

August 26, 2025, City Council Agenda Comments

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

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Item 1. Minutes for the July 22, 2025, Regular City Council Meeting and July 29, 2025, Special City Council Meeting

The passages shown in *italics* below are from the [draft minutes](#) with suggested corrections shown in ~~strikeout~~ underline format. The page numbers refer to Volume 66.

Page 363, Item X, bullet 2: “*The salary schedule regarding the Fire Chief and Assistant Fire Chief included an increase in each of their base salaries by 9% for the Fire Chief and Assistant Fire Chief; and 6% for the Assistant Chief ~~and~~ Lifeguard Operations, effective July 12, 2025; 4% increases for all three positions effective July 11, 2026; and 4% increases in all three positions effective July 10, 2027.*” [see [video](#)]

Page 364, motion at bottom of page: “Moved by Mayor Pro Tem ~~Klein~~ Kleiman, seconded by Councilmember Grant, and unanimously carried by those members present (Councilmember Barto absent), to approve the Consent Calendar including amendments to Agenda Item 1; staff requested continuance of Agenda Item 3; amendment to Agenda Item 6, Exhibit B; and with noted recusals on Agenda Items 3, 5 and 15.” [Note: although Item 3 was continued, recusals with regard to it are noted earlier on the page]

Page 365, Item 3: A note as to the recusals on this item might need to be added. It should probably include the reason, as the previous page noted there were recusals, but did not say why. Something in keeping with the style of the other notes might be: “Councilmembers Weber, Grant, and Mayor Pro Tem Kleiman recused themselves from Agenda Item 3 citing real property conflicts of interest.”

Page 370, Public Comments, paragraph 2: “Noted that the staff report was cryptic; the staff report shows allocations funds that were received from the federal government, but it is unclear exactly how much money we have to spend and if we do not spend it, what are the City’s options. Mr. Mosher further noted that it is unclear whether we have \$402,000 or \$315,000 to spend; reviewed historical loan and payoff funding for the improvements in Balboa Village that appears to have gone away; noted an administrative fee from ~~MicroBaker~~ Michael Baker International and questioned how they were chosen; noted that under “Capital Projects” there is an amount that seems to exceed the limit and questioned whether it was a typographical error; ~~additiona;ly~~ additionally under “Capital Projects” there is an application from Trellis who works in senior home maintenance and it appears that would have been a good project to fund; and noted the Consolidated Action Plan is provided in the staff report by a link and is incomplete due to the ~~inclusion~~ omission of appendices one of which explains the public survey process.”

Page 375, Public Comments, paragraph 1: “Jim Mosher noted that residents may have different opinions from the City Attorney; noted that there was no announcement of an appointment at the last City Council meeting; voiced his objection to the process especially because there is no urgency about this matter; noted the City Council has five months before needing to appoint a City Manager; explained that the hiring processes should be followed per the City Charter; noted that the Charter requires the screening of applicants but to his knowledge there was no application process; reviewed the two previous City Manager appointments that had included a

nationwide search; and stated what he thought **there** were ethical lapses with the proposed City Manager appointee.”

Page 375, Public Comments, paragraph 3: “Councilmember Blom; noted the need for the right people to be in charge of the City; ...” [delete comma]

Item 3. Ordinance 2025-19: Amending Title 11 (Recreational Activities) of the Newport Beach Municipal Code Related to the Prohibition of Climbing on Railings of Public Property and Amending Title 11 (Recreational Activities) Related to Swimming Regulations and Restrictions on Diving, Jumping and Climbing on Public Property Adjacent to Waterways

I am always troubled to see ordinances being both introduced and adopted on the consent calendar. It means that we are expanding our Municipal Code with an ever-increasing number of laws that have never been carefully reviewed in public, let alone debated.



