

## May 12, 2026, City Council Agenda Comments

The following comments on items on the Newport Beach City Council [agenda](#) are submitted by:

Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### ***Item III. STUDY SESSION - Self-Certification Building Permit Program***

In the absence of any advance information beyond the agenda announcement, it is difficult to comment on this item.

Is there a record of architects submitting plans that need no corrections?

Will there be a spot check of self-certified plans to ensure they do comply with the codes?

Will architects who self-certify plans that prove to be inconsistent with City codes be removed from further participation in the program?

Will self-certified projects be subject to the normal building inspections, or will that be self-inspected as well?

### ***Item 2. Minutes for the April 28, 2026, City Council Meeting***

The minutes of the City Council meetings appear to be moving in an unfamiliar direction.

From the City's founding in 1906, the minutes were kept in books with numbered pages.

Last year, starting on [July 29](#), the approved minutes signed by the Mayor and City Clerk ceased being stamped with the City Seal, but they did continue to show volume and page numbers.

Starting with the [March 10 minutes](#), the page numbers disappeared. Assuming the unnumbered pages are still assembled into books, this would be minimally compliant with the [City Charter Subsection 603\(e\)](#) requirement for the City Clerk to maintain records of the proceedings of the Council. However, it is difficult, at least for me, to see the advantage of not having page numbers. It certainly complicates reference to the pages, and could make it difficult to tell if a page is missing.

In any event, the passages shown in *italics* below are from the [draft minutes](#) with suggested corrections shown in ***strikeout underline*** format. The page numbers refer to the 785-page [agenda packet](#), in which the minutes begin with a cover page numbered "12" and end on a page numbered "22."

**Agenda packet page 12:** This is a cover page, which has not been part of the minutes in the past, but is helpful in identifying the location of the meeting. However, like the header line on each subsequent page, it refers to "STUDY SESSION- 4:00 PM (PUBLIC WELCOME)," implying these are the minutes for the Study Session item, only. Yet, they appear to be minutes for the full meeting.

**Agenda packet page 13,** Item II, paragraph 1, sentence 2: "*Acting **Deputy** Director Zdeba noted that the Planning Commission unanimously recommended adoption the prior week, ...*"

**Agenda packet page 15,** Council announcements, paragraph 2: "*Councilmember Barto thanked Newport Ocean Sailing **Organization Association** and the delegation from Ensenada, including Claudia Agatón Muñiz, for their participation in the Newport to Ensenada race kickoff.*" [The [video](#)

indicates Councilmember Barto thanked “[NOSA](#)” without further elaboration. Spelling it out in the minutes is helpful, but the “A” in “NOSA” stands for “Association.”]

**Agenda packet page 15**, Council announcements, paragraph 3: “*Councilmember Grant highlighted recent community events including the [Oasis OASIS](#) Senior Center volunteer lunch, yacht club opening day, the inaugural [Oasis OASIS](#) Coastal Circle Women’s Group, a Newport [Beach](#) Historical Society presentation on the city’s last 20 years, the Newport Beach Chamber Commodores Scholarship Dinner, and National Library Week activities.*” [“OASIS” is normally in capital letters. It is an abbreviation for “Older Adults Social and Information Services.”]

**Agenda packet page 15**, Council announcements, paragraph 5: “*Councilmember Stapleton commended the OC Marathon coordination efforts and thanked the Newport Beach Historical Society, the Newport Beach International Boat Show, Harbormaster Paul Blank, Library Services Director Melissa Hartson, the Chamber of Commerce, and the [Oasis OASIS](#) sailing community.*”

**Agenda packet page 15**, PUBLIC COMMENTS ON CONSENT CALENDAR: The minutes formerly identified the Consent Calendar item(s) the comments related to.

**Agenda packet page 16**, CONSENT CALENDAR, paragraph 2: “*Motion to approve the Consent Calendar, minus item #4, **with amendments to the minutes**, was made by Mayor Pro Tem Blom and seconded by Councilmember Weber.*” [The [video](#) confirms this was the motion. However, I am unable to find anything in the [meeting archive](#) indicating any amendments to the minutes were proposed.]

**Agenda packet page 17**, last paragraph: “***All Council members declared no ex-parte communications with the exception of Councilmember Stapleton, who disclosed a brief general communication with the applicant’s representative that did not go beyond information already in the administrative record.***” [comment: This was about the 300 Newport Center Drive Condominiums, for which the Council was holding a de novo hearing on appeal. It is hard to believe that no one outside of City staff had spoken to any other Council member regarding this high profile and controversial project. Indeed, the [meeting archive](#) includes a number of emails addressed to the Council members from various parties, and it seems likely there would have been more, including oral conversations with project proponents and opponents.]

