

From: Biddle, Jennifer
Sent: July 19, 2024 1:45 PM
To: City Clerk's Office
Subject: FW: Require vote of people to adopt NB's Housing Plan

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: James Halton <npbjim@gmail.com>
Date: 7/19/24 1:29 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Require vote of people to adopt NB's Housing Plan

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Follow the City Charter " Section 423 of the Newport Beach City Charter – the “Greenlight provision” -- requires a vote of the people to adopt Land Use Element Updates and Zoning Amendments – including the city’s proposed Housing Plan”.

Jim Halton
50 Villa Point Drive
Newport Beach, CA 92660
npbjim@gmail.com
949-922-4225

From: Biddle, Jennifer
Sent: July 19, 2024 1:45 PM
To: City Clerk's Office
Subject: FW: HOUSING ELEMENT

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: John Petry <johncpetry@hotmail.com>
Date: 7/19/24 1:34 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: HOUSING ELEMENT

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please let the voters decide. Thanks

From: Biddle, Jennifer
Sent: July 19, 2024 2:45 PM
To: City Clerk's Office
Subject: FW: Green light

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Bud Reveley <budreveley@gmail.com>
Date: 7/19/24 2:28 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Green light

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Allow citizens to vote for housing plan

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: The People of Newport Beach Must Vote on the City's Housing Plan
Date: July 19, 2024 4:16:15 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Alan Sellers <alanbsellers@gmail.com>
Date: 7/19/24 4:03 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: The People of Newport Beach Must Vote on the City's Housing Plan

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Councilmembers: Please follow the City Charter by giving the voters of Newport Beach a voice in deciding our city's Housing Plan.

Councilmembers; PLEASE support a vote of the people this November on the city's proposed Housing Plan.

Thank you!!

—Alan Sellers

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW:
Date: July 19, 2024 5:06:10 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: ANN O NEIL <annhafeyo@aol.com>
Date: 7/19/24 4:18 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject:

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

(Please **Put the RHNA Land Use Element on the ballot!**)

Thank you.

Barry & Ann O'Neil
1101 Granville Drive
Newport Beach CA
92660
Sent from my iPad

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Please follow the City Charter by giving the voters of Newport Beach a voice in deciding our city's Housing Plan.
Date: July 19, 2024 5:06:34 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Bob Ehrlich <rdehrlich@icloud.com>

Date: 7/19/24 4:44 PM (GMT-08:00)

To: Dept - City Council <CityCouncil@newportbeachca.gov>

Subject: Please follow the City Charter by giving the voters of Newport Beach a voice in deciding our city's Housing Plan.

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I think it very important that we maintain our feeling as being a strong, involved community of Newport Beach. We have a singular identity because of all of our work to have a strong government that provides us with such strong support. We all need to continue being involved in important decisions. Robert Ehrlich, 22 Rue Grand Ducal, 92660

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: City Charter
Date: July 19, 2024 7:48:44 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Sue Harvey-Reese <sharveyreese@gmail.com>
Date: 7/19/24 5:27 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: City Charter

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please follow the City Charter by giving the voters of Newport Beach a voice in deciding our city's Housing Plan.

Sue and Greg Reese

Cliff drive

Sent from my iPhone

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: City Plan on Housing
Date: July 19, 2024 7:48:53 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Sharon Woodbury <sharonwoodbury222@gmail.com>
Date: 7/19/24 6:21 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: City Plan on Housing

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

I don't want Noah Blum to circumvent the City Council on the Housing Agreement!

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Proposed Housing plan
Date: July 19, 2024 7:49:05 PM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Jill Scirocco <mommatron@aol.com>
Date: 7/19/24 6:50 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Proposed Housing plan

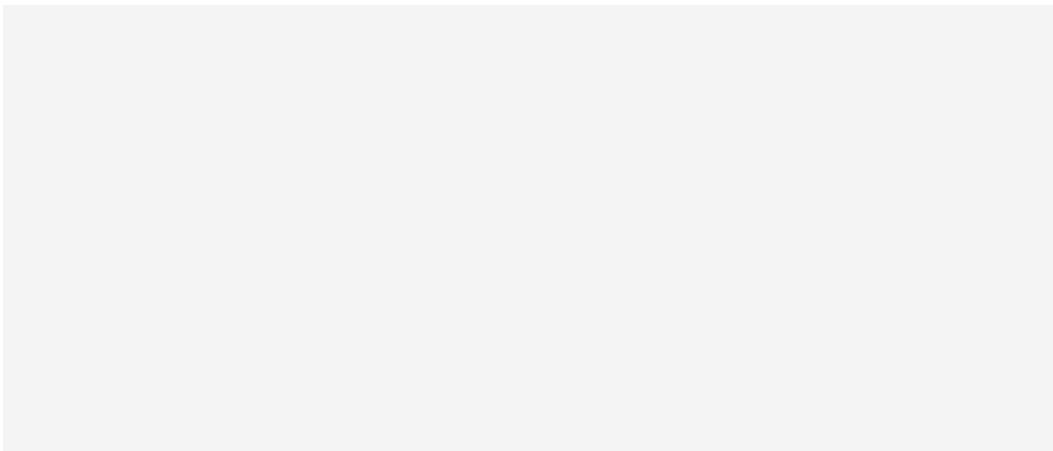
[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

As residents of Newport Beach, we urge you to follow the City Charter by giving the voters of Newport a voice in deciding the city's Housing Plan.

Section 423 of the Newport Beach City Charter, the "Greenlight provision" requires a vote of the residents to adopt Land Use Element Updates and Zoning Amendments, this includes the proposed Housing Plan.