In the present case, the preamble (on staff report page 3-3) to the proposed ordinance indicates its intent is confined to jumping into water. But the proposed new NBMC Section 11.12.140¹ “prohibiting the climbing on railings of public property” doesn’t, when read in isolation, have anything to do with swimming or recreation. So, doesn’t it seem illogical to place it within a NBMC [chapter](#) entitled “Swimming Regulations” under the broader NBMC [title](#) of “Recreational Activities”?

Wouldn’t something about climbing on public property in general make more sense in [Title 10](#) (Offenses and Nuisances) or [Title 13](#) (Streets, Sidewalks and Public Property)?

One might also ask if there is not already some law that would allow the police to intervene if someone is seen perched on the railing of a bridge or structure that is not near water, in a manner suggesting intent to do something placing themselves or others in imminent danger?

¹ Although the staff report refers to it as a “Chapter,” it should be evident from page 3-4 that “11.12.140” will actually be a “Section” within Chapter 11.12.

For example, is there no current way to prevent people from balancing on the railing of the cantilevered bridge in the Civic Center Park (pictured above)?

Alternatively, if, as the preamble suggests, the intent is indeed to confine this to regulation of climbing related to diving or jumping into water, rather than adding a new section, would it not make more sense to add the new regulations to (and combine them with) existing [Section 11.12.150](#) (Diving or Jumping from Public Property) to make obvious the connection with diving and jumping into water (which *are* swimming regulations)? In other words, wouldn't it be better, simpler and more concise, to simply propose to add between the first and second sentences of existing Section 11.12.150 something like "*It is additionally unlawful to climb on such structures with an apparent intent to dive or jump*"?

As to the revisions that *are* proposed to existing Section 11.12.150, the item is unusual in that neither the staff report nor a redlined version reveals what the revisions might be, or why those particular changes, whatever they might be, are being proposed.

A comparison with the [existing code](#) suggests that the changes are confined to wordsmithing, likely with no intent to change the meaning of the existing code.

That said, it is not obvious the proposed revisions are entirely an improvement or that they have caught all the problems with the existing code.

In some respects, it may be too broadly written. For example, what is meant by "*or otherwise enter the water*"? Is it a misdemeanor for a boat owner to step over a public bulkhead or seawall to "enter the water" to get to their on-shore mooring?

In other respects, it may be too narrowly written. For example, are the lists it contains meant to be exhaustive? Or to be representative of the kinds of things listed? If the latter, the regulation would normally say something like "including but not limited to," which this does not.

In addition to the lack of exceptions for persons legitimately using public property to access the water, even the existing exception confined to "*City employees or City contractors who are performing their official duties*" seems too narrow. Don't City employees host events at which Junior Guards and even Council members are invited to jump from the Newport Pier? I don't believe the Junior Guards are City employees or City contractors. Do we regard them as criminals if they, or anyone else, follow a City employee's instructions to jump?

Item 4. Ordinance No. 2025-11: Amending Section 9.04.470 (Local Agency Very High Fire Hazard Severity Zone) To Adopt the 2025 Moderate, High, and Very High Fire Hazard Severity Zones, As Designated By The California Department of Forestry and Fire Protection and Pursuant to California Government Code Section 51178

As the staff report indicates, this ordinance was introduced on July 8 with a note that [state law](#) required it to be adopted by July 22. Yet, at the July 22 meeting, the adoption was, [without explanation](#), postponed to the present meeting.

The present report continues to lack explanation of why the item was postponed (there do not be any changes to the July 8 version proposed) or what the consequences of missing the state-mandated deadline might be.

Is the ordinance being presented for adoption the same as that introduced on July 8?

Why was the adoption delayed?

What are the consequences of missing the state-required adoption date?

My guess is the consequences may be confined to the City losing the ability to add areas to the state map, but I don't know if this is correct.