**Agenda packet page 18**, paragraph 1, sentence 4: “*One of two appeals (filed by [SAFR SAFER](#)) was withdrawn on the day of the hearing; ...*”

**Agenda packet page 19**, last paragraph: “*Ron Rubino (39-Year [East Bluff Eastbluff](#) Resident) commended staff’s work, acknowledged the legitimacy of the planning process, and expressed concern that the project consumes housing overlay units without producing any affordable housing.*”

**Agenda packet page 20**, paragraph 5: “*Mayor Pro Tem Blom moved, seconded by Councilmember Weber, to deny the appeal; **conduct the public hearing**; Find that this project is not subject to further environmental review pursuant to Section 21083.3 of the California Public Resources Code (PRC) and Section 15183 of the California Environmental Quality Act (CEQA) Guidelines ...*” [The [video](#) indicates the motion was simply “to deny the appeal.” Someone has added a lot to that in the minutes. Among the things added, I think it would be very odd for the Council to have moved to “conduct the public hearing” since it had just conducted one.]

**Agenda packet page 21**, Item 15, paragraph 5: “*Mayor Pro Tem Blom moved, seconded by Councilmember Grant, to ~~a) Conduct a public hearing~~; Find that the proposed overriding action is not subject to the California Environmental Quality Act (CEQA) ...*” [see previous comment]

**Agenda packet page 22**: The minutes do not say if an announcement was made about the closed session items.

They *do* say “Meeting went into Recess” and “Meeting Reconvened,” but they fail to say the time at which those events occurred, making it impossible to know how long the closed session lasted.

**Agenda packet page 22**: This last page is also missing the usual statement indicating how the meeting was noticed, and the places for signatures by the Mayor and Clerk.

### ***Item 1. Reading of Ordinances***

Why is this part of the present Consent Calendar? On this agenda, I am unable to find any ordinances proposed for adoption.

### ***Item 4. Fire Station No.2 HVAC Retrofit - Notice of Completion for Contract No. 9959-1 (25R02)***

It is good to see a contract completed for under the bid price.

While the report indicates improvements in the humidity inside the building have been observed after the retrofit, it is unclear if there was a target for how much improvement was expected or promised and if it was met.

### ***Item 5. Approval of Professional Services Agreement with X Engineering & Consulting, Inc. for the AD 124 Alley Restoration Design Services-Contract No. 9451-4***

It is unclear why the contract is proposed to be awarded to the second-highest scoring firm in a previous RFP for similar work, especially since the components that went into the previous “total scores” (qualifications? cost?) are not specified.

Would the proposed contract amount be different if a different firm was recommended?

Wouldn't it make sense to recommend the firm that can do the work at the lowest cost?

### ***Item 6. Approval of Equipment Replacement Purchase Orders for One Hydro Excavator Truck and One Sewer Cleaner Truck***

The staff report refers to [Council Policy F-9](#) (“City Vehicle/Equipment Replacement Guidelines”) for guidance on when this (very expensive) equipment needs to be replaced.

It should be noted that Policy F-9 (which has existed in some form since [1992](#)) was revised in 2016 to make clear it is primarily a financial planning tool – to ensure funds are being set aside and will be available to pay for replacements if needed at the expected end of life. However, with the exception of fire trucks, it does not require that replacement happen on the stated schedule.

Replacement can be needed sooner or later depending on the condition of the vehicle and other factors.

The report is not entirely clear as to whether this equipment does, indeed, show signs of being at its end of useful life after the 10 years predicted in Policy F-9. It also does not seem to mention how long it is expected it will take to receive the replacements, or if any alternative vendors were considered.

### ***Item 7. Approval of Purchase Order with Pinnacle Petroleum, Inc. for Fuel***

It might have been helpful to indicate where City vehicles will fuel up under this purchase order. Hopefully, they do not need to drive to the address on the P.O., which is in Huntington Beach.

Has the fueling station closure/construction mentioned in the report affected the previously-announced public mulch/compost distribution program, which I thought was being staged at the same location (but does not seem to be well publicized on the City website)?

### ***Item 8. Pump Station Commercial Door Replacement - Award of Contract No. 9888-1 (25F03)***

The [link](#) to the project plans is a welcome replacement for the previous statements that Public Works' plans would be available for inspection at the meeting.

