

December 9, 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 III. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

I believe the idea of investing surplus revenues, rather than sending them to CalPERS, has been discussed by the Finance Committee. The idea that the full Council should share in that discussion is a good one. However, the authorship of the present request for that to happen suggests hub-and-spoke discussions have already taken place between more than the three Council members on the Finance Committee, and hence a majority of the Council. Indeed, the strange arrangement of that committee, with each of the four Council members not on the committee appointing a member to monitor its activities for them, seems to encourage hub-and-spoke discussions even though the Brown Act forbids them.

Item 1. Minutes for the November 18, 2025, 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 453, Public Comments, paragraph 1, sentence 1: "*Jim Mosher commented on Agenda Item ***6 VI*** regarding wireless communication facilities, expressing concern that the request seemed to revert to a less public, less visible process than what currently exists.*"

[**Note**: This was a comment about the Council member requests for future agenda items, which is Item VI, not consent calendar Item 6.]

Page 454, Public Comments, paragraph 1: "*Jim Mosher, spoke on Agenda Item No. 10 (~~Concrete Replacement Program Fiscal Year 2025-26 -- Award of Contract No. 9945-1 (26R06)~~ ***Fire Station No.2 HVAC Retrofit - Award of Contract No. 9959-1 (25R02)***), and questioned*"

Page 460, Public Comments, paragraph 2: "****Kirk Curt Fleming*** urged Council to adopt the initiative as presented rather than spend money on an election.*"

Page 461, Motion by Councilmember Blom, near end: "...; and then adopt the following Resolutions: (1) ***Resolution No. 2025-81***, A Resolution Calling for and Giving Notice of a General Municipal Election to be Held on November 3, 2026, to Submit to the Voters an Initiative Measure Proposing to Amend the Land Use Element of the City's General Plan, and Requesting the Orange County Board of Supervisors Consolidate the General Municipal Election with the Statewide General Election to be Held on the Same Date; (2) ***Resolution No. 2025-82***, A Resolution Directing the City Attorney to Prepare an Impartial Analysis of an Initiative Measure to Be Submitted to the Voters at the General Municipal Election to be Held on November 3, 2026, and Providing for the Deadlines for Filing the Impartial Analysis and Written Arguments For and Against the Initiative Measure; and (3) ***Resolution No. 2025-83***, A Resolution Setting the Deadlines for Filing of Rebuttal Arguments in Response to Direct

Arguments Filed For and Against the Initiative Measure to be Submitted to the Voters at the General Municipal Election to be Held on November 3, 2026.”

[**Comment:** It is troubling that the minutes don't record the numbers of the resolutions adopted in this motion. It is additionally troubling that the resolution under this heading signed by the Mayor and attested by the City Clerk, [Resolution No. 2025-82](#) has different due dates (June 15, 2026) for the arguments than the [draft resolution](#) in the agenda packet that the public thought was being approved (which set the due dates at December 2, 2025). Moreover, there is nothing in the minutes to indicate makers of the motion asked to amend that original due date. While the Clerk was instructed to insert the November 3, 2026, election date and the names of three Council members selected to write arguments against the measure, no direction was given to change the due dates of the arguments.]

Item 3. Ordinance No. 2025-35: Repealing and Replacing Chapter 12.56 (Bicycles - Registration and Regulations) of the Newport Beach Municipal Code - Second Reading

I commented on this item when it was introduced at [Item 10](#) on November 4, and when it was reintroduced as [Item 3](#) on November 18 with the deletion of a provision that would have allowed bicycle and e-bicycle riding on all sidewalks fronting residential properties.

It seems worth noting that to ensure everyone knows what is being considered, [Section 412](#) of our City Charter requires that “*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.*” In the present case, it appears the City Clerk did not have a copy of the proposed ordinance as modified on November 18 until it was provided as part of the present agenda item.

As to the substance of the item, I think the ordinance continues to have the previously commented upon problems. Among those, the new Subsection 12.56.060.B.2 requirement for cyclists using sidewalks to ride in the direction of traffic flow, where this is not required of pedestrians using the same sidewalk, does not seem universally desirable. The city has a number of sidewalks wide enough for bicycles travelling in opposite directions to pass. Not allowing this under such circumstances, or when there are no other users on the sidewalk, is both inconvenient and unnecessary, forcing cyclists to cross streets and create more hazards in the process than any they prevent.