We look for your compliance in this matter.

Joe and Jill Scirocco
7 Portica
Newport Coast, CA



From: Biddle, Jennifer
Sent: July 19, 2024 7:49 PM
To: City Clerk's Office
Subject: FW: voters need a voice to the planned building of apartments, condos etc.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Pam Fossler <pamfossler@mac.com>
Date: 7/19/24 7:21 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: voters need a voice to the planned building of apartments, condos etc.

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

From: Biddle, Jennifer
Sent: July 19, 2024 7:58 PM
To: City Clerk's Office
Subject: FW: Greenlight provision

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Bill Cool <billcoolcdm@gmail.com>
Date: 7/19/24 7:57 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Greenlight provision

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

It is my understanding that there is a proposal to bypass the “Greenlight provision” and **NOT** allow the citizens of Newport Beach vote on a Housing plan that exceeds the 4,845 - unit state housing mandate. This **requires** a vote of the people! There is no way that the council should attempt to ignore the citizens right to vote on this proposal. Taking this a step further, the city of Newport Beach should join with other like-minded cities and draft an a state initiative that returns zoning rights to the local communities and forbids the state government to force cities to over develop their communities with unwanted developments.

William Cool

William Cool
430 Dahlia Ave.
Corona Del Mar, Ca. 92625
(949) 675-5122
Resident since 1968

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: GREENLIGHT PROVISION
Date: July 21, 2024 8:21:29 AM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Dana Dietel <dldietel@yahoo.com>
Date: 7/20/24 2:24 PM (GMT-08:00)
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: GREENLIGHT PROVISION

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

IT IS OUR UNDERSTANDING THAT THERE IS A PROPOSAL TO BYPASS THE "GREENLIGHT PROVISION" AND NOT ALLOW THE CITIZENS OF NEWPORT BEACH VOTE ON A HOUSING PLAN THAT EXCEEDS THE 4,845 - UNIT STATE HOUSING MANDATE. THIS REQUIRES A VOTE OF THE PEOPLE! THERE IS NO WAY THAT THE COUNCIL SHOULD ATTEMPT TO IGNORE THE CITIZENS RIGHT TO VOTE ON THIS PROPOSAL. TAKING THIS A STEP FURTHER, THE CITY OF NEWPORT BEACH SHOULD JOIN WITH OTHER LIKE-MINDED CITIES AND DRAFT A STATE INITIATIVE THAT RETURNS ZONING RIGHTS TO THE LOCAL COMMUNITIES AND FORBIDS THE STATE GOVERNMENT TO FORCE CITIES TO DEVELOP THEIR COMMUNITIES WITH UNWANTED DEVELOPMENTS.

THANK YOU

SINCERELY,

KURT AND DANA DIETEL
CORONA DEL MAR

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Letter re Item 23 7/23/24
Date: July 22, 2024 9:22:30 AM
Attachments: [SPON Letter to CC 7-22-24.pdf](#)

From: Charles Klobe <cklobe@me.com>
Sent: July 22, 2024 9:23 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Letter re Item 23 7/23/24

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good day,

Please accept the attached letter regarding Item 23 on the July 23, 2024 City Council Agenda.

Thank you for your service,

Charles Klobe



Virus-free www.avg.com

July 22, 2024

Newport Beach City Council

Regarding Ordinance Nos. 2024-16, 2024-17, and 2024-50 to 2024-57 OR 2024-58 7/23/2024

Good day Mr. Mayor and Members of the City Council,

SPON (Still Protecting Our Newport) is a 501(c)(3) non-profit dedicated to preserving and protecting the environmental and residential qualities of Newport Beach.

All elements of the PEIR under consideration at the July 23, 2024 city council meeting are deficient as they do not analyze the potential density bonus units allowed under state law. Density bonus units were not analyzed and could add thousands of units above the 9,914 studied in the Draft PEIR, therefore it is deficient and must be recirculated. We therefore preserve our rights to file a CEQA challenge to the Draft PEIR.

Thank you for your service,

Charles Klobe
President

SPON - PO Box 102 - Balboa Island, CA 92662

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Put RHNA housing land use element on the Nov ballot!
Date: July 22, 2024 10:44:53 AM

From: Kate Conard <katepetry@gmail.com>
Sent: July 22, 2024 10:39 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Put RHNA housing land use element on the Nov ballot!

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello City Council Members,

I am a resident of Newport Beach and property owner and am requesting you put the RHNA housing land use element on the November Ballot. This should not be the decision of the council members alone as it impacts all residents of Newport Beach and should be up to the citizens to decide. If it fails, it goes back to the council anyway, so give the people a chance to make a decision for their town (not in the interests of developers, but of the actual residents who live, drive, go to school and work, pay taxes, and contribute to this amazing city).

Thank you,
Kate Conard
2215 Windward Ln, Newport Beach, CA 92660

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: CA Housing Mandate
Date: July 22, 2024 10:48:42 AM
Importance: High

From: David Rose <david@melroseind.com>
Sent: July 22, 2024 10:47 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: CA Housing Mandate
Importance: High

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Council Members,

It is absolutely wrong for you to decide on the above vs. putting it to a vote of the residents of Newport Beach. I strongly urge you to put this matter to a vote of the residents ASAP. Thank you.

