

July 14, 2026, City Council Agenda Comments

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

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Item IV. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

The Council is apparently being asked to consider having staff prepare, for consideration at a future meeting, resolutions taking a position on four statewide propositions expected to appear on the November 3, 2026, ballot. I consider such things a waste of public resources. Not only is the world unlikely to note or long remember the positions taken by the Council, but the resolutions, if prepared, will represent only the preferences of a majority of the seven people on the Council, and not the views of the city's residents (which the Council has no way of knowing).

Item 1. Approval of Minutes

The passages shown in *italics* below are from the [draft minutes](#) of the June 23, 2026, Regular City Council Meeting, with suggested corrections shown in ***strikeout underline*** format. The draft minutes have been posted as a 9-page PDF without page numbers. The page numbers below refer to the position in the PDF.

Page 3, Council Announcements, paragraph 2: "*Councilmember Barto reported attending the Lifeguard All-Hands meeting, the Newport Beach Junior Guards Summer Kickoff, and the ~~Oasis~~ **OASIS** Senior Center Wine and Cheese event.*"

Page 4, Item IV. CONSENT CALENDAR:

Comment: Starting with this page, the minutes have been shortened by listing the Consent Calendar items, with the exception of Item 1, by title only, omitting the description of what action(s) were recommended and taken under those titles. This creates a problem in that for what is likely the first time in the City's history, the minutes will not provide a record of those actions. For example, Item 5 (Community Programs Grants, Community Event Assistance and Strategic Sponsorship Recommendations for Fiscal Year 2026 - 27) appears in a section titled "Resolutions for Adoption." One might reasonably assume one or more resolutions were approved under that title. But the minutes give no hint as to which one(s) might have been approved. Similarly, Item 15 (Irrigation Controllers Replacement Phase 4 Award of Contract No. 10128-1) gives no hint of who the contract was awarded to, or in one amount. And Item 20 (Appointments to Police Headquarters Advisory Committee) gives no hint of who was appointed. This new approach seems fundamentally inconsistent with responsibility placed on the City Clerk by City Charter [Subsection 603\(a\)](#) "*for the recording and maintaining of a **full** and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose.*" A record that fails to reflect such essential details of the Council's core actions would not seem to be a "full" record.

Page 8, Item 22, paragraph 1, sentence 3: “~~A~~**The** General Plan Advisory Committee and Steering Committee collectively met over 100 times and voted 25–1 to support the draft.”

Page 9, Item 23, paragraph 3: “Jim Mosher noted that for properties within the City's pre-November 1, 1996 boundaries receiving curbside refuse service, Municipal Code Section ~~604.14~~ **6.04.140** may require that the cost of collecting and disposing of recyclables be covered entirely by ad valorem tax revenue, suggesting a supplemental recycling charge for such properties could be legally questionable.”

Item 2. Ordinance No. 2026-07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

49 pages of new code (plus 33 pages of administrative standards and 47 pages of “master license agreement”) is quite a lot to review. Like most first drafts the City produces, I feel this is a product that needs more discussion and revision before adoption.

While I appreciate the chance of influencing it is small, in the following I will try to separate the biggest problems I see with it from the many lesser ones.

Principal Comments

1. The staff report from when this was introduced on June 9 said the structure of the ordinance was modeled after that of Santa Monica. While Santa Monica segregated applications in the public right-of-way from those on other property, and this follows suit with PROW applications handled in proposed new Chapter 13.22 and other applications in a revised Chapter 20.49, the biggest concern I have is with the proposed novel introduction in proposed Subsection 20.49.030.B.6 of an exemption from regulation of applications for telecom sites on city-owned land and City-held trust property. For a city that values local control, this creates a gaping hole in regulation and is more than a bit strange to see. An application to construct a freestanding tower in the middle of a park or next to a playground or in the Central Library entryway, would fall under neither Chapter 13.22 (since it is not in the PROW) nor under Chapter 20.49 (since this new provision exempts it). If this were adopted as written, it would be subject only to a rental agreement negotiated by the City Manager pursuant to Council [Policy L-23](#). And I can hear it now: “Our hands were tied. We don’t like it, but Federal law required us to approve whatever was applied for” (because we have no local standards it would violate). Shouldn’t we want to retain control over installations in City parks, on City buildings and in public plazas? Santa Monica did not do this. Why would we?
2. The second major concern I have is with the introduction in the revised Chapter 20.49 of a new non-appealable “Administrative Clearance” for approving certain applications. First, it would seem the ordinance fails to integrate it into the overall structure of Title 20, where one would expect to find it included in Table 5-1 of [Chapter 20.50](#). More importantly, the definition in proposed Section 20.49.020 mischaracterize it as “a ministerial, non-discretionary approval” for Class 1 (stealth) and 6409(a) (minor changes) facilities. But the decision of what is, or is not, “stealth” is not an entirely objective one.