### ***Item 9. Professional Services Agreement with Aleshire & Wynder, LLP, JLG Group, LLC, and Richard D. Jones dba Jones Mayer for Hearing Adjudication Services***

It would have been helpful to provide statistics on the number of appeals heard by the three firms as well as the percentage of successful appeals, and whether it differs between them. While decision for or against the City is not supposed to be a criterion for selection, it might help to indicate if an objective service is being provided.

In view of Item 15 on the present agenda, it might also have been helpful to note if any fees are charged to help defray the cost of the hearing officer contracts. The Municipal Code appears to be ambiguous in this regard. While it does not appear to address Police-issued citations, the "Cost Recovery Percentages" table in [Section 3.36.030](#), under "Finance Department," indicates there is "0%" recovery expected for "Admin. Cite Hearings," "Parking Hearings" and successful "Short Term Lodging Permit Suspension or Revocation Hearings" (with 50% recovery for unsuccessful STL hearings). But in [Chapter 1.05](#), Subsection 1.05.010 defines "Administrative Costs" to include everything including a hearing officers fee, while Section 1.05.050 establishes a system for recovery of those administrative costs (subject to a possible appeal of them, too).

---

<sup>1</sup> While sewer cleaning "vactor" trucks are explicitly listed in Policy F-9, it is not entirely clear what replacement schedule category a "hyro-excavator" would fit under.

It is hard to see why there would be extensive code ensuring recovery of the costs if (per Section 3.36.030) there is no intent to recover them.

***Item 10. Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement - Approval***

Does the City have any alternatives to joining the agreement? Are there any cities taking a different path?

***Item 11. Amendment to Professional Services Agreement with Sampson Oil Company for Oil Well Management Services***

The three-member Ad Hoc Oil Advisory Committee was created by [Resolution No. 2025-15](#), adopted on April 29, 2025. The report says that after discussions with various parties, including the Committee, staff is recommending this contract extension.

Isn't it the Committee, rather than staff, that is supposed to be making a recommendation to the full Council?

How does staff know "an extension of the existing agreement ... provides the best value to the City" if it did not follow through on its previously-announced plan to explore other possibilities by conducting an RFP?

***Item 14. Resolution No. 2026-27: Notice of Intent to Override Airport Land Use Commission Finding of Inconsistency for Amendment to Newport Place Planned Community Development Plan Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay (PA2025-0196)***

It is interesting to see the push to reduce residential unit affordability requirements in the one remaining part of the City where any affordability requirement remains.

The push is predicated on the claim that such requirements make construction unfeasible.

That claim is especially interesting in view of the fact that the first Airport Area residential project, Uptown Newport, considered at a time when the since-repealed NBMC Chapter 19.54 placed a 15% requirement on it, was proposed and approved with 20% of the base units affordable.<sup>2</sup>

Since it was built, and appears successful, it's a bit hard to believe it was "unfeasible."

I do not believe, however, that the Airport Land Use Commission is objecting to the change in the affordability requirement, but rather simply reaffirming their previous unease about this being a suitable site for any housing to be compatible with airport operations.

As I indicated at the last Council meeting on April 28, when the Council initiated a similar override to make possible approval of the Comprehensive General Plan Amendment, the most basic

---

<sup>2</sup> See table on [page 12](#) of the December 6, 2012, Item 5 Planning Commission staff report.

disagreement<sup>3</sup> is over what the most appropriate aircraft-generated noise contours are to use for compatibility planning purposes, with neither side having a good argument since neither has bothered to actually measure the noise in the area in any comprehensive way, or to project where the contours might lie more than four years from now.

The continued approval of residential projects in this area is providing some limited private noise studies, required during the plan check process. Although not precisely in the Newport Place area, City staff has recently posted measurements taken in conjunction with an Irvine Company proposal to build a 700-unit complex on the southeast corner of MacArthur and Campus ([PA2026-0041 Acoustic Assessment](#)), which included deploying a microphone on the roof of 4685 MacArthur Court from December 3 to 5, 2025. Unfortunately, the results (a measured 67 CNEL) are not presented in a way to distinguish aircraft from road traffic noise.

Regarding the proposed resolution of intent, it might be noted that it seems to be arguing that the Council's action would be consistent not only with the state purposes listed in [Public Utilities Code Section 21670](#), but with the JWA AELUP adopted by the OC ALUC. It is not clear the latter is either necessary or persuasive. It might also be noted that what proposed Section 2 of the resolution refers to as "finds" are more commonly known as "findings."