Rgds,
David Rose & ARDR Realty LLC
318 Amethyst Ave.
Newport Beach, CA 92262

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: CA Housing Mandate - Land Use element
Date: July 22, 2024 11:00:26 AM

From: David Rose <david@melroseind.com>
Sent: July 22, 2024 10:58 AM
To: O'Neill, William <woneill@newportbeachca.gov>
Cc: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: RE: CA Housing Mandate - Land Use element

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Will,

Thanks for the prompt response. To be clearer, I'm referring to the Land Use Element that is to be brought up a tomorrow's Council meeting. It should be decided by a vote of the residents per Greenlight, our City Charter Section 423; not by a majority of the Council. Trust this clarifies my intent.

Rgds,
David

From: O'Neill, William <woneill@newportbeachca.gov>
Sent: Monday, July 22, 2024 10:49 AM
To: David Rose <david@melroseind.com>
Subject: Re: CA Housing Mandate

Thanks David. The housing element was approved and certified a couple of years ago.

Mayor Will O'Neill
Newport Beach City Council

From: David Rose <david@melroseind.com>
Date: Monday, July 22, 2024 at 10:47 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: CA Housing Mandate

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Council Members,

It is absolutely wrong for you to decide on the above vs. putting it to a vote of the residents of Newport Beach. I strongly urge you to put this matter to a vote of the residents ASAP. Thank you.

Rgds,
David Rose & ARDR Realty LLC
318 Amethyst Ave.
Newport Beach, CA 92262

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: RHNA on the Nov ballot
Date: July 22, 2024 11:24:26 AM

From: Alison Rubino Asher <alisonrubinoasher@gmail.com>
Sent: July 22, 2024 11:22 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: RHNA on the Nov ballot

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello City Council Members,

I am a long time resident of Newport Beach and property owner in the Bluffs and am requesting you put the RHNA housing land use element on the November Ballot.

This should not solely be the decision of the council members alone as it impacts all residents of Newport Beach and should be up to the citizens to decide.

If it fails, it goes back to the council anyway, so please give the people a chance to make a decision for their community, (not in the interests of developers, but of the actual residents who live, drive, go to school and work, pay taxes, and contribute to this amazing city). Thank you,

Alison Rubino
450 Gaviota, NB, 92660
415.517.5427
[Linkedin](#)

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: RHNA housing land use element on the November Ballot
Date: July 22, 2024 11:40:42 AM

-----Original Message-----

From: Lindsey Coombe <lindseycoombe@gmail.com>
Sent: July 22, 2024 11:38 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: RHNA housing land use element on the November Ballot

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello City Council Members,

I am a resident of Newport Beach and property owner and am requesting you put the RHNA housing land use element on the November Ballot. This should not be the decision of the council members alone as it impacts all residents of Newport Beach and should be up to the citizens to decide. If it fails, it goes back to the council anyway, so give the people a chance to make a decision for their town (not in the interests of developers, but of the actual residents who live, drive, go to school and work, pay taxes, and contribute to this amazing city).

Thank you,
Lindsey Coombe
2900 Quedada Newport Beach, CA 92660

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: RHNA housing for Nov Ballot
Date: July 22, 2024 1:00:18 PM

-----Original Message-----

From: Shina Hopkins <shinahopkins@yahoo.com>
Sent: July 22, 2024 12:59 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: RHNA housing for Nov Ballot

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello City Council Members,

I am a resident of Newport Beach and property owner and am requesting you put the RHNA housing land use element on the November Ballot. This should not be the decision of the council members alone as it impacts all residents of Newport Beach and should be up to the citizens to decide. If it fails, it goes back to the council anyway, so give the people a chance to make a decision for their town (not in the interests of developers, but of the actual residents who live, drive, go to school and work, pay taxes, and contribute to this amazing city).

Thank you,
Shina Hopkins
2444 Vista Nobleza, Newport Beach, CA 92660

Sent from my iPhone

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: The Housing Plan
Date: July 22, 2024 1:34:41 PM

From: linda.doppes@gmail.com <linda.doppes@gmail.com>
Sent: July 22, 2024 1:33 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Cc: linda.doppes@gmail.com
Subject: The Housing Plan

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear City Council Members,

I am very concerned about the significant growth of Newport Beach in the past 25 plus years that we have lived here. Our roads are overcrowded much of the time and crime has increased significantly since we have lived here. This decreases the desirable lifestyle of Newport Beach and one of the reasons why we moved here.

I insist that our councilmembers follow the city charter and support a vote of the people this November to save the beauty and appeal of our city.

Regards,
Linda Doppes
32 Deep Sea
Newport Coast, CA 92657

714-457-2651

From: [Alison Rubino Asher](#)
To: [City Clerk's Office](#)
Subject: Fwd: RHNA on the Nov ballot
Date: July 22, 2024 1:22:20 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello City Clerk and City of NB Leaders,

I am a long time resident of Newport Beach and property owner in the Bluffs and am requesting you put the RHNA housing land use element on the November Ballot.

This should not solely be the decision of the council members alone as it impacts all residents of Newport Beach and should be up to the citizens to decide.

If it fails, it goes back to the council anyway, so please give the people a chance to make a decision for their community, (not in the interests of developers, but of the actual residents who live, drive, go to school and work, pay taxes, and contribute to this amazing city). Thank you,

Alison Rubino
450 Gaviota, NB, 92660
415.517.5427
[Linkedin](#)

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Let residents vote for RHNA
Date: July 22, 2024 3:14:30 PM

From: Megan King <meganeking14@gmail.com>
Sent: July 22, 2024 1:57 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Let residents vote for RHNA

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear City Council Members,

I am a long term resident of Newport Beach (for 12 years now) and a property owner in Eastbluff. I am reaching out to request you put the RHNA housing land use element on the November ballot.