Item 4. Ordinance No. 2025-36 Approving the MacArthur Court Development Agreement

I continue to oppose this agreement, which seems intended to vest zoning entitlements that were, in part, improperly granted through a Director's Determination. It also provides far less than the amount of affordable housing promised for this site in the City's General Plan Housing Element (see comments regarding [Item 16](#) from November 18), and none at all actually at the site..

Item 6. Resolution No. 2025-86: Setting City Council Regular Meeting Dates for Calendar Year 2026

The City Clerk is recommending the second meeting in November be scheduled for November 17 to avoid the “normal” date of November 24 to avoid having a meeting during the week of Thanksgiving (which comes on November 26).

I do not know the source of this new-found aversion to holding meetings in the week of a national holiday, but it does not seem wise to me. Where sticking to the normal pattern of meeting on the second and fourth Tuesday would have produced the normal pattern of a meeting every other week, this deviation produces two meetings a mere week apart followed by a gap of three weeks between meetings.

I urge the Council to reject the recommendation and schedule the second meeting of November 2026 on November 24.

I also fail to understand why the Council continues to meet a single time in August and December. The latter creates a lapse of more than a month between meetings.

Item 11. Amendment No. One to the Facilities Relocation Agreement with Southern California Edison

The “Fiscal Impact” statement on page 2 of the staff report suggests that the full, very significant increased cost of this endeavor will be borne entirely by the private developer. In other words, that there will be no cost to taxpayers. The City is apparently acting only as an intermediary between the developer and SCE.

If that is correct, it could have been more clearly stated in the Abstract,¹ since it is not evident from the [Attachment A](#) agreements in which only the City, and not the developer, appear to be mentioned and obligated.

Item 12. Amendment No. Two to Memorandum of Understanding Between the Cities of Costa Mesa and Newport Beach for the Costa Mesa Bridge Shelter

The staff report makes it sound likely the City will face higher per night bed rates when it loses its exclusive right to any beds next July 1. The report does not make clear what the current occupancy status of the shelter is, or if Costa Mesa has experienced a similar reduction in its homeless population. Is the shelter fully occupied? Or is there an expectation the beds needed by Newport Beach would be available?

Without explanation, the report says “*Staff has initiated conversations about obtaining shelter beds from other cities.*” Is this because the Costa Mesa shelter may not be able to provide them? Or because other cities might offer a lower price?

¹ The “Abstract” and “Discussion” mention a “February 13, 2019” City Council meeting. It appears the Council did not meet on February 13, 2019, but it does seem to have met on February 12, 2019, where [Item 9](#) appears to have been the item this is a follow-on to.

Item 13. Organizational Restructuring and Changes to Budgeted Positions

Under the Council-Manager form of government that we have chosen, it is most certainly the province of the City Manager to set up the best and most efficient administrative structure for achieving the City's purposes. Under our charter, however, that structure is to be developed with the oversight and approval of the City Council. It is, therefore, rather extraordinary to see a major restructuring placed on the consent calendar, where staff expects the Council to approve it without any public discussion (and presumably no discussion in private, since reaching agreement on the proposal in private would violate the Brown Act).

Among the questions the Council might be asking:

- Is the recommendation coming from the current City Manager or the future one?
- Can this really be accomplished for \$14,856 of additional cost, and what time period does this cover?
- How can putting Risk Management services under the City Attorney be reconciled with the City Charter?
- If putting the details of a City Attorney's Office in the Municipal Code is desirable, why should putting those of a City Clerk's Office not also be?
- Where is the Information Technology Division in the Municipal Code, and why is it not being put in the new Administrative Services Department?
- Why is the resolution changing City Council policies going into effect immediately, weeks before the Council will consider adopting the ordinance creating the reorganized departments and job titles at its January 13, 2026, meeting, let alone before that ordinance becomes effective 30 days later?
- Why is the resolution changing the Key and Management employees' Compensation Plan and salary schedule going into effect on December 13, 2025 (again, weeks before the Council will consider adopting the ordinance creating the reorganized departments and job titles at its January 13, 2026, meeting)?
- When will the reassigned employees physically move, and how much restructuring of the City Hall will be required?

Background on Prior City Staff Reorganizations

The current organizational structure of the City of Newport Beach is largely opaque to the public since of all the departments, only Public Works [provides](#) a current and readily accessible link to a detailed [organizational chart](#). But from the revision notes to [Chapter 2.12](#) of our Municipal Code, it is apparent this is hardly the first proposal for reorganization of the City's administrative staff, nor the first time an "Administrative Services" and a "Municipal Operations" department have been proposed to be created. In fact, Newport Beach city managers have frequently reversed, and then reserved again, the organizational structures recommended by earlier city managers.

