savary  
Joseph Stapleton  
Dan Wampole

*Non-Voting Council Liaisons*  
Council Member Steven Rosansky  
Mayor Nancy Gardner (Alternate)

**Committee Meeting – June 28, 2012**

## Report

This Report transmits recommendations from the Charter Update Committee to the Newport Beach City Council for updating the City's Charter. These recommendations are being provided to assist the City Council in determining whether measures to update and modernize the City Charter should be placed on the ballot for the upcoming November 6, 2012 general municipal election.

The Charter Update Committee ("Committee") was established by Resolution No. 2012-32 of the Newport Beach City Council on May 8, 2012. After an application process, the Newport Beach City Council appointed seven citizens to the Committee on May 22, 2012. The Committee was tasked with reviewing sections of the Charter and making recommendations for changes. The sections reviewed include those which could be modernized to reflect modern-day practices and improve the efficiency of the City and sections that could benefit from possible update for policy reasons.

The Charter Update Committee convened its first meeting on May 24, 2012 and continued to meet each week through the months of May and June, 2012. The Committee held its final meeting on June 28, 2012.

The Committee considered a total of 43 Charter sections. Of these, the Committee recommends that 5 be left unchanged, 31 be amended, and 7 be repealed.

The attached "Summary of Charter Update Committee Actions" and the attached redlined version of all 43 Charter sections considered by the Committee reflects those sections which were recommended by the Committee to remain unchanged, those which were recommended by the Committee to be amended, and those which were recommended by the Committee to be repealed.

We wish to specially call to the Council's attention Section 708 (Board of Library Trustees. Power and Duties.). The Committee and the public discussed at length proposed revisions to Section 708 before approving (by a 6-1 vote) the compromise provision reflected in the attached redlined version for Section 708. The central issue to the lengthy discussion was the extent of or limitations on the City Manager's responsibilities with regard to the appointment, suspension, or removal of the Library Services Director.

The Committee wishes to acknowledge the City staff as an invaluable resource to the Committee. Without exception, the staff was well organized, well prepared, and responsive to requests from the Committee and cordial to work with. The Committee expresses its deep gratitude to the staff for a job well done.

Finally, the Committee wishes to thank the Council for the opportunity to be of service to the City.

## SUMMARY OF CHARTER UPDATE COMMITTEE ACTIONS

CHARTER SECTIONS		ACTION
<b>Article I. Incorporation and Succession</b>		
1	Section 103 (Continuance of Present Officers and Employees.)	Repealed
2	Section 105 (Pending Action and Proceedings.)	Repealed
3	Section 106 (Effective Date of this Charter.)	Amended
<b>Article II. Powers of City</b>		
4	Section 200 (Powers.)	Amended
<b>Article IV. City Council</b>		
5	Section 402 A (Compensation.)	Re-number and Amended
6	Section 402 B (Reimbursement for Expenses.)	Incorporated into Section 402 and Repealed
7	Section 404 (The Mayor. Mayor Pro Tempore.)	Amended
8	Section 407 (Regular Meetings.)	Amended
9	Section 408 (Special Meetings.)	Amended
10	Section 409 (Place of Meetings.)	Amended
11	Section 410 (Quorum. Proceedings.)	Amended
12	Section 412 (Adoption of Ordinances and Resolutions.)	Amended
13	Section 418 (Ordinances. Amendment.)	Amended
14	Section 421 (Contracts. Execution.)	Amended
15	Section 425 (City Hall.)	Amended

<b>Article V. City Manager</b>		
16	Section 503 (Compensation and Bond.)	Amended
17	Section 504 (Powers and Duties.)	Amended
18	Section 505 (Meetings.)	Amended
19	Section 507 (Manager Pro Tempore.)	Amended
<b>Article VI. Officers and Employees</b>		
20	Section 602 (City Attorney. Powers and Duties.)	Amended
21	Section 603 (City Clerk. Powers and Duties.)	Unchanged
22	Section 605 (Director of Finance.)	Unchanged
23	Section 608 (Illegal Contracts. Financial Interest.)	Amended
24	Section 609 (Acceptance of Other Office.)	Amended
25	Section 611 (Official Bonds.)	Unchanged
<b>Article VI. Officers and Employees</b>		
26	Section 700 (In General.)	Amended
27	Section 702 (Appointment. Terms.)	Amended
28	Section 703 (Existing Boards.)	Repealed
29	Section 704 (Meetings. Chairperson.)	Amended
30	Section 705 (Compensation. Vacancies.)	Amended
31	Section 707 (Planning Commission. Powers and Duties.)	Amended
32	Section 708 (Board of Library Trustees. Powers and Duties.)	Amended
33	Section 709 (Parks, Beaches and Recreation Commission. Powers and Duties.)	Amended
34	Section 710 (Civil Service Board.)	Amended