This should NOT be the decision of the council members alone, as it impacts all residents of Newport Beach and should be up to the citizens to decide.

If it fails, it will go back to the council anyways, so I am requesting that you please give the residents of Newport Beach a chance to make a decision for their town and in the interest of those who reside here, live in Newport, work, go to school and pay taxes here.

We appreciate you taking the time to read this as it is a priority topic for us.

Thank you,
Megan and R.J. King

2537 Bamboo Street
Newport Beach, CA 92660

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Housing Plans
Date: July 22, 2024 3:28:29 PM

-----Original Message-----

From: Steve Cooper <stevecoop@roadrunner.com>
Sent: July 22, 2024 2:34 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Housing Plans

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I want city residents to vote on new housing plans...especially high rise hotels, condos and apartments.

Stephen Cooper
14 Cape Woodbury
Newport Beach

Sent from my iPhone

From: [Brown, Leilani](#)
To: [Farris, Jennifer](#)
Subject: FW: Keller/Anderle LLP - Newport Beach Charter Section 423
Date: July 22, 2024 3:03:10 PM
Attachments: [2024-07-22 Letter from J. Keller to Mayor W. O'Neill.pdf](#)
[image001.png](#)
[image002.png](#)



Leilani I. Brown, MMC

City Clerk
City Clerk's Office
Office: 949-644-3005

100 Civic Center Drive
Newport Beach, CA 92660

Serving the Public with Integrity and Professionalism

Regular Business Hours, Excluding Holidays:

Monday to Thursday: 7:30 a.m. to 5:30 p.m.

Friday: 7:30 a.m. to 4:30 p.m.

Please note that email correspondence with the City of Newport Beach, along with attachments, may be subject to the California Public Records Act, and therefore may be subject to disclosure unless otherwise exempt.

From: Jurjis, Seimone <sjurjis@newportbeachca.gov>
Sent: July 22, 2024 3:03 PM
To: Brown, Leilani <LBrown@newportbeachca.gov>
Subject: FW: Keller/Anderle LLP - Newport Beach Charter Section 423

For item #23



Seimone Jurjis

Assistant City Manager /
Director of Community Development
Community Development Department
Office: 949-644-3282

100 Civic Center Drive
Newport Beach, CA 92660

From: O'Neill, William <woneill@newportbeachca.gov>
Sent: July 22, 2024 2:57 PM

To: Leung, Grace <gleung@newportbeachca.gov>; Harp, Aaron <aharp@newportbeachca.gov>; Summerhill, Yolanda <YSummerhill@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>
Subject: Fwd: Keller/Anderle LLP - Newport Beach Charter Section 423

Mayor Will O'Neill

woneill@newportbeachca.gov

100 Civic Center Dr.
Newport Beach, CA 92660

Begin forwarded message:

From: Leobardo Cano <lcano@kelleranderle.com>
Date: July 22, 2024 at 2:40:56 PM PDT
To: "O'Neill, William" <woneill@newportbeachca.gov>
Cc: Jennifer Keller <jkeller@kelleranderle.com>, Shaun Hoting <shoting@kelleranderle.com>, "Stapleton, Joe" <jstapleton@newportbeachca.gov>, "Avery, Brad" <bavery@newportbeachca.gov>, "Weigand, Erik" <eweigand@newportbeachca.gov>, "Grant, Robyn" <rgrant@newportbeachca.gov>, "Blom, Noah" <NBlom@newportbeachca.gov>, "Kleiman, Lauren" <kleiman@newportbeachca.gov>, "Harp, Aaron" <aharp@newportbeachca.gov>
Subject: Keller/Anderle LLP - Newport Beach Charter Section 423

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mayor O'Neill,

Please find the attached correspondence from attorney Jennifer L. Keller.

Please feel free to let me know if you have questions.

Thank you.

Leo Cano
Paralegal

18300 Von Karman Ave., Suite 930 | Irvine, California 92612-1057

949.476.8700 | Fax 949.476.0900

LCano@kelleranderle.com | www.kelleranderle.com

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July 22, 2024

Via E-Mail

Will O'Neill, Mayor
Newport Beach City Council
100 Civic Center Drive
Newport Beach, CA 92660
woneill@newportbeachca.gov

Re: *Voter approval of Newport Beach's Certified Sixth Cycle Housing Element under Charter Section 423*

Dear Mayor O'Neill and City Council Members:

I write on behalf of Still Protecting Our Newport (“SPON”) concerning the City Council’s upcoming vote on whether to disregard Newport Beach Charter Section 423 and unilaterally approve zoning amendments as part of the City’s implementation of the Certified Sixth Cycle Housing Element (“HE”). SPON is a 501(c)(3) nonprofit made up of responsible members of the Newport Beach community. Since 1974, SPON has worked to protect and preserve the charm and environment of Newport Beach. Recently, we have been told that City decisionmakers and/or staff are questioning whether the City must schedule a vote under City Charter Section 423 to adopt the zoning amendments. The answer is simple: Yes, Section 423 requires the City to schedule a vote.

If the City Council violates Section 423, it will fundamentally change the fabric of Newport Beach governance, risk decertification of the City’s Sixth Cycle Housing Element, and ensure extensive litigation between the City and its residents and/or the State of California. Similarly, any attempt to conduct a sham election under Section 423, by using ballot language that misleads Newport Beach citizens with misrepresentations or outright falsehoods about the City’s planned zoning amendments, will violate California law and subject the City to protracted litigation.