Proposed Section 20.49.070.B.1.c retains the existing requirement that the enclosure chosen be “architecturally compatible with the existing structure or building.” Like some of the decisions required to approve a “Zoning Clearance,” that is a judgement regarding which reasonable people can differ. Non-objective judgement is needed to decide compliance with many of the more general Design Standards of Section 20.49.070.A. Likewise, to be eligible for “6409(a)” processing, the proposed changes cannot disrupt the original concealment plan or most conditions of the original approval. That too is subjective. Zoning Clearances are appealable, why would “AC”s not be?

3. A significant feature of the proposed new Chapter 13.22 seems to be the availability of “Master License Agreements.” It is concerning to me that the code does not appear to establish any requirements for their content nor define how or by whom they become approved (proposed Section 13.22.050.C indicates a template will be approved by the City Council, but I cannot find the procedure by which the actual agreements get signed).
4. Similarly, proposed Section 20.49.030.C requires applications for 6409(a) facilities on private property to be approved by an “AC,” but no process or criteria for doing that is defined (in contrast to the process proposed to be needed when the Public Works Director faces a similar decision in Section 13.22.090).
5. It is also concerning that per Section 13.22.230, decisions by the Public Works Director, which will apparently be posted on the City website, can be appealed by the telecom applicant, but by no one else.
6. Staff may consider this minor, but I do not: the opening clause proposed Subsection 20.49.030.B (Exempt Facilities) is missing the word “not” (in “shall not apply”), without which the subsection’s intent is unintelligible.

Minor Comments

1. I continue to wonder why the City does not allow the installation of small wireless equipment on traffic standards, which would often seem the least intrusive location since they are already festooned with other equipment. Should the Council reconsider this restriction?
2. I also wonder why the Section 20.49.020 definition of “Class 1 (Stealth/Screened)” facilities seems to restrict them to nonresidential buildings, even though Section 20.49.040.B.2 would seem to allow wireless facilities on properties zoned for residential buildings of more than five units. Why would we allow facilities on them, but not encourage them to be stealth?
3. It is similarly unclear whether the determination of whether wireless facilities are allowed or prohibited on a property should be based on its zoning or on its actual land use at the time of the proposal.
4. The June 9 staff report referred to “Community Input” received at a meeting with “concerned residents” resulting in some modifications to what had been considered by the Planning Commission. I do not believe this was an open or advertised meeting, and am concerned staff wrote this without actively seeking any other community input.