<b>Article VIII. Civil Service System</b>		
35	Section 801 (Positions Included in the System.)	Unchanged
<b>Article XI. Fiscal Administration</b>		
36	Section 1101 (Annual Budget. Preparation by the City Manager.)	Amended
37	Section 1106 (Centralized Purchasing.)	Unchanged
38	Section 1114 (Claims and Demands.)	Amended
39	Section 1115 (Registering Demands.)	Repealed
40	Section 1116 (Independent Audit and Financial Statement.)	Amended
<b>Article XII. Board of Education</b>		
41	Section 1200 (State Law Governs.)	Repealed
42	Section 1201 (Effect of Charter.)	Repealed
<b>Article XIV. Miscellaneous</b>		
43	Section 1400 (Definitions.)	Amended



## CHARTER OF THE CITY OF NEWPORT BEACH

### Article I - Incorporation and Succession

#### **Section 103 ~~Reserved~~Continuance of Present Officers and Employees.**

~~The present officers and employees shall continue without interruption to perform the duties of their respective offices and employments upon the same conditions and for the compensation provided by the existing ordinances, resolutions, rules or laws, until the election, or appointment, and qualification of their successors under this Charter and subject to such removal and control as is provided in this Charter. The terms of office of elective officers whose offices are made appointive under this Charter shall expire upon the appointment of their successors, respectively.~~

#### **Section 105 ~~Reserved~~Pending Action and Proceedings.**

~~No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained, but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any officer, office, department or~~

~~be continued notwithstanding that functions, powers and duties of any officer, office, department or agency party thereto, by or under this Charter, may be assigned or transferred to another officer, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.~~

**Section 106 Effective Date of this Charter.** This Charter shall take effect upon its approval by the Legislature and any amendment hereto shall be effective when filed pursuant to the California Constitution.

~~This Charter shall take effect upon its approval by the Legislature.~~

### Article II - Powers of City

#### **Section 200 Powers.**

The City shall have the power to make and enforce all laws, rules and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter ~~and or~~ in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges, or procedures, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

## Article IV - City Council

### **Section 402-A. Compensation.**

The members of the City Council shall receive as compensation for their services in the amount of \$ 1,227.35 per month, which amount shall reimburse the City Councilmember for expenditures imposed upon him or her in serving as a City Councilmember. The Mayor shall receive as compensation an additional amount of \$ 513.96 per month to reimburse the Mayor for the additional expenses incurred in serving in that capacity. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. The compensation set forth in this Section shall be adjusted each July 1 in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles-Riverside-Orange County region, or five percent (5%) whichever amount is lesser. Absence of a Councilmember from all regular and special meetings of the Council during any calendar month shall render such Councilmember ineligible to receive compensation for such calendar month.

~~The members of the City Council shall receive no compensation for their services as such. (As amended by amendments effective on April 23, 1958, April 28, 1966, June 6, 1974, and April 8, 1980)~~

### **~~Section 402-B Reimbursement for Expenses.~~**

~~The members of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. In addition, each member shall receive the sum of four hundred forty one dollars and Fifteen Cents (\$441.15) per month, adjusted annually in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, or five percent (5%) whichever amount is lesser, as reimbursement for other expenditures imposed upon him in serving as a City Councilmember. Absence of a Councilmember from all regular and special meetings of the Council during any calendar month shall render such Councilmember ineligible to receive such sum for such calendar month. (As amended by amendments effective April 23, 1958, April 28, 1966, June 6, 1974, April 8, 1980, and December 20, 2010)~~

### **Section 404 The Mayor. Mayor Pro Tempore.**

On the date of any meeting of the City Council at which time the Council receives the certification of the results of any general or special municipal election at which any member of Council is elected, the City Council shall, after swearing and qualifying any newly elected member, elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the city government to the people, and, as occasion requires, the Mayor may inform the people of any change in such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