I. Background

Newport Beach Charter Section 423 — commonly known as the “Greenlight Initiative” — is a fundamental section of the City’s Charter that requires any significant developments or change to the City’s development to be reviewed and approved by Newport Beach’s citizens. Section 423 is based on Newport Beach citizens’ demands for transparency into, and approval of, any plans that would affect how Newport Beach’s real estate is zoned and developed. It was enacted after voters became alarmed by what appeared to be outsized influence by developers on the City Council.

Specifically, Section 423 states that “[v]oter approval is required for any major amendment to the Newport Beach General Plan.” A “major amendment” is one that “significantly increases” allowed density or intensity (i.e., 100 dwelling units or more), based on the total of the (1)

“[i]ncreases resulting from the amendment itself,” and (2) “[e]ighty percent of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding ten years.” Section 423 further mandates that no amendment shall “take effect unless it has been submitted to the voters and approved by a majority of those voting on it.”

On September 13, 2022, the City of Newport Beach adopted the Sixth Cycle Housing Element. The California Department of Housing and Community Development (“HCD”) conducted a review. In an October 5, 2022, letter, the HCD concluded the HE was “in full compliance with State Housing Element Law.” The HCD also concluded that “***the City must continue timely and effective implementation of all programs*** including ... [i]nitiating a Ballot Measure for a Charter Section 423 Vote.” (Oct. 25, 2022, HCD Ltr. at 1.)

The City’s Certified Sixth Cycle Housing Element likewise recognizes that a Greenlight Initiative vote is *required* to align other General Plan amendments and Zoning Code amendments with the certified HE, and to effectuate the certified HE. As a few examples:

- “It is the duty of the City Council to place the increases in housing and the traffic generated before the voters of Newport Beach consistent with Charter Section 423. ***The vote will be scheduled in accordance with the California Elections Code and the City Charter*** after the City Council carefully reviews and approves the Land Use Element amendment and Zoning Strategies that support Policy Actions 1A through 1G.” (HE at 3-30 (emphasis added).)
- “For the 6th cycle Housing Element, like the 2006 vote, ***the City will initiate an election*** and pay for all costs associated with the ballot measure. The discussion within Housing Goal #1 in Section 4 details the milestones involved in the Land Use Element amendment vote process.” (Id. (emphasis added).)
- “Based upon public comments received during the preparation of this Housing Element, there is no public support to amend Charter Section 423 to accommodate the housing necessary to satisfy the State RHNA mandate. The City Council publicly debated the prospects of amending Charter Section 423 through its review of this Housing Element, and it is universally believed that placing such a Charter amendment before the voters would be a waste of resources. Additionally, any effort to potentially amend Charter Section 423 would potentially and unnecessarily delay the implementation of this Housing Element. It could create voter fatigue reducing the prospects for success of a vote for the required Land Use Element Amendment to implement this Housing Element pursuant to Charter Section 423.” (Id.)
- “All sites proposed for rezoning through implementation of Policy Actions 1A through 1F provided in Section 4 of this Housing Element ***will require a companion Land Use Element amendment that will be subject to a vote of the electorate pursuant to Charter Section 423.*** The City will initiate an election and conduct community outreach to educate the public on the benefits of higher density housing and pay for all costs associated with the ballot measure(s). The table below presents a timeline for the process including the vote. If the vote fails, the City will propose alternative Policy Actions and call for a second election. If the

second vote fails to pass, the City Council will seek a legal opinion from the State Attorney General's Office as to how to proceed." (*Id.* at 4-3 (emphasis added).)

- "Policy Action 3N: Housing Impact Studies The City will continue to study housing impacts of proposed larger-scale, significant commercial/industrial projects during the development review process. Prior to project approval, a housing impact assessment shall be developed by the City with the active involvement of the developer. Such assessment shall indicate the magnitude of jobs to be created by the project, where housing opportunities are expected to be available, and what measures (public and private) are requisite, if any, to ensure an adequate supply of housing for the projected labor force of the project and any restrictions on development due to the City 'Charter Section 423'. The City will continue to implement such program as major commercial/industrial projects are submitted to the City in the 6th Cycle." (*Id.* at 4-17).

(*See also* HE at 3-28, 3-29, and 3-30.)

The need for a Greenlight Initiative vote was reiterated at the April 18, 2024, Planning Commission meeting, the staff report for which confirmed that "the proposed General Plan Land Use Element amendments would not take effect unless it has been submitted to the voters and approved by a majority of those voting on it." Indeed, as recently as *June 2024*, Newport Beach's own mayor publicly promised a Section 423 vote would take place to allow Newport Beach's citizens to decide whether to approve the Land Use Element Update and Zoning Amendments.

According to the last published City Council meeting schedule, the City Council is expected to consider adopting the required steps to implement the approved Housing Element Land Use Element, Zoning Amendments, and certify the Program EIR on July 23, 2024, or as soon thereafter as may be heard. Nevertheless, we understand that City decisionmakers and/or staff, including the City Manager, have recently questioned whether a Charter Section 423 vote is required for the City to adopt the Land Use Element and Zoning Amendments. To that end, Attachment O to the Agenda for the July 23, 2024, City Council meeting proposes seeking an amendment to the HE that would allow the City to evade the required Section 423 vote. *The City's recent position contradicts the numerous public statements from City officials over the past year.*

II. Section 423 prevents the City from adopting major amendments to the General Plan, which includes amending the General Plan to authorize thousands of new housing units.