Item 8. Ordinances Nos. 2025-15 and 2025-16: Newport Beach Municipal Code Amendments Related to Short Term Lodging (PA2023-0116)

As I indicated at the first reading, in addition to the issue regarding the 20-unit minimum ownership requirement to qualify for a STL permit in a mixed use area, there is a conflict between the City's understanding of the City's 1,550 STL permits cap and the Coastal Commission's understanding of it. As proposed here, the Coastal Commission understands 1,550 to be the City's limit for permits in the coastal zone, alone, whereas the City understands it to be the limit on STL permits in the entire city (including both the coastal zone *and* areas outside the coastal zone). Before adopting this, the Council should be careful it understands the possible consequences of that difference in interpretation.

Item 9. Ordinance No. 2025-17: Approving the Third Amendment to Development Agreement No. DA2012-003 for the Uptown Newport Planned Community located at 4321 Jamboree Road (PA2025-0010)

If the Council members have reviewed public comments received at the June 19, 2025, Planning Commission meeting where this agreement was reviewed (see [video](#)) they will know they have constituents who bought into the Uptown Newport concept on the belief that the landlord had an agreement with the City that the TowerJazz semiconductor plant, next to which they live, and the disturbances it generates, would be gone by a date certain.

This amendment, if approved, would extend that end date by 3.5 years. Since the agreement is contingent on public benefits to be provided by the developer, they thought it would be reasonable for the City to require additional benefits to compensate for the additional and unanticipated inconveniences residents would be put to by the delay. Yet the present proposal does not include any new public benefit in return for the extension.

While I am not sure that phasing out industrial uses is in the best interests of the City, I am sympathetic to the residents' concerns, and feel an increased benefit is appropriate in return for an extended term.

It might be noted that this amendment places the anticipated closing date of TowerJazz beyond the ending date of the current development agreement. And I understand an extension of the agreement itself is being negotiated. I hope the delay in the previously-agreed-to closing date for TowerJazz will be factored into the public benefit needed to extend the term of the agreement.

It might be noted that at the June 19 hearing, Mr. Shopoff, the developer, said he expected TowerJazz to close “much sooner” than the 3.5 years. But years ago, Mr. Shopoff similarly promised he would move heaven and earth to get Uptown Newport moved from the Santa Ana Unified School District to the Newport Mesa Unified School District, so that its residents could feel truly part of the larger community. And nothing happened.

Item 10. Ordinance No. 2025-17: Approving the Third Amendment to Development Agreement No. DA2012-003 for the Uptown Newport Planned Community located at 4321 Jamboree Road (PA2025-0010)

As I attempted to argue to the Coastal Commission, without much success, the ordinance, as proposed, appears to not update the [map](#) of the planned community in [Section 21.80.065](#) of the LCP Implementation Plan. As a result, the map will be out of sync with the text, showing a location for “a tennis clubhouse, bungalows and villas” whereas the text will specify “a tennis and pickleball club, villas, condominiums, and a hotel.”

Item 15. Alley Reconstruction (Assessment District 111, Underground Utility District 22 Phase 2 and Assessment District 124 Phase 0 Areas) - Notice of Completion for Contract No. 8820-2 (23R07)

For those not following this closely, the staff report does not explain why “*the poles along North Bayfront alley have not been removed*” if this “*was the final step in the utility undergrounding process after power pole removal and associated water main replacement efforts in the AD 111 area.*” Was it never the plan to remove them? Or is this not really the “final step”?

Item 16. Approval of Professional Services Agreement with Verde Design, Inc. for Bonita Creek Park Athletic Field Synthetic Turf Replacement (Project No. 26P11) (Contract No. 9890-1)

Is this one of the first synthetic turf installations in the city? It would have been helpful to indicate if the turf to be replaced has performed as expected.

Also, was (or should) the decision to continue with synthetic turf have been reviewed by the Parks, Beaches and Recreation Commission?

A little history would have been helpful, since this is only preliminary to a larger contract to come.

Item 21. Temporary Fire Station No. 1 Project - Award of Contract No. 8865-3 (23F12)

This project to create a temporary fire station in a portion of the Balboa Pier Parking Lot generated considerable pushback from nearby residents when it was presented to the Zoning Administrator, including how ingress and egress would be handled. Have their concerns been addressed?