~~In addition to the payment for expenses as a Council Member under Section 402B, the City Council may provide by resolution for the payment to the Mayor of an allowance of not exceeding Two Hundred Twenty Dollars and Fifty Eight Cents per month, adjusted annually in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Los Angeles, Long Beach, Anaheim Consumer Price Index, or Five Percent (5%) whichever amount is lesser, to reimburse the Mayor for the additional expenses incurred in serving in that capacity.~~

The City Council shall at the same time the Mayor is elected also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. (As amended by amendments effective on April 28, 1966, June 6, 1974, April 8, 1980, and November 6, 1984)

### **Section 407 Regular Meetings.**

The City Council shall hold two meetings per month except in the months of August and December when there shall be at least one regular meeting in August and one regular meeting in December. ~~The City Council shall hold~~ regular meetings ~~at least twice each month~~ at such times as it shall fix by ordinance or resolution. All regular meetings shall be publicly noticed according to the Ralph M. Brown Act, or any successor law. ~~and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meetings shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.~~

### **Section 408 Special Meetings.**

Special meetings may be called at any time by the Mayor, or by four members of the City Council, by written notice delivered personally sent to each member and publicly noticed according to the Ralph M. Brown Act, or any successor law. ~~and to each local newspaper of general circulation and to each radio and television station which has made written request at least twenty-four hours before the time specified for the proposed meeting. A special meeting may also be validly held without the giving of such written notice, if required to be held by this Charter or if all members shall give their consent, in writing, to the holding of such meeting and such consent is on file in the office of the City Clerk at the time of such meeting. A telegraphic communication from a member consenting to the holding of a meeting shall be considered a consent in writing. At any special meeting only such matters may be acted upon as are referred to in such written notice or consent. (As amended effective June 6, 1974)~~

**Section 409 Place of Meetings.**

All regular meetings shall be held in the Council Chambers of the City Hall, however other types of meetings shall be at locations allowed by the Ralph M. Brown Act, or any successor law.~~the Council Chambers of the City Hall, or in such place to which any such meeting may be adjourned, and shall be open to the public.~~ If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he or she should fail to act, by four members of the City Council.

**Section 410 Quorum. Proceedings.**

A majority of the members of the City Council shall constitute a quorum to do business but a less number may adjourn from time to time. In the absence of all the members of the Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the Clerk shall be given by the Clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the City Council, but need not specify the matters to be acted upon. The City Council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

At the demand of any member,~~and upon the adoption of any ordinance, resolution, or order for the payment of money,~~ the City Clerk shall call the roll and shall cause the ayes and ~~noes~~ nays taken on an issue which is the subject of the demand ~~such questions~~ to be entered in the minutes of the meeting.

**Section 412 Adoption of Ordinances and Resolutions.**

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter, ~~nor at any time other than at a regular or adjourned regular meeting.~~ At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of adoption of an ordinance ~~or resolution~~ it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a ~~regular or adjourned regular~~ meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not

constitute the making of an alteration within the meaning of the foregoing sentence.

~~No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.~~

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes. ~~(As amended by amendments effective on December 20, 2010)~~

**Section 418 Ordinances. Amendment.**

~~The amendment of any section(s) or subsection(s) of an ordinance may be accomplished by the subsequent adoption of an ordinance which specifically modifies the section(s) or subsection(s). The amendment of any section or sections of an ordinance may be accomplished solely by the reenactment of such section or sections at length, as amended.~~

**Section 421 Contracts. Execution.**

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council or employee designated by the City Council and signed on behalf of the City by the Mayor ~~and City Clerk~~ or by such other ~~officer or officersemployee~~ as shall be designated by the City Council, the City Clerk and the City Attorney. Any of said ~~employees~~officers shall sign a contract on behalf of the City when authorized or directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager or other employees to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City Service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

The provisions of this Section shall not apply to the services rendered by any person in the employ of the City at a regular salary.