It is clear that a Section 423 vote is required for the City to adopt the Land Use Element Update and Zoning Amendments, in order to implement the HE. Indeed, for nearly *two years*, the City and HCD consistently interpreted Charter Section 423 to require that the HE implementation plans be put to a vote. Moreover, California law requires complying with Section 423 here, as California courts give great deference to voter-approved initiatives, and regularly reject efforts to block popular votes. *See, e.g., Associated Home Builders etc., Inc. v. City of Livermore*, 18 Cal. 3d 582 (1976) (when weighing the tradeoffs associated with local voter initiative power, courts are obligated to resolve doubts in favor of the exercise of the right whenever possible); *California*

Cannabis Coal. v. City of Upland, 3 Cal. 5th 924, 933 (2017) (noting same); *Brookside Invs., Ltd. v. City of El Monte*, 5 Cal. App. 5th 540, 552 (2016) (“the exercise of the initiative power is entitled to ‘significant weight and deference by the courts.’”). Further, absent a finding of *clear invalidity*, courts typically handle disputes about the effect of voter approvals and disapprovals after the vote occurs. *Brosnahan v. Eu*, 31 Cal.3d 1, 4 (1982) (“it is usually more appropriate to review constitutional and other challenges to ballot propositions or initiative measures after an election rather than to disrupt the electoral process by preventing the exercise of the people’s franchise, in the absence of some clear showing of invalidity.”); *Legislature v Deukmejian*, 34 Cal. 3d 658 (1983) (same).

Given this dispositive judicial precedent, and the City’s previous admissions that a vote under Section 423 is required to adopt the Land Use Element Update and Zoning Amendments, the City must submit these amendments to the citizens of Newport Beach for a vote. Any attempt to circumvent Section 423 will be rejected by the court.

Moreover, even if voters disapprove the City’s proposed Land Use Element and Zoning Amendments, the City could still adopt a different, “by-right” housing program (as suggested by HCD) for the RHNA-required units only, which the City could use to satisfy the HE and comply with RHNA. Alternatively—as the City recognizes in the HE—the City could revise the General Plan and Zoning Amendments and seek a second Section 423 vote; and the City could request an opinion from the State Attorney General’s Office if that second vote fails. In short, there is no excuse for failing to submit these amendments to the voters under Section 423.

Further, the City is required to implement its Sixth Cycle Housing Element, which itself has a multiple page discussion of how Charter Section 423 applies to the forthcoming Land Use Element Update and Zoning Amendment, and how the Sixth Cycle Housing Element could be implemented under Section 423. *See, e.g.*, HE at p. 4-3 (implementation action for Housing Policy 1.1 includes a vote of the electorate pursuant to Charter Section 423”). Since the City’s Sixth Cycle Housing Element was approved by HCD, the City is required to implement it strictly.

Finally, the City’s Land Use Element Update and Zoning Amendments deviate substantially from the certified HE by excluding from the residential unit allocations for each sub-area both density bonus units and accessory dwelling units. The state mandate requires 4,845 units, while the proposed Land Use Element Update and Zoning Amendments seek to add between 8,000 and 10,000 units, more than double the state mandate. Nowhere does the certified HE recognize that density bonus and/or by-right units would be permitted above and beyond the RHNA allocations in the HE, including the subtotals in each Focus Area. The City’s residents therefore have an absolute right to consider (and approve) any amendment that has the potential to far exceed the City’s Sixth Cycle RHNA mandate and drastically alter the character of Newport Beach.

III. The California Department of Housing and Community Development will review the Land Use Element Update and Zoning Amendments for Consistency with the Certified HE.

Any attempts by the City to shirk its obligations under the HE as submitted to the HCD—including any attempts to avoid a Section 423 vote—will trigger a re-review by the HCD and possible decertification of the HE. As HCD stated in its October 5 Letter:

Government Code section 65585(i) grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. *This includes failure to implement program actions included in the housing element.* HCD may revoke housing element compliance if the local government’s actions do not comply with state law.

(Oct. 25, 2022, HCD Ltr. at 2 (emphasis added).) As explained above, one of the programs the City submitted to the HCD and that the HCD specifically identified in its letter was “Policy Action 1A to 1F (Adequate Sites to Accommodate the 2021- 2029 RHNA), Initiating a Ballot Measure for a Charter Section 423 Vote by September 2023.” (*Id.* at 1.) HCD is therefore required to “review any action or failure to act” that is inconsistent with a local agency’s adopted housing element or State Housing Element Law generally, “including any failure to implement a [rezoning program].”

If the City fails to act, or acts in a manner inconsistent with the programs and plans of the certified HE, it will almost certainly be met with written findings from HCD detailing those violations. Here, if the City Council adopted a zoning ordinance that was wholly inconsistent with its Housing Element, or failed to do so by the February 2025 deadline, HCD could “de-certify” the City’s Housing Element. HCD has established precedent for this in other jurisdictions that failed to timely adopt rezoning ordinances. See, HCD, Portola Valley Housing Element Implementation – Corrective Action Letter (Feb. 5, 2023), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/portola-valley-corr-action-020524.pdf> (“Based upon communications received from the Town that it does not intend to adopt required rezones until late March of 2024, HCD finds that the Town has failed to implement these program actions within the statutorily required timeframe.”).

The City should therefore submit the Land Use Element Update and Zoning Amendments to a vote under Section 423, or risk the HCD’s decertification of the City’s HE and possible litigation with the State of California.

IV. The California Department of Housing and Community Development will likely object to transferring units from one Focus Area to another Focus Area.