5. The preamble to the ordinance includes what has become boilerplate in Newport Beach ordinances since about 2020, to the effect that “*WHEREAS, Section 200 of the City Charter, of the City of Newport Beach (“City”), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California (“State”).*” Although frequently repeated, this is incorrect. [Charter Section 200](#) actually vests those powers in “the City,” not the “City Council.” It is [Section 405](#) which vests in the Council “*All powers of the City ... except as otherwise provided in this Charter.*” And the exceptions are fairly large. For example, various powers are vested in the appointed officers, and the Council is prohibited from interfering with the City Manager’s administration of the City staff.
6. The ordinance frequently refers to “Section 6409(a),” yet gives the lay reader no hint of what the term entails. Couldn’t some explanation have been included in the definition?
7. The definitions in proposed Chapter 13.22 include references to requirements on “towers other than towers in the public rights-of-way.” Isn’t it confusing to include that in code meant to apply only to towers in the public rights-of-way?
8. In proposed Section 13.22.070, is there a limit on how much time staff can take to notify an applicant their submission is incomplete?
9. Proposed Section 13.22.160 seems to be saying that if the City needs to use a previously-permitted location, the occupant is automatically authorized to install a new pole of their own within 500 feet of the old location. Shouldn’t there be a priority on using existing poles before a new one is authorized?
10. There are obvious typographical errors at the end of proposed Section 13.22.200.B and the start of 13.22.200.C.
11. After missing a “not” in the opening clause, the list following Section 20.49.030.B has inconsistent grammar (singular vs. plural).
12. The list should also be checked for consistency with Section 3.2.4 of the proposed Public Works standards, which exempt a “*Personal wireless service facility or 6409(a) facility used solely for wireless-based reading of water, gas, or electric meters*” (not just electric).
13. The opening sentence of proposed Section 20.49.050 says “Unless exempted pursuant to Section 20.49.030(B)” twice.
14. I have many more comments, but am up against the new 4:00 p.m. deadline for submitting them!

Item 4. Ordinance No. 2026-09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor

This ordinance was introduced as [Item 3](#) on the June 23 consent calendar, and is now scheduled for adoption on the present consent calendar, which means the proposed code changes will be made with no public discussion by the Council, and possibly no review by its members.

This increasing practice of adopting ordinances without Council discussion of what they intend to accomplish and whether the proposed code language achieves the stated purpose is a problem. It frequently leads to the adoption of poorly-written provisions whose intent is unclear or whose language literally says something different from the intent suggested in the staff report. That, in turn, results in laws that will be selectively enforced, not enforced as written, or enforced differently than written, and that would likely not stand up if challenged in court. They do not result in just or predictable outcomes.

In the present case, I have seen written comments from Adam Leverenz questioning the way two of the proposed code sections are written. I agree they are problematic.

Adam's concerns relate to the proposed revisions to [existing NBMC Sec. 17.25.020.H.3](#) (Vessel Condition—Public Nuisance) found on Page 9 of 11 of the proposed ordinance. The existing code declares the following to be a nuisance: "*m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay.*" That is proposed to be revised, and two new subsections ("n." and "o.") are proposed to be added.

The present staff report does not disclose what the intent of the revision and additions is. [Page 2](#) of the June 23 staff report provides this description of the proposed changes, but does not disclose what problem is being addressed or how the described changes will solve it: "*NBMC Section 17.25.020(H)(3) defines what constitutes a public nuisance as it relates to the condition of a vessel in Newport Harbor. The proposed revisions will make it a public nuisance for any vessel docked, moored or anchored in Newport Harbor to have a portable or permanently installed marine sanitation device that is not operable or connected to an internal holding tank. Additionally, improvised waste containment methods such as buckets or bags will be prohibited.*"

To discover what the changes are attempting to accomplish, one has to go back to [Attachment A](#) to a staff report provided to the Harbor Commission as [Item 6.3](#) at their February 11, 2026, meeting. It says: "*This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that **any vessel on which a person stays aboard overnight** be equipped with either a legitimate portable marine sanitation device (MSD) — compliant with U.S. Coast Guard and California State Parks Division of Boating and Waterways standards — **or** a permanently installed and operable marine sanitation system. The use of non-compliant, improvised waste containment methods, **such as buckets**, will not be considered acceptable. ... Ensuring that all **overnighting vessels** are equipped with appropriate sanitation systems reinforces the City's long-standing commitment to a clean, safe, and sustainable harbor environment for all users.*"

As Adam points out: (1) the applicability is intended to be limited to vessels on which people are actually staying overnight, (2) for those, a “portable marine sanitation device”¹ is intended to be an alternative to a permanently installed system, and (3) those proposing this had specific examples of “improvised waste containment methods” in mind.

None of this is evident from the proposed code.