Examples include the merging of the separate Building and Planning Departments (described by [Ordinance No. 1060](#) in 1963, the readily accessible list of City structure) into a single Community Development Department by [Ordinance No. 1382](#) in 1971, which was split back apart by [Ordinance No. 1826](#) in 1979, and then merged back together by [Ordinance No. 2011-17](#) in 2011.

The utilities function has had similar difficulty finding a home, having been part of the Public Works Department in 1963, but pulled out as separate department by [Ordinance No. 1781](#) in 1978, then folded back into Public Works by [Ordinance No. 95-11](#) in 1995, then pulled out and merged merged with the General Services Department to create a Municipal Operations Department by [Ordinance No. 2011-17](#), only to be separated again by [Ordinance No. 2018-6](#), which folded the former General Services functions into the Public Works Department.

Other functions that have had trouble finding a departmental home include management of parks, beaches and tidelands, and the lifeguard service.

An Administrative Services Department was formerly created by [Ordinance No. 95-11](#), which added information, risk management and employee relations functions to the Finance Department. It was dissolved by [Ordinance No. 2011-17](#), which resurrected the former Finance Department and created a new Human Resources Department while assigning Information Technology to the City Manager.

What Will be the Cost of this Reorganization?

The “Fiscal Impact” summary on page 4 of the staff report says “*The personnel-related changes outlined in this staff report total \$14,856,*” although on the following page it acknowledges “*In addition, there will be costs associated with relocating staff and with the future buildout of workspaces.*”

The staff report does not explain if the \$14,856 is a recurring personnel cost, and if so, over what period it will recur.

What are the one-time and the continuing costs of this proposed reorganization compared to continuing the structure we have now?

Those seem fundamental questions.

Additionally, the [Attachment G](#) summary indicates, as the “Fiscal Impact” summary implies, that one of the actions will be to “*Transfer human resources director to municipal operations department director.*” Is there really a plan to move someone hired to manage human resources functions into a position where they would be expected to manage municipal operations functions – a job they would seem completely unqualified to handle?

The Problem with Putting Risk Management under the City Attorney

As indicated above, the first mention of risk management in the administrative structure of the City appears to be when it was identified as a function of the Administrative Services Department created in 1995 out of the prior Finance Department (which had a number of general administrative functions, including purchasing the' supplies, equipment and services used by the City departments and providing centralized duplicating and data processing

services). Risk management moved into the newly created Human Resources Department when the Administrative Services Department was broken back up by [Ordinance No. 2011-17](#).

The extremely brief [staff report](#) associated with the introduction of that ordinance (which seems to be reporting changes after they have happened) does not explain the logic of that move. Indeed, it doesn't even mention the creation of a Human Resources Department.

The problem with putting risk management under the City Attorney, is that the City Attorney is a legal advisor. He is not an administrative officer under the jurisdiction of the City Manager.

As the preamble to the ordinance which would make this change ([Attachment A](#)) says, "*the City of Newport Beach ("City") is a charter City, governed by a charter adopted by the citizens of the City.*" The [Charter](#), whose provisions it is beyond the power of the Council or staff to change, both empowers and restrains what the City government can do.

[Section 602](#) defines the powers and duties of the City Attorney. Notably, and unlike for the other two officers appointed by the Council – the City Manager ([Article V](#)) and the City Clerk ([Section 603](#)) – or even officers appointed by the City Manager, such as the Director of Finance ([Section 604](#)), Section 602 does not empower anyone, including the City Council, to assign additional powers or duties to the City Attorney beyond those specified in Section 602. Indeed, even the limited set of possible powers the City Attorney may exercise under Section 602 is conditioned on the Council choosing to ask the City Attorney to perform them.

Equally fundamentally, risk management seems to be an administrative function. While it needs legal advice, which the City Attorney is certainly empowered, and indeed, may be required to give, administrative decisions are supposed to be under the oversight and control of the City Manager. Putting final decisions about risk management in the hands of the City Attorney, who is not answerable to the City Manager (despite the misleading impression created by the [City Organization Chart](#) on the City website), not only removes checks and balances, but it seems to be a consolidation of functions that runs afoul of [Section 601](#)'s restriction on the Council that "*No office provided in this Charter to be filled by appointment by the City Manager may be consolidated with an office to be filled by appointment by the City Council.*"

For these reasons, while the Council is free to spell out in the proposed NBMC Chapter 2.14 of Attachment A the tasks it expects the City Attorney to perform in fulfillment of his Section 602 duties, I think:

- The proposed **Subsection 2.14.010.E** ("*Provide risk management, assessment, planning and develop procedures to address loss prevention, loss reduction, and the purchase and provision of insurance*") is inappropriate and **should be deleted** (and the following subsections renumbered).²
- The proposed Subsection 2.14.010.G should be revised to read:

² The undated "Department Overview" on the current Newport Beach [City Attorney webpage](#) lists as one of the office's existing functions "*Safeguard the City's resources by proactively managing risk, administering workers' compensation, and overseeing insurance programs to reduce exposure, protect employees, and minimize costs to taxpayers.*" I don't know where that came from, since in the existing NBMC [Section 2.12.060](#), the Council assigns risk management to the Human Resources Department.