HCD is already likely to object to the Land Use Element Update and Zoning Amendments if the City proceeds to reallocate units from one Focus Area to another Focus Area. HCD has consistently maintained that California’s affirmatively furthering fair housing (“AFFH”) law requires cities to disperse affordable units throughout the community, as opposed to concentrating new units (including affordable units) in one area of the City. (*See, e.g.*, HCD, AB 686 Summary of

Requirements in Housing Element Law (Apr. 23, 2020) (Cities must “[e]nsure that sites zoned to accommodate housing for lower-income households are not concentrated in lower resource areas and segregated concentrated areas of poverty, but rather *dispersed throughout the community*, including in areas with access to greater resources, amenities, and opportunity.” (emphasis added).)

For example, if a city proposed to concentrate the vast majority of new RHNA units in one area of the City, HCD typically disapproves that HE as a discriminatory practice which conflicts with AFFH mandates. Here, HCD expressly required and the City confirmed in its certified HE that both market rate and affordable housing units would be dispersed throughout the City, as specified for each Focus Area. While HCD could overlook de minimus or even modest modifications of the sub-area development capacities as compared to those in the City’s certified HE, any Land Use Element Update and Zoning Amendments that allow the City to transfer an unlimited number of market rate or affordable units in one geographic sub-area would not pass muster with HCD, based on HCD’s track record of rejecting housing elements that allow for concentration, rather than dispersal, of housing units.

V. Any attempt to conduct a sham election under Section 423 based on false or misleading ballot statements violates California law.

Based on the published agenda for the City Council’s July 23, 2024, meeting, the City Council appears ready to consider conducting an election under Section 423 using proposed ballot language that violates California law. California’s Elections Code § 13119(c), mandates that any statement of a measure submitted to voters “shall be a **true and impartial** synopsis of the purpose of the proposed measure, and **shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.**” (Emphases added.) The proposed Section 423 ballot measure posted as Attachment G to Item 23 on the Council’s July 23 agenda is argumentative, highly inflammatory, and so overtly biased it appears to have been drafted by the developers themselves. The language of the proposed ballot initiative states:

Shall the General Plan’s Land Use Element be amended so the City of Newport Beach can avoid fines of up to \$600,000 per month, losing local control over land use decisions, suspension of authority to issue building permits, and access to state funding, by adding the following State of California mandated residential housing opportunity units in Coyote Canyon (1,530), Dover-Westcliff (521), West Newport Mesa (1,107), the Airport Area (2,577), and Newport Center (2,439)?

(July 23, 2024, City Council Agenda, Item 23, Att. G, at 23-258 (“Proposed Initiative”)) The Proposed Initiative’s language is not true or impartial. The Proposed Initiative suggests the City *will be* subjected to fines if a citizen votes “no.” This is false, however, as there are numerous options for the City if citizens reject the Proposed Initiative before the City would begin incurring fines. Additionally, this language improperly conflates the requirement that the City adhere to California law regarding additional housing with the Council’s desire to increase development far beyond what the State requires. Specifically, California mandates 4,845 units, while the Proposed Initiative seeks to add 8,174 units, nearly double the State’s mandate. The Proposed Initiative’s language deceives Newport Beach’s voters by suggesting that the additional development *beyond the 4,845 required* is

necessary to avoid the City's being fined. This is false and misleading, in plain violation of California Elections Code § 13119(c).

The Proposed Initiative's language is also argumentative and likely to create prejudice in favor of the Proposed Initiative, which also violates the Elections Code. For example, the language contains inflammatory and incendiary commentary about the "parade of horrors" that will befall the City and its residents if the voters reject the Proposed Initiative, *i.e.*, that Newport Beach will be fined and will "lose local control over land use decisions," have its "authority to issue building permits" suspended, and lose "access to state funding." Beyond just being misleading (at best), this language is crafted with the sole purpose of frightening the average voter into believing that they must approve the Proposed Initiative or will lose all control over future land use decisions in Newport Beach. This language presents voters with a false dichotomy designed to cause alarm over Newport Beach's autonomy if they do not capitulate to the developers and approve the Proposed Initiative. Given the overtly prejudicial language, the Proposed Initiative is unlawful under Elections Code § 13119(c).

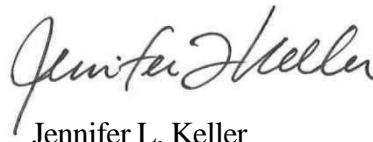
* * *

If the City Council elects to disregard its obligations under Section 423 and unilaterally approves the proposed Land Use Element Update and Zoning Amendments, it will fundamentally change the fabric of Newport Beach governance, risk decertification of the City's Sixth Cycle Housing Element, and ensure extensive litigation between the City and its residents and/or the State of California. To that end, given that the language of Section 423 is clearly applicable here and the California case law is dispositive, if the City Council refuses to submit these amendments to a vote under Section 423, SPON will file a lawsuit seeking to compel a vote under Section 423 and enjoin the City's implementing its Land Use Element Update and Zoning Amendments. Likewise, if the City Council complies with its Section 423 obligations in bad faith by submitting a ballot initiative to the voters like the Proposed Initiative, containing argumentative, misleading, and incendiary language, SPON (and/or other concerned citizens and groups) will file a lawsuit, in which it is confident it will prevail. Neither the courts nor the voters will appreciate being lied to.

In sum, California law and Section 423 require the City Council to submit its proposed Land Use Element Update and Zoning Amendments to the voters, and to do so in an honest, objective, and impartial manner. While SPON would rather work with the City Council to achieve the state-mandated developments while complying with Section 423, if the City Council does not comply with its legal obligations willingly, we will seek the courts' intervention to require the City Council's compliance. This would, among other things, be an unfortunate waste of taxpayer funds.