***Item 15. Ordinance No. 2026-04: Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages, and Resolution No. 2026-28: Revising and Adopting Fees Within the Schedule of Rents, Fines and Fees***

Regarding Cost Recovery Percentages table, Exhibit A of NBMC Section 3.36.030, I have long commented (including at the most recent Finance Committee meeting) about the inefficiency of stating at the beginning of the table a general rule, applicable to "All Departments," that unless otherwise specified, 0% of the cost of successful appeals and 50% of the cost of unsuccessful appeals is recovered, and then repeating the identical rule, over and over, for most, but not all of the departments.

Equally inexplicable is the decision this year to remove this redundant provision for "Chapter 17.65 Appeals" under "Community Development Department," but retain it under "Harbor Department" and "Public Works Department." This is especially strange when one actually reads [Chapter 17.65](#) and learns that under it an appeal could be filed against a decision made by "the Public Works Director, Community Development Director, Risk Manager, and/or Harbormaster" as well as the Harbor Commission. While I think none of these are necessary (given the redundancy of these provisions with the general rule applicable to all departments), why have the Harbor Department and Public Works Department been singled out for inclusion, while the Community Development and the Office of the City Attorney (within which the Risk Manager now resides) omitted?

And as noted in comments on Item 9, above, this table also appears to create a conflict within the Municipal Code as to whether administrative costs are ever recovered when administrative citations are appealed, even if the appeal is unsuccessful.

---

<sup>3</sup> The ALUC also has safety concerns related to piston aircraft flight paths.

The 85 pages of the proposed Schedule of Rents, Fines and Fees are a bit difficult to review for accuracy and consistency, especially when made available only for online viewing. But I would note a possible tendency of the Council to institute programs for which it promises to set a fee and then failing to do so.

For example, on December 9, 2025, the Council adopted [Ordinance No. 2025-35](#), creating new e-bike regulations. In new [Section 12.56.080](#) (Penalties, Impoundment, and Diversion), subsection (b) allows the Council to set an impound fee, which the consultant has also dutifully studied and recommended for approval and inclusion in the SRFF. However, if one reads the next paragraph, subsection (c) not only allows, but actually commands that *“A fee for participation in the diversion program shall be established by resolution of the City Council.”* As best I can tell this has not been done, even though the Municipal Code would appear to require 100% cost recovery unless the Council specifies something different in Exhibit A of Section 3.36.030, which also does not seem to have been done.

Similarly, on February 26, the Council chose to ignore the City Charter and take over revising the City tree policies without even a recommendation from the Parks, Beaches and Recreation Commission (which the Charter empowers with establishing City tree policies). [Page 3](#) of the newly-adopted Policy G-1 says that those wishing to request removal of a City tree can do so only by *“paying the applicable fee as set by resolution of the City Council.”* As best I can tell, that fee has not been set, and the present item fails to correct that.

Moreover, one of the stated reasons for the Council taking the writing of Policy G-1 out of PB&R's hands was the Council was tired of hearing appeals of PB&R tree removal decisions (even though the number appealed to the Council has been very low). Yet, whether the Council is aware of it or not, it has never set a fee for either those appeals or the much more numerous appeals of staff decisions to PB&R.

Having no fee established by the Council leaves the Municipal Operations Department in a quandary as to what, if anything, to charge for these tree appeals, and as a result my understanding is that for years no fee at all has ever been charged for the considerable amount of staff time devoted to providing a service that would normally be subject to 100% cost recovery.

I cannot guess what other oversights might exist in the SRFF.

### ***Item 16. Resolution No. 2026-29: Dissolving the Newport Beach Police Headquarters Assessment Committee and Creating the Newport Beach Police Headquarters Advisory Committee***

When did the Mayor become the person deciding which citizens should be appointed to Council-created committees? This is hard to square with the City Charter, as is the whole idea of Council-citizen advisory committees. Specifically, Charter [Section 700](#) authorizes the Council to create advisory boards and commissions when it needs them, and Council members (as paid City officers) are explicitly prohibited from being members of them. While the Council has ignored this provision for many years, it would not appear the people have ever authorized them to do so.

I also find it extraordinary that a committee created to explore the feasibility of a single site would be given nearly three years (until December 31, 2029) to reach a conclusion. That seems to fly in the face of claims there is an urgent need to relocate the Police Headquarters.

Moreover, it appears the intent is to use the same committee to recommend a final detailed design. Not only does that presuppose the result of the first task (a determination that the site *is* feasible), but it would seem to require different skills on the part of the members. It would seem to me wise to separate the two tasks, and approach the second with a different set of people, and only when and if it is necessary to do so.