Instead, the proposed revisions to subsection “m.” add a new prohibition on use of self-contained portable waste disposal units unless it can be connected to a holding tank, which most cannot. How that is intended to help the harbor is unclear.

The proposed new subsection “n.”, intended to address overnight stays, now imposes a new requirement to have such a compliant device not just on vessels being used for overnight stays, but on any vessel capable of accommodating an overnight stay, or even just anchoring in the harbor. That would appear to impose the requirement on a large fraction of the boats in the harbor, whether an overnight stay on them is contemplated or not.

The proposed new subsection “o.” prohibits “The use of improvised waste containment methods for human or animal excreta,” without providing any guidance as to what methods might be regarded as “improvised.” I believe other sections of Title 17 allow washing bird and sea lion waste off boats, but to the best of my knowledge, something like a pet dog aboard for a while would be difficult to potty train. What methods of containing its waste would not need to be “improvised”?

Why would the Council wish to adopt such poorly-crafted laws?

Item 5. Approval of a Professional Services Agreement with Arts Orange County to Manage Phase XI of the Sculpture Exhibition in Civic Center Park

Section 1 of the contract indicates it will run through July 31, 2030.

Yet the Capital Improvement Program the Council adopted as part of [Item 19](#) on June 9 anticipates in FY2028-2029 the award of a construction contract for a new Police Headquarters, quite possibly in the same Civic Center Park where the Sculpture Exhibition that is the subject of this contract is expected to take place. Shouldn't the possibility of that conflict be acknowledged in this contract and in Council discussion of it?

In this 11th iteration of the contract, there seems also to be scant attention to its continuing no-bid, sole-source nature. The predictable result is that staff and the contractor settle into a comfortable pattern lacking innovation, despite anemic public participation in the poll through

¹ The term “marine sanitation device” does not appear to be [defined](#) in Title 17. It seems to be used at times as a euphemism for what landlubbers would call a toilet, although [technically](#) the term refers not to the toilet, but to the device to which the toilet is connected to process and store the waste collected. A holding tank is one type of MSD (a “Type III”). The other two types treat the waste for discharge. Connecting an MSD to a holding tank would appear to be a misnomer, since the holding tank, not the toilet, *is* the MSD. A “portable MSD” would seem to be by definition a self-contained unit not intended to be permanently attached to a boat, and quite likely with no mechanism for connecting to a holding tank.

which the entries to be exhibited are selected (fewer than 250 residents voting out of a population of 83,000).

As to that selection process, the vendor continues to recommend, as they always do, that three outside jurors, along with the seven City Arts Commissioners, whittle the entries received (usually about 80) down to just 30 or so for the public to vote on, despite that process having been shown to do nothing other than prevent the public from seeing entries they might prefer to those presented to them. One might guess there are better ways, but there is no incentive to change.

Item 11. Planning Commission Agenda for the July 9, 2026, Meeting

As the report will show, the Commission continues to approve market rate housing projects in the area of the city that has historically been regarded as the one most suitable for affordable housing projects.

This approval is particularly troubling because staff appears to have determined, for reasons that were not explained, that the existing affordability requirement, which is the subject of Item 13 on this Council agenda, does not apply to this property, apparently because it was designated as a "Housing Opportunity" site.

In any event, the applicant applied for 139 of the 8,174-unit total of "housing opportunity overlays" the Council added to the General Plan without a Greenlight vote on the pretext that the state required the Council to approve them to make possible reaching its affordable housing target. Since no affordable units were offered or required, it seems reasonable for the public to believe they were the victims of a "bait and switch," for, as here, few (and in this case none) of the 8,174 units are being used to build affordable housing.

As this first tranche of units gets used up for purposes other than what was promised, it seems likely staff and Council will say the state is forcing them to raise (again without a Greenlight vote) the 8,174-unit General Plan limit to allow the previously-promised affordable units to materialize. And that could repeat indefinitely as the city fills with market rate units *not* required by the state, and regarding which residents are not allowed to vote on the repeated General Plan increases allowing them.