“G. Such other functions as may be ~~delegated~~ assigned by the City Council consistent with City Charter Section 602.”

Why Not Put City Clerk’s Functions in Code as Well?

As indicated above, one of the proposals is to add a Chapter 2.14 to the Municipal Code, detailing some of the functions the City Council expects the City Attorney to perform, similar to the existing [Section 2.08.040](#) which spells out functions of the City Manager.

If Chapter 2.14 is added, why would the Council not also add a chapter detailing the functions it expects of the City Clerk, the only officer it appoints most of whose duties would not seem to be mentioned in the Municipal Code?

That would seem especially appropriate since, as with the City Manager, the City Charter [Subsection 603\(h\)](#) empowers the Clerk to “*Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council*” (something the Charter does not allow for the City Attorney).

Where is the Information Technology Division in the Municipal Code?

As indicated above, information management, like risk management, was a function of the former Administrative Services Department when it was created in 1995, but was spun off into the City Manager’s office when the former Administrative Services Department was broken up in 2011. The [staff report](#) at the time did not explain the reason for this recommendation, but for purposes of the Municipal Code, it has left the Information Technology Division an orphan, for providing such service is no longer listed as a function of any of the existing or proposed departments, nor of the City Manager.

It would seem to me IT belongs back in the Administrative Services Department, as it originally was.

Technical Defects of the Proposed Documents

The present agenda packet lacks the continuous series of page numbers that usually accompany agenda items, making it difficult to describe the location of passages of interest. In addition, the absence of redlined versions makes it extremely difficult to guess what may have been changed in the proposed revisions to the Municipal Code and the Council Policies.

Regarding the draft ordinance presented as [Attachment A](#):

1. One of the most obvious and repeated defects is that by interspersing existing NBMC chapter titles it directs unintended changes to the code. For example, starting with subpart “3.” it says “*Section 1.05.060 (Appeal of Administrative Citation) of the Newport Beach Municipal Code is amended to read as follows:*” But what follows is not just the list of numbered paragraphs it seeks to amend, but also a line with the words “Chapter 1.08” followed by a line with the words “RULES OF CONSTRUCTION.” It seems unlikely the Council wants to add those two lines to NBMC Section 1.05.060, but that is what it says to do.

2. Other more specific unintended revisions can be spotted. For example, in Subpart “14.” it suggests a NBMC Section 2.12.080 beginning “A. *The Municipal Operations Department shall be under the supervision of the **Administrative** Municipal Operations Director.*” It seems unlikely “Administrative” is really intended to be part of the director’s title.
3. Similarly, in proposed revisions to the existing [Subsection 3.30.010.G](#) of Subpart “41.”, the ordinance would change a reference to the “*State Department of Finance*” into a reference to the “*State **Administrative Services Department.***” Despite that wish, it seems unlikely the City has the power to unilaterally change the names of California state agencies.
4. Likewise, in Subpart “42.” a reference in existing [Section 3.32.320](#) to the (state) “*Department of Finance*” is, again, inadvertently requested to be changed to “***Administrative Services Department.***”
5. Other errors are likely, but without redlining, it is difficult to tell.
6. In the revisions to [Chapter 2.12](#) (Administrative Departments) where substantive changes are intended, it might be noted that:
 - a. The existing language in what will become proposed Subsection 2.13.030.G (Subpart “11.”) does not make grammatical sense (“*Advise and liaison to the Civil Service Board*”)
 - b. The delegation of “*Street striping, and barricade, curb, crosswalk, parking stall, and pavement painting*” to Public Works in existing [Subsection 2.12.100.N](#) has been retained by Public Works in the proposed new Subsection 2.12.100.I (Subpart “15.”), but the “maintenance” thereof has been assigned to the new Municipal Operations Department in proposed Subsection 2.12.080.G of Subpart “14.” The division of labor is not entirely clear.
 - c. Also in Subpart “14.” a missing word in the original may have been copied into proposed Subsection 2.12.080.H: “*Street name and regulation sign posting **and** maintenance;*” unless the maintenance is indeed supposed to be done by a different department than the posting, in which case “*Street name and regulation sign posting*” (but not “maintenance”) should be restored to the Public Works Department, with “posting” removed from the Municipal Operations Department’s functions.
 - d. Again in Subpart “14.” the language chosen for proposed Subsection 2.12.080.I (“Custodial maintenance and repair services for City buildings and facilities”) differs from that from which it was copied in existing [Subsection 2.12.100.P](#) (“*Custodial maintenance and **minor** repair services for City **owned and occupied** buildings and facilities*”). Why have the words “minor” and “owned and occupied” been removed?
 - e. Also confusing is that Subpart “14.”, in its proposed Subsection 2.12.080.E, assigns to the new Municipal Operations Department “*Maintenance and repair of City equipment,*” while Subpart “16.”, in proposed Subsection 2.12.120.F, newly assigns to the Utilities Department “*Maintenance of **backup** electrical equipment in City buildings.*” Currently, existing [Subsection 2.12.100.R](#) assigns

