



Z

City of Newport Beach, Addition of Harbor Commission to the Newport Beach City Charter

Shall the Newport Beach City Charter be amended to add Section 713 to the City Charter, establishing the powers and duties of the Harbor Commission and making the Harbor Commission a City Charter designated Appointive Board and Commission?

What your vote means

YES	NO
A "yes" vote is a vote in favor of adding Newport Beach City Charter Section 713.	A "no" vote will reject the proposed amendment to the Newport Beach City Charter, leaving the Newport Beach City Charter in its present form.

For and against

FOR	AGAINST
Mayor Will O'Neill Mayor Pro Tem Brad Avery Councilman Marshall "Duffy" Duffield	James M. ("Jim") Mosher, a Newport Beach voter



Ballot Measures-Z

Full Text of Measure Z
City of Newport Beach

SECTION 1: TEXT OF AMENDMENT TO NEWPORT BEACH CITY CHARTER

The City Charter of the City of Newport Beach is hereby amended as follows (underlining showing additions):

Section 713. Harbor Commission.

There shall be a City Harbor Commission of seven members which shall have the power and duty to:

- (a) Advise the City Council on all matters relating to proposed harbor improvements and the use of Newport Harbor.
- (b) Advise the City Council on all matters pertaining to the use, control, operation, promotion and regulation of all vessels within Newport Harbor.
- (c) Approve, conditionally approve, or disapprove applications on all permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
- (d) Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, and policies of the Harbor and Bay Element of the General Plan.
- (e) Advise the City Council, Planning Commission and City Manager on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
- (f) Serve as an appellate and reviewing body for decisions on permits and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
- (g) Perform such other duties relating to Newport Harbor as the City Council may require.

SECTION 2: BALLOT DESCRIPTION

As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

CHARTER AMENDMENT (Section 713): This Charter Amendment measure would amend the City Charter to add Section 713. As amended, Section 713 would establish the powers and duties of the Harbor Commission and make the Harbor Commission a City Charter designated Appointive Board and Commission. The Harbor Commission was created by the Newport Beach City Council via an ordinance adopted in January 2002, to provide the City of Newport Beach with an advisory body representing the diverse uses of Newport Harbor and its waterfront. The Harbor Commission currently advises the City Council on all matters pertaining to Newport Harbor, when requested, and has the power to approve, conditionally approve, or disapprove applications on all permits assigned to the Harbor Commission pursuant to the Newport Beach Municipal Code. The Harbor Commission currently serves as an appellate and reviewing body for decisions on permits and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission. The Harbor Commission's current powers and duties are prescribed in Title 17 of the Newport Beach Municipal Code, but this Charter amendment would formalize such powers and duties in the City's Charter. This Charter Amendment does not give the City Council power to raise its own compensation or the compensation of other City officials without voter approval.

SECTION 3: SEVERABILITY

It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

SECTION 4: CONFLICTING MEASURES

In the event this Charter Amendment measure and another measure or measures relating to City Council vote approval requirements for the matters described herein shall appear on the same general municipal election ballot, the other measure or measures shall be deemed to be in conflict with this Charter Amendment measure. In the event that this Charter Amendment measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

If this Charter Amendment measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such other conflicting measure is later found held invalid, this measure shall be self-executing and given full force and effect.

SECTION 5: EFFECTIVE DATE

This Charter Amendment measure shall become effective in the manner allowed by law.



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**Impartial Analysis
City of Newport Beach
Measure Z**

This measure was placed on the ballot by the City Council for the City of Newport Beach pursuant to the authority provided by Section 3 of Article XI of the Constitution of the State of California, Section 100 of the Newport Beach City Charter, and Section 1415 (a)(2) of the California Elections Code. This City-sponsored measure would add a new section to the Newport Beach City Charter, formalizing the powers and duties of the Harbor Commission and making the Harbor Commission a Newport Beach City Charter designated Appointive Board and Commission. This means that, if this measure is passed, the City Council for the City of Newport Beach could not alter the powers and duties of the Harbor Commission without the voters approving an amendment to the Newport Beach City Charter. If Section 713 is added to the Newport Beach City Charter, the Harbor Commission's powers and duties would not materially change from the powers and duties currently exercised by the Harbor Commission.

This proposed City-sponsored measure requires approval of a majority of voters. A "yes" vote is a vote in favor of adding Newport Beach City Charter Section 713. A "no" vote will reject the proposed amendment to the Newport Beach City Charter, leaving the Newport Beach City Charter in its present form.

The measure requires approval of a majority of voters to become effective.

The above statement is an impartial analysis of Measure Z. If you wish to read the full text of the measure, or desire a copy of the measure, please call the City Clerk's Office at (949) 644-3005 and a copy will be provided, mailed or E-mailed at no cost to you, or you can visit www.newportbeachca.gov/2020election for a copy.

THE CITY ATTORNEY'S OFFICE

s/ Aaron C. Harp, City Attorney



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Argument in Favor of Measure Z

Rebuttal to Argument in Favor of Measure Z

Newport Harbor is the jewel of our city.