Item 29. Approval and Award of Printing Services Agreement for Newport Navigator Magazine with Advantage Mailing LLC

It might have been helpful to indicate which, if any, of the bidders is the incumbent contractor. From the City Clerk's contracts database, it looks like the City last contracted with Trend Offset Printing, but they assigned the contract to Mittera, who is the incumbent, in 2021 per contract [C-8631-2A](#).

Item 32. Appointment of William Lobdell as the Newport Beach City Historian Laureate

Not to detract from Mr. Lobdell's fine accomplishments, but in completing its review, did the ad hoc nominating committee consider or have any other applicants to review? The staff report does not seem to say.

Item 33. Confirmation of Nominees to Serve on the Aviation Committee

I have multiple misgivings about the recent reorganization of the Aviation Committee, and am disappointed that I am not one of the nominees despite having had an application on file far longer than most of those being considered.

I am, nonetheless, somewhat pleased to see the Council being asked to follow a public process with two nominees for each position and the final selection to be voted upon by the full Council at its next meeting.

The reasons I am only somewhat pleased include the staff report's statement that the 10 candidates were selected from 23 applications by the Aviation Ad Hoc Committee, which it identifies as consisting of Councilmember Barto, Mayor Pro Tem Kleiman and Mayor Stapleton.

1. I thought the Aviation Ad Hoc Committee had sunset upon making its recommendation to adopt [Resolution No. 2025-31](#) as [Item 10](#) at the June 10, 2025, Council meeting.
2. Even if the Aviation Ad Hoc Committee continues to exist, its members, according to the [minutes](#) of the February 25, 2025, Council meeting at which it was created, and confirmed in the June 10 report, consist of Mayor Pro Tem Lauren Kleiman and Councilmembers Michelle Barto and Noah Blom (not Mayor Stapleton).
3. Screening applications does not appear to be a duty the Aviation Ad Hoc Committee was ever charged with.²

And, it seems necessary to point out this process is at odds with that set forth in the enabling resolution for the committee, provided as Attachment A to the staff report. The relevant provision (see page 33-7) clearly states that "*Up to five (5) citizen members shall be appointed by the Mayor, subject to confirmation by the City Council.*" There is nothing about the full Council making selections from a wider field.

² [Resolution No. 2025-10](#) creating the Aviation Ad Hoc Committee does include a responsibility to review and make recommendations regarding "membership," but I take that to mean setting qualifications to be a member, not screening applications for membership. Even more importantly, the Resolution No. 2025-31 they recommended adopting includes no further role for the Ad Hoc Committee and explicitly places responsibility for selecting Aviation Committee appointees with the Mayor.

The staff report cites [City Council Policy A-2](#) as dictating the method of selection, requiring two nominees for each position and final selection by the full Council, despite what the enabling resolution for the committee might say to the contrary. In fairness to the Interim Clerk, her choice to follow Policy A-2 seems based on the Council's action on [Item 10](#) at the June 10, 2025, to both adopt Resolution No. 2025-31, saying the Mayor makes the appointments, and "*Direct the City Clerk to initiate the process for filling the vacancies on the Aviation Committee pursuant to the Maddy Act and City Council Policy A-2.*"

At the very least, it is confusing to adopt a resolution setting one procedure for appointment and simultaneously give direction to the Clerk to do something different. It certainly puts the Clerk in an awkward spot.

I am not sure which prevails, but much as I prefer the A-2 procedure, I would tend to think the method dictated by the resolution takes precedence.

Setting all this aside, of the candidates being considered, I would recommend the Council give special attention to Jack Stranberg, one of the proposed holdovers from the current Aviation Committee. Based on my attendance at those former Committee meetings, it is my impression that Jack has been instrumental in persuading Southwest Airlines, by far the dominant commercial carrier at John Wayne Airport, to greatly increase the fraction of their routes being flown by the Boeing 737 MAX 8, which, although not perfect, is both quieter than the planes it will replace, and can fly the same number of people with fewer departures. This started on August 5th, and is one of the few positive accomplishments in recent years.