“Maintenance of electrical equipment in City buildings” to the Public Works Department. Why would the Utilities Department be concerned only with “backup” electrical equipment, whatever that means, and is it clear who maintains the other electrical equipment currently maintained by Public Works?

Regarding the draft resolution presented as [Attachment B](#):

1. I have not attempted to read the revised Council Policies provided as Exhibits A through X, since without redlining it is nearly impossible to tell if nothing has been changed other than references to department names and employee titles, or that all of those changes have been made appropriately.
2. Nonetheless, it is evident from “Section 5” on page 3 of the resolution that staff wants it to become effective immediately. How can that be when the Council has not yet adopted the ordinance (Attachment A) changing the names and titles?

Regarding the draft resolution presented as [Attachment C](#):

1. While missing a word, “Section 7” on page 3 of the resolution seems intended to say *“This resolution shall take **effect** on December 13, 2025, ...”*
2. How was the date “December 13, 2025” selected?
3. How is it possible to make changes to the positions and salaries effective before the Council has decided if it will adopt the ordinance creating them (Attachment A), which (according to page 3 of Attachment A) is not expected to happen until January 13, 2026, and (according to [City Charter Section 416](#)) will not become effective until 30 days later.

Item 17. Review of Proclamation of Local Emergency, Resolution No. 2025-75

My understanding is the consent calendar is supposed to be reserved for items regarding which staff assumes the Council will agree with the recommended action and will not need discussion of it.

While this item might well have been framed in that way, staff chose not to recommend that the Council find, based on a report it can receive and file, that an emergency continues to exist. Instead, the recommendation provided is *“Review the continued need for the local emergency as required by Newport Beach Municipal Code Section 2.20.065 and, if emergency conditions remain, receive and file the report.”* In other words, the receiving and filing of the report is predicated on a finding of remaining emergency conditions that the Council members may or may not make.

I fail to see how this is consistent with placement on the consent calendar. If the matter is approved as recommended, did the Council decide emergency conditions remain? Or did it not? The staff recommendation does not appear to take a position on that.

Item 18. Planning Commission Agenda for the November 20, 2025, Meeting

The action minutes do not accurately capture what in my view was the Commission's disappointing performance on agenda [Item 3](#). In that item, the Commission was asked to provide comments on the draft General Plan Land Use Element and Safety Element, as well as background reports regarding them, all of which they had received for review on October 2, a week prior to their [October 9 meeting](#).

After seven weeks to study those documents, only one Commissioner had a couple of brief comments on the Land Use Element, and not a single Commissioner had any comments about the Safety Element. I had hoped for more.

Item 21. Election of Mayor

As I try to remind the Council each December, the title of mayor in Newport Beach is a largely ceremonial one, the primary duties of which consist of: (1) acting as the moderator of the Council meetings; (2) signing papers as directed by the full Council, and (3) acting as the chief spokesperson articulating to the public the Council's positions on the issues that come before it. Like all the other Council members, the Mayor has no authority as an individual to make decisions on behalf of the Council or to direct City staff.

City Charter [Section 404](#) requires a vote to select a Mayor and a Mayor Pro Tem only at the meetings where newly-elected Council members are seated.

The reason recent Councils have chosen to change mayors each December is not clear to me. My guess is the practice was started to give each member a chance to hold the position during their potentially eight year term. However, if that were truly the intent, we would have a rotation system based on seniority, which we do not.