**Section 425 City Hall.**

City Hall, ~~including most administrative offices of the City and the administrative offices of the City of Newport Beach,~~ and related parking, shall be located on ~~and within the 12.82 acres of real property owned by the City of Newport Beach described as Parcel 3 of Parcel Map No. 90-361 in the City of Newport Beach~~ the City-owned parcel, which is bounded by Avocado Ave. on the west, San Miguel Dr. on the north, ~~and~~ MacArthur Blvd. on the east, and the Newport Beach Central Library on the south. ~~(Added by amendment effective March 3, 2008)~~

**Article V - City Manager**

**Section 503 Compensation and Bond.**

The City Manager shall be paid a salary commensurate with his or her responsibilities as chief administrative officer of the City, ~~which salary shall be established by ordinance or resolution.~~ The City Manager shall ~~furnish~~ have a corporate surety bond in such form and in such amount as may be determined by the City Council. ~~(As amended by amendments effective on December 20, 2010)~~

**Section 504 Powers and Duties.**

The City Manager shall be the head of the administrative branch of the City government. He or she shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have power and be required to:

- a) Appoint, and he or she may suspend or remove, subject to the provisions of this Charter, all department heads and officers of the City except elective officers and those department heads and officers the power of whose appointment is vested by the Charter in the City Council, and approve or disapprove all proposed appointments and removals of subordinate employees by officers or department heads.
- b) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.
- c) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding fiscal year.
- d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable.
- e) Establish and maintain a centralized purchasing system for all City offices, departments and agencies.
- f) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by it.
- g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.
- h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council

and prescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his or her jurisdiction.

- i) Perform such other duties consistent with this Charter as may be required of him or her by the City Council. (As amended by amendments effective on December 20, 2010)

#### **Section 505 Meetings.**

~~The City Manager shall be accorded a seat at the City Council table and at all meetings of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote.~~

The City Manager shall be entitled to participate in the deliberations of the City Council and at any meeting of the City's boards, commissions and committees, but shall not have a vote.

#### **Section 507 Manager Pro Tempore.**

The City Manager shall appoint ~~subject to the approval of the City Council,~~ one of the other officers or department heads of the City to serve as Manager Pro Tempore during any temporary absence or disability of the City Manager and notify the City Council of the identity of the Manager Pro Tempore. If he or she fails to make such appointment, the City Council may appoint an officer or department head to serve as such Manager Pro Tempore.

### **Article VI - Officers and Employees**

#### **Section 602 City Attorney. Powers and Duties.**

To become and remain eligible for City Attorney the person appointed shall be an attorney at law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least three years prior to his or her appointment. The City Attorney shall have power and may be required to:

- a) Represent and advise the City Council and all City Officers in all matters of law pertaining to their offices.
- b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or City ordinances. He or she shall prosecute misdemeanor offenses arising under State law if authorized and directed to do so by ordinance or resolution adopted by the City Council.
- c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions or proceedings in which any such officer or employee is concerned or is a party for any act arising out of his or her employment or by reason of his or her official capacity.
- d) Attend all ~~regular~~ meetings of the City Council and give his or her advice or opinion in writing whenever requested to do so by the City Council or by any of the boards, commissions, committees, or officers of the City.
- e) Approve the form of all contracts made by and all bonds given to the City, endorsing his or her approval thereon in writing.

- f) Prepare any and all proposed ordinances and resolutions for the City and amendments thereto.
- g) Devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation for such office.
- h) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein. ~~(As amended effective April 28, 1966, and December 20, 2010)~~

**Section 603 City Clerk. Powers and Duties.**

The City Clerk shall have power and be required to:

- a) Attend all meetings of the City Council unless excused and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose.
- b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter; keep all books properly indexed and open to public inspection when not in actual use.
- c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.
- d) Be the custodian of the seal of the City.
- e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.
- f) Be ex-officio Assessor, unless the City Council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.
- g) Have charge of all City elections.
- h) Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council. (As amended by amendments effective on December 20, 2010)

**Section 605 Director of Finance.**

There shall be a Director of Finance appointed by the City Manager and subject to suspension or removal by the City Manager who shall have power and shall be required to:

- a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager, and be head of the Finance Department of the City.
- b) Compile the budget expense and income estimates for the City Manager.
- c) Maintain a general accounting system for the City government and each of its offices, departments and agencies.
- d) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any Court, or from any office, department, or agency of the City.
- e) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit all funds coming into his or her hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.
- f) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit, approve and provide for the payment of all bills, invoices, payrolls, demands or charges against the City and, with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.
- g) See that all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and all other money receivable by the City from the County, State or Federal Government, or from any court, office, department or agency of the City are collected.
- h) Through the City Manager submit to the City Council and to the certified public accountant employed by the City as an independent auditor a monthly statement of all receipts, disbursements and fund balances in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.
- i) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.
- j) Assume the title of and act as City Treasurer and with the approval of the City Manager appoint deputies as necessary to act under the provisions of any law requiring or permitting action by a City Treasurer.
- k) Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council. (As amended effective January 20, 1959, and December 20, 2010)

**Section 608 Illegal Contracts. Financial Interest.**

No member of the City Council, department head or other officer of the City (except a member of any board, ~~or~~ commission, or committee), shall be financially interested, ~~directly or indirectly,~~ in any contract, sale or transaction made by them in their official City capacity to which the City is a party.

No member of any board, ~~or~~ commission, or committee shall participate in any decision when the member has a ~~be~~ financially interested ~~directly or indirectly,~~ in any contract, sale or transaction to which the City is a party and which comes before the board, ~~or~~ commission, or committee of which such person is a member for approval or other official action, ~~or which pertains to the department, office or agency of the City with which such board or commission is connected.~~

Any contract, sale or transaction in which there shall be such a ~~a~~ financial interest, as specified in this Section, shall become void at the election of the City when so declared by resolution of the City Council.

No member of the City Council, department head or other officer of the City, or member of any board, ~~or~~ commission, or committee shall be deemed to be financially interested, within the meaning of the foregoing provisions; (1) in any contract made with a corporation where his or her only interest in the corporation is that of a stockholder and the stock owned by him or her shall amount to less than three percent (3%) of all the stock of such corporation issued and outstanding; and (2) if an exception under California Government Code Sections 1090 et seq., or any successor statute, is applicable.

If any member of the City Council, department head or other officer of the City, or member of a board, ~~or~~ commission, or committee shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter. ~~(As amended by amendments effective on December 20, 2010)~~

#### **Section 609 Acceptance of Other Office.**

Any elective officer of the City shall comply with California Government Code Section 1099, or any successor statute, relating to incompatible offices. ~~who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated his or her office under the City Government. (As amended by amendments effective on December 20, 2010)~~

#### **Section 611 Official Bonds.**

The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or

his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission. (As amended by amendments effective on December 20, 2010)

## Article VII - Appointive Boards and Commissions

### Section 700 In General.

There shall be the following named boards and commissions which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance or resolution such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

### Section 702 Appointment. Terms.

The members of each of such boards or commissions shall be appointed by the City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City Government. They shall be subject to removal by motion of the City Council adopted by at least four affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

~~The initial term of any board or commission member shall be established by the City Council at the time the board or commission is created. This revision shall not affect the term of any board or commission existing prior to November 1, 2012. The members first appointed to such boards and commissions shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding July first. Where the total number of the members of a board or commission to be appointed exceeds four, the classification by lot shall provide for the pairing of terms to such an extent as is necessary in order that the terms of at least one and not more than three shall expire in each succeeding year. Thereafter, any appointment to fill an unexpired term shall be for such unexpired period. (As amended effective April 1, 1955)~~

### Section 703 Reserved Existing Boards.

~~The respective terms of office of all members of the boards and commissions in existence at the time this Charter takes effect shall terminate upon the effective date of this Charter. The present members of the boards and commissions which will continue in effect under this Charter shall be deemed reappointed to the respective boards and commissions of which they are members as first appointed members thereof under this Charter.~~

### Section 704 Meetings. Chairperson.

~~As soon as practicable, following the first day of July of every year, each of such~~ Boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at such frequency as required by its workload ~~least once each month~~ and such special meetings as such board or commission may require. All proceedings of a board or commission shall be conducted pursuant to the Ralph M. Brown Act, or any successor law. ~~shall be open to the public.~~

Except as may be otherwise provided in this Charter, ~~the City Manager shall designate~~ a secretary shall be designated for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Each board or commission shall have the same power as the City Council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations. ~~(As amended by amendments effective on December 20, 2010)~~