Item 35. Resolution No. 2025-55: Ford Road Townhomes Appeal (PA2025-0049)

I think it is important for the public to understand that approval of this market rate housing development will do nothing whatsoever to help Newport Beach meet its state-mandated housing obligations.

Yet, based on information in the staff report and elsewhere, even if the Council thought it both unnecessary and incompatible with the neighborhood, recent changes to state law give it little or no latitude to deny the project. At most, it could require the applicant to comply with all the Objective Design Standards recently adopted by the Council.

The reason it will do nothing, is that the City faces no current requirement to provide more market rate housing, having already approved more than enough.

What it continues to face a requirement for, and a large one, is to allow new housing for households with moderate, low and very low incomes.

This unfortunate situation of being forced to approve something that is *not* required, while at the same time not helping with what *is* required, is the result of bad decisions on the part of the City. While designated this as a "housing opportunity site" in the [6th Cycle Housing Element](#) was not necessarily a bad decision, promising that it could specifically yield 6 moderate and 19 low/very low income units, and then rezoning it with no requirement to produce any of those units was.

Had the zoning required those units, we would be making some, however modest, progress toward our requirements to provide affordable units. As it is, the failure of those to appear not only means no progress, but actually eats into the buffer the Council approved.³

Item 37. Agreement for Purchase and Sale and Escrow Instructions with 3848 Campus L.P. for the Purchase of Real Property at 3848 Campus Drive

Historically, property in Newport Beach has appreciated in value. But speculating in real estate is inherently risky and not normally the sort of thing a city would do with its funds. In this case, the current owner evidently thinks it is time to sell. In other words, that the property's value is likely to fall, or at least that his money would do better invested elsewhere.

It is not clear that City staff disagrees with that, for it seems to be recommending snapping it up at substantially more than its assessed value not as an investment, but rather for some needed future use.

The specifics of what that future use might be, and when the need will arise, seem suspect.

It has previously been suggested that the Newport Center Fire Station needs to move to the current Transportation Center location north of the City Hall and that the City needs to find a new location for the Transportation Center, with 3848 Campus Drive now being revealed a logical location.

But I put in a Public Records Act request for the study purportedly showing the Transportation Center would be a better location for the fire station, and the City could find none. And OCTA, based on their letter in the agenda packet, seems at best lukewarm on the idea of moving at all, and especially skeptical of the idea that 3848 Campus Drive would be a better location for a Transit Center than its present one.

At the same time, doesn't being near a transit center increase the value and usability of neighboring properties?

Is it possible the seller sees a chance to make a quick profit on this parcel while increasing the value of other parcels he owns nearby?

Item XXII.A.1. Pacaso, Inc. v. City of Newport Beach

It was probably inevitable that Pacaso, Inc., the purveyor of fractional ownership timeshare residences, would sue the City.

However, it might be worth reminding the Council that from the outset, the City's legal position was significantly undermined by the current City Manager designate making public statements in his role as Community Development Director that the City's existing codes could not be used to prohibit Pacaso's operations. This conclusion required a tortured reading of the codes, ignoring their history. As many residents pointed out, an equally or even more plausible reading would have been that the existing timeshare regulations prohibited Pacaso's operations from the start, and that all the facilities they had created were illegal and could be removed.

³ The buffer allows for affordable units not materializing as promised, but once it is exhausted, the City will have to identify still more sites at which affordable units can both be allowed and expected.

As a result of the Director's pronouncements, the City had to embark on a lengthy process of making cosmetic amendments to the timeshare codes to restate their original intent, during which time more timeshares were established and are now "grandfathered in" to the detriment of their neighbors.

One might hope the Council will expect greater caution from their City Manager designate in the future (as well as from the next Community Development Director).