Sincerely,

KELLER/ANDERLE LLP



Jennifer L. Keller

July 22, 2024

Page 8

cc: Joe Stapleton (jstapleton@newportbeachca.gov)
Brad Avery (bavery@newportbeachca.gov)
Erik Weigand (eweigand@newportbeachca.gov)
Robyn Grant (rgrant@newportbeachca.gov)
Noah Blom (nblom@newportbeachca.gov)
Lauren Kleiman (lkleiman@newportbeachca.gov)
Aaron Harp (aharp@newportbeachca.gov)

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Housing Plan agenda item 23 for meeting 7/23/24
Date: July 22, 2024 4:32:50 PM

-----Original Message-----

From: Marilee Schneider <marileesch1@gmail.com>
Sent: July 22, 2024 4:25 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Housing Plan agenda item 23 for meeting 7/23/24

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

My husband and I would like to see a vote on the November ballot for the housing plan.

Thank you,
Marilee and Doug Schneider
Sent from my iPhone

From: [Lisa Sutton](#)
To: [Dept - City Council](#); [City Clerk's Office](#)
Subject: Citizen public comments on 7/23/24 City Council Meeting agenda noted below.
Date: July 22, 2024 4:51:18 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please see my my comments to City Council on the item noted below (agenda item on City Council Meeting agenda 7/23/24)

XVIII. PUBLIC HEARING (As noted on pages 14,15 & 16 of the City Council agenda for said meeting)

23. Ordinance Nos. 2024-16 and 2024-17, and Resolution Nos. 2024-50 to 2024-57 for the Necessary Amendments to Implement the 6th Cycle Housing Element and to Place the Major General Plan Amendment on the November 5, 2024 General Election Ballot Pursuant to City Charter Section 423; or Resolution No. 2024-58 to Initiate an Amendment to the 6th Cycle Housing Element

To Newport Beach City Council and City Clerk,

I am asking the City Council to support a housing plan that limits/caps the zoning of new housing units within the City of Newport Beach, like many other Orange County cities have done – per Jeff Herdman’s recent letter in [stunewsnewpt.com](#). Throughout the General Plan and Housing Element Certification process, the citizens of Newport Beach were told that the new housing element and General Plan Update would be on the November ballot for a vote. As a resident and registered voter of our city, it is my voter right to request that our City Council allow the citizens of Newport Beach to vote this November on the city’s proposed housing plan/General Plan Update (as required by our city charter.) To do anything other than allow our citizens to vote would be misleading and just not right. Our vote is important for the principles of Democracy.

This general plan process and the State RHNA housing mandates are a complicated and confusing subject for our residents. I have watched many City Council, Planning Commission, Advisory Committee to GP, and General Plan update meetings pertaining to the General Plan updates and Housing element proposals leading up to the [Final Adopted and Certified 6th Cycle Housing Element \(September 13, 2022\)](#)

Despite all the effort to communicate to our Newport Beach residents, most people in our City and almost all of my neighbors have absolutely no idea about the sheer number of housing units being proposed or the proposed locations of these new dwelling units. In addition, most citizens have no knowledge of or foresight of the potential degrading and irreversible negative impacts this will have on public safety/crime, our quality of life, traffic congestion/noise, parking, and eventually government cost of support services to accommodate the added dwelling unit potential (resulting population increase) in our certified submitted housing element. Despite all the work and time in these City meetings --- the elephant in the room is where are the affordable units going to be built.....The real need is to figure out how the forced affordable units will be met, in addition to where and what developer is willing to build them. The current proposed updated GP does not guarantee affordable units will be built, and unfortunately could result in an even higher

potential ultimate development count if not met and certified. I worked for one of the largest private residential developers in the US, and affordable units are a nightmare to pencil out as a builder. ADU's will not solve this problem. ADU's in high density areas of CDM will most likely ruin our already overly crowded neighborhoods and the City's aggressive support of 4++ ADU possibilities that our city currently allows as approvable development options will have unintended negative consequences. Parking is a nightmare and beginning to become unmanageable, especially during peak tourist and visitor months coupled with construction activity and home deliveries. Our City can't manage what is going on now; I can't imagine what it will look like under the new development targets.

History is filled with evidence of citizen apathy and ignorance surrounding significant decisions made that have irreversible negative impacts on our lives and our natural environment. As a community we cannot afford to not get this right. We should allow for careful consideration from our citizens, and despite all the effort the city says it has put into educating the community – it is a failure when most people are ignorant on this very important and impactful subject. As an example, the City Manager's update in the July 5th and July 19th Newport Beach Independent have absolutely no mention of the General Plan Update nor the important City Council meeting being held on July 23, 2024 to consider input and/or a vote on this subject matter. ADU's are mentioned, but not the General Plan or Community outreach on the potential 19,000+ dwelling units that could ruin our City forever.

Lisa Sutton (20+ year homeowner and long term resident of Corona Del Mar, CA)

From: [Biddle, Jennifer](#)
To: [City Clerk's Office](#)
Subject: FW: Citizen public comments on 7/23/24 City Council Meeting agenda noted below.
Date: July 22, 2024 4:51:41 PM

From: Lisa Sutton <lasutton25@yahoo.com>
Sent: July 22, 2024 4:51 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>; City Clerk's Office <CityClerk@newportbeachca.gov>
Subject: Citizen public comments on 7/23/24 City Council Meeting agenda noted below.

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