#### **Section 705 Compensation. Vacancies.**

The members of boards and commissions shall serve without compensation for their services as such but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council. In addition, the City Council may by resolution fix an amount as reimbursement of other expenditures incurred by the members of boards and commissions while in the performance of their official duties.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the City Council. ~~Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a vacancy occurs within six (6) months from the expiration of the term, the City Council has the discretion to appoint a replacement to serve the balance of the unexpired term plus one (1) full term of four (4) years.~~ If a member of a board or commission absents himself or herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a registered elector of the City, his or her office shall become vacant and shall be so declared by the City Council. ~~(As amended effective June 6, 1974, and December 20, 2010)~~

#### **Section 707 Planning Commission. Powers and Duties.**

There ~~shall be a~~ Planning Commission consisting of seven members which shall have the power and be required to:

- a) After a public hearing thereon, recommended ~~ed~~ to the City Council the adoption, amendment or repeal of a Master General Plan, or any part thereof, for the physical development of the City.
- b) Exercise such control over land subdivisions as is granted to it by ordinance not inconsistent with the provisions of this Charter.
- ~~c) Make recommendations to the City Council concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the City.~~
- ~~d)~~ c) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

**Section 708 Board of Library Trustees. Powers and Duties.**

There shall be a Board of Library Trustees consisting of five members which shall have the power ~~and duty and be required~~ to:

- a) Advise the City Council, Library Services Director, and City Manager as to the administration of City libraries. ~~Have charge of and make and enforce such by laws, rules and regulations as may be necessary therefor.~~
- ~~b) Designate its own secretary.~~
- e)b) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and City Manager.
- e)c) Make recommendations to the Library Services Director regarding the purchase and acquisition of ~~acquire~~ books, journals, maps, publications, information technology equipment, programs, materials, and other supplies peculiar to the needs of the library, ~~subject, however, to the limitations of the budget for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this Charter provided.~~
- e)d) ~~Approve or disapprove the appointment, suspension or removal of the Librarian, who shall be the department head.~~ Advise the City Manager regarding appointment, suspension or removal of the Library Services Director. The top candidates for the position of Library Services Director who meet the minimum qualifications shall be examined in a qualifications appraisal process established by the Board of Library Trustees. The City Manager shall appoint two members of the Board of Library Trustees to serve on a qualifications appraisal panel within the qualifications appraisal process. The appointment, suspension or removal of the Library Services Director shall reside with the City Manager.
- f)e) Accept money, personal property or real estate donated to the City for library purposes, subject to the approval of the City Council.
- g)f) Make recommendations regarding proposed ~~contracts~~ with schools, countyies, or other governmental agencies to render or receive library services or facilities, subject to the approval of the City Council.

**Section 709 Parks, Beaches and Recreation Commission. Powers and Duties.**

There shall be a Parks, Beaches and Recreation Commission consisting of seven members~~—~~

~~The Parks, Beaches and Recreation Commission~~ which shall have the power ~~and duty~~ and be required to:

- a) Act in an advisory capacity to the City Council in all matters pertaining to parks, beaches, recreation, parkways and street trees.
- b) ~~Consider the annual budget for parks, beaches, recreation, parkways and street tree~~

~~purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.~~

- c) Assist in the planning of parks and recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.
- d) Establish policies for the acquisition, development and improvement of parks, beaches and playgrounds and for the planting, care and removal of trees and shrubs in all parks, playgrounds and streets, subject to the rights and powers of the City Council.
- e) Perform such other duties as may be prescribed by ordinance not inconsistent with the provisions of this Charter. ~~(As amended by amendments effective April 28, 1966, and June 6, 1974)~~

### **Section 710 Civil Service Board.**

The Civil Service Board shall consist of five members, none of whom while a member of the board, or for a period of one year after he or she has ceased for any reason to be a member, shall occupy or be eligible for appointment to any salaried office or employment in the service of the City.

The members of the Civil Service Board shall be nominated and appointed in the following manner. Two members shall be appointed by the City Council from a list of five persons to be nominated by vote of the employees in the Classified Service, two members shall be appointed by the City Council directly, and the fifth shall be appointed by the City Council from a list of three persons nominated by a majority of the four thus appointed. The successor of any member of the board shall be nominated and appointed in the same manner as such member was nominated and appointed.