An area that started a hundred years ago as mud flats and swamps has transformed into the largest recreational harbor on the west coast. Homes and business line its shores, boats and paddlers enjoy its tranquility, and wildlife has returned to increasingly cleaner water.

Our city's economic analysis shows that our Harbor supports 1,100 businesses employing 9,200 workers and generates \$391 million in economic activity for the city. Our city's General Plan describes Newport Harbor as a "vital component of Newport Beach's natural resources, community identity, and economy."

Harbor operations are complex and regulated by thirteen federal, state and local agencies.

The city established the Harbor Commission in 2002 by ordinance to advise our City Council on operational, environmental and regulatory issues that control the Harbor.

The need for the Harbor Commission's specific expertise was evident recently when the Commission spent three years preparing a comprehensive revision to our Harbor Code to reflect today's modern uses and regulations.

Just like the Arts Commission and Parks, Beaches and Recreation Commission, Measure Z places the Harbor Commission in the City Charter, protecting it from future political whims.

We believe the Harbor Commission's work should continue unfettered by future local politics. Measure Z does that.

We ask for your Yes vote on Measure Z.

s/ Mayor Will O'Neill

s/ Mayor Pro Tem Brad Avery

s/ Councilman Marshall "Duffy" Duffield

The council member proponents say voter endorsement of this poorly-written measure is necessary to place the powers and duties of the Harbor Commission beyond the political whims of future councils.

Yet they ask voters to approve language that fails to do that. It continues to limit the Commission's oversight authority to what future councils assign it through the Municipal Code. And it does not clarify if the Commission's advice will now be required, not merely available, before future councils can take action on the matters listed.

In its life so far, the most egregious example of a council completely bypassing the Commission was the creation of a Tideland Management Committee in 2013, which relied on a completely different panel of citizens to prioritize harbor expenditures. The present language does nothing to prevent future councils from doing the same. Indeed, it omits entirely the Commission's existing responsibility to advise on harbor spending, added to its duties when the council finally disbanded the TMC in 2017.

And given we have a recreational harbor with beaches, this does nothing to resolve the existing uncertainty about the division of labor between the council-created Harbor Commission and the pre-existing Parks, Beaches and Recreation Commission which voters long ago empowered through the Charter. The two need to be revisited together.

Most importantly, it is our Charter. And the people, not the council, decide what goes in it.

The people should reject all poorly-written, inadequately-reviewed additions, however well intentioned.

Vote NO.

s/ James M. ("Jim") Mosher, a Newport Beach voter



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Argument Against Measure Z

The city charter is the people's binding blueprint for how they expect their local government to be run.

Changes to it should be carefully considered and thoroughly debated before putting them to a vote. Yet, the city council in Newport Beach has a history of placing poorly-considered changes before the people.

The present proposal is no exception.

If placing the powers and duties of the Harbor Commission in the charter were necessary, which it is not, it would be a time for careful review and reconsideration of exactly what those powers and duties should be. But this proposal, written by an author unknown and rushed to the ballot months before necessary, has received absolutely zero public discussion or review -- not even by the existing Harbor Commission. In fact, the Council's wordless vote on May 12 to place this on the ballot was taken without the agenda mentioning such a proposal was being considered, or any announcement such action had been taken.

As to its unvetted substance, the City Attorney assures us the measure simply moves that Commission's current powers and duties into the charter, where they cannot be changed except by the voters. But this is not true. The language is not the same.

The only question asked on May 12 was by me, and it was: should voters approve this, does it mean *all* subsequent harbor-related matters going before the Council must be accompanied by a recommendation from this newly-voter-empowered Harbor Commission? The response from the council: silence.

When the public is asked to vote yes or no on charter language that was developed with no public discussion or review, and whose meaning even its proposers don't seem to know, the answer is simple: vote NO.

s/ James M. ("Jim") Mosher, a Newport Beach voter

Rebuttal to Argument Against Measure Z

Newport Beach voters elect our City Council to make well-informed decisions on issues important to the City. In Newport Beach, one of the most important issues is how we run and manage our Harbor.

The Harbor truly is the jewel of our City. Our Harbor Commission's function is to advise the City Council on our most valuable recreational and economic asset. The Commission's seven members are appointed by the City Council for their expertise in in water quality, boating, land use, recreation and marine safety. They are volunteers with a deep commitment to the Harbor.

This Charter amendment will ensure that the Harbor Commission's advice continues to be dispensed. Nothing more; nothing less.

Voters have already decided that the Planning Commission, Arts Commission, and Parks, Beaches & Recreation Commissions were worthy of Charter protection. The Harbor Commission should be afforded the same status.

This is especially true now and in the years to come. This City Council has placed more emphasis on updating and modernizing the Harbor than those in previous decades. The Harbor Code has been rewritten thanks to years of effort by the Harbor Commission and the City created a new Harbor Department. Measure Z will cement our City's commitment.

The jewel of our city has a bright future. Please join us in voting YES on Measure Z.

s/ Mayor Will O'Neill

s/ Mayor Pro Tem Brad Avery

s/ Councilman Marshall "Duffy" Duffield