Item 12. Resolution No. 2026-52: 2350 Bristol Street Driveway Access Appeal (PA2025-0112)

It seems important to appreciate this is not an appeal from denial of an application to modify the existing use permit to allow unrestricted use of the rear driveway. Nor is it, as the "[On the Agenda](#)" portion of the City Manager's July 10 [weekly newsletter](#) claims, an appeal of "the Planning Commission's decision to **allow** an existing emergency access driveway to also be used for employee and delivery vehicle access"

It is, instead, the appeal of the denial of a request to determine that the existing use permit **already allows** (and has *always allowed*) unrestricted use of the rear driveway.

This question regarding the interpretation of the 1986 permit is the only matter presently applied for, and the only question to be resolved on appeal.

A request to issue a new or modified permit allowing unrestricted use would be processed through a different kind of application.

Item 13. Ordinance No. 2026-10: Approving Amendment to Newport Place Planned Community Development Plan (PC-11) Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay and Resolution No. 2026-53: Overriding Airport Land Use Commission's Determination of Inconsistency (PA2025-0196)

In light of City staff's recent interpretation of the "Housing Opportunity Overlay Districts," this immense effort on the part of City staff appears to be for the sole benefit of the property owner at 1401 Quail Street, a sophisticated developer, Intracorp, who previously, as explained on page 4 of the staff report, obtained approval of an application for a 67-unit development with 15% affordable housing.

Curiously, the agenda materials do not appear to include the September 3, 2025, letter from the developer precipitating this, which had been included as [Attachment 2](#) in the March 19 staff report to the Planning Commission. Contrary to what the present staff report says, nothing I can see in that letter says "the approved project is no longer financially viable to implement." It *does*, for reasons it does not explain, request the City reduce the inclusionary requirement for for sale units from 15% to 7.5%.²

The staff report also curiously fails to mention that on September 24, 2024, the Council adopted [Ordinance No. 2024-16](#) which established development standards for the 6th Cycle Housing Opportunity Overlay properties. Those standards include no affordability requirement at all, and staff apparently interprets this silence as an "inconsistency" with the requirement in the planned community text, which per NBMC [Section 20.28.060](#) is to be resolved, in their minds, in favor of the lack of a requirement in the HO overlay. In other words, having an HO designation eliminates any affordability requirement regardless of the underlying zoning. Staff applied this interpretation to the 1301 Dove St. application being reported as part of Item 11 on the present agenda, and appears to have previously applied it to the 1300 Dove St application, heard by the Planning Commission on June 4, which is seeking designation as an HO site.³

Strangely, 1401 Quail was designated as HO Site No. 64 in the Housing Element, but the Intracorp application may have been filed before it was rezoned to reflect that, and hence is being processed under the pre-HO rules. By staff's reasoning, if Intracorp wanted to avoid the inclusionary requirement that is the subject of the present agenda item, they could simply re-file the identical application (without any affordable units) to be approved as an HO project.

² Strangely, the subject line of the letter says it is a request to reduce the percentage "from 15 percent to 8 percent," but the body states "7.5%" three times.

³ The 1300 Dove St. application proposes 5% very-low income housing, but this does not appear to be in response to any inclusionary requirement. Rather it seems to be offered to make the developer eligible for a development standard concession.

In other words, the affordability requirements the Council is being asked to modify are, at least in staff's view, a mirage nullified by the adoption of Housing Opportunity zoning overlays.

As a result, if staff's view of this prevails, its approval, or not, of the present agenda item, over the objections of the Airport Land Use Commission and Caltrans, does nothing to improve the City's ability to meet its affordable housing targets. It modifies in staff's view is an orphaned and currently dead code requirement.

It is, however, questionable that staff's view is correct. Under NBMC [Section 20.28.060](#), the underlying affordable housing requirement would be voided *only* if it is inconsistent with some new and different standard imposed by the overlay (as might happen, for example, if the overlay allowed greater building heights or more units than the underlying zoning). But it is hard to see how the overlay's complete silence on whether affordable housing is required, or not, can be seen as creating a new and conflicting standard of "no affordable housing is required."