## **Article VIII - Civil Service System**

### **Section 801 Positions Included in the System.**

The civil service system shall include all full time, regular and permanent positions or employment on the Police and Fire Department of the City and may, by ordinance, include any other appointive officers or positions in the service of the City except the following:

- a) All elective officers.
- b) City Manager, Assistant City Manager, if any, one executive assistant to the City Manager, City Attorney, Assistant City Attorney, if any, City Clerk, Director of Finance, City Engineer, all Department Heads, and Assistant Chiefs in the Police and Fire Departments.
- c) All members of boards and commissions.
- d) Positions in any class or grade created for a special or temporary purpose and which may exist for a period of not longer than six months in any one calendar year.
- e) Persons employed to render professional, scientific, technical or expert service. Persons who render part-time service without pay or who are paid on an hourly or per diem basis.

(As amended effective January 20, 1959, and December 20, 2010)

## Article XI - Fiscal Administration

### Section 1101 Annual Budget. Preparation by the City Manager.

At such date as the City Manager shall determine, ~~each board or commission and~~ each department head shall furnish to the City Manager estimates of revenue and expenditures for his or her department ~~for such board of commission~~ for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, ~~boards or commissions~~ and may revise the estimates as he or she may deem advisable. (As amended by amendments effective on December 20, 2010)

### Section 1106 Centralized Purchasing.

Under the control and direction of the City Manager there shall be established a centralized purchasing system for all City departments and agencies, except as otherwise in this Charter provided.

### Section 1114 Claims and Demands.

Except as otherwise provided by the provisions of State law applicable to chartered cities, all claims ~~and demands for damages~~ against the City shall be filed as prescribed by ordinance. Class claims and representative claims are prohibited and may not be pursued against the City, including, but not limited to, a claim for the refund of taxes and/or fees.

~~All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance within ninety days after the last item of the account or claim accrued. The Director of Finance shall examine the same. If the amount thereof is legally due and there remains on his books an unexhausted balance of an appropriation against which the same may be charged, he shall approve such demand and provide for its payment out of the property fund. Otherwise he shall reject it. The City Council may overrule any rejection by the Director of Finance and order the demand paid.~~

~~The Director of Finance shall transmit such demand, with his approval or rejection thereof endorsed thereon, to the City Manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the City Manager, otherwise it shall require the approval of the City Council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the City Manager to approve any demand, in whole or in part, may present the same to the City Council which, after examining into the matter, may approve or reject the demand in whole or in part. (As amended by amendments effective on January 20, 1959, and April 28, 1966)~~

### Section 1115 Reserved Registering Demands.

~~Demands on the City which are not paid for lack of funds shall be registered. All registered demands shall be paid in the order of their registration when funds therefor are available and~~

~~shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution. (As amended effective January 20, 1959)~~

**Section 1116 Independent Audit and Financial Statement.**

The City Council shall employ at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the City Council, and at such other times as he or she shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the City Council may direct. ~~As soon as practicable~~ Within 270 days after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, Director of Finance and City Attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, available on the City's website or electronic equivalent, and a summary copy of the financial statement as of the close of the fiscal year shall be published in ~~the official a~~ newspaper of general circulation within the City. (Section 1117 as amended effective January 20, 1959, and renumbered by amendment effective April 28, 1966)

**Article XII ReservedBoard of Education**

**Section 1200 ReservedState Law Governs.**

~~The manner in which, the times at which, and the terms for which the members of Boards of Education shall be elected or appointed, their qualifications, compensation and removal and the number which shall constitute any one of such boards shall be as now or hereafter prescribed by the Education Code of the State of California.~~

**Section 1201 ReservedEffect of Charter.**

~~The adoption of the Charter shall not have the effect of creating any new school district nor shall the adoption of this Charter have any effect upon the existence or boundaries of any present school districts within the City or of which the City comprises a part, but such present school districts shall continue in existence subject to the provisions of the laws of the State of California as the same now exists or hereafter may exist.~~

## Article XIV – Miscellaneous

### Section 1400 Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- a) “Shall” is mandatory, and “may” is permissive.
- b) “City” is the City of Newport Beach and “department,” “board,” “commission,” “agency,” “officer,” “public officer,” or “employee,” is a department, board, commission, agency, officer or employee, as the case may be, of the City of Newport Beach. Whenever a power is granted to, or a duty is imposed upon a public officer, or employee, the power may be exercised, or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance.
- c) “County” is the County of Orange.
- d) “State” is the State of California.