

June 10, 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 3. Postponement of Second Reading and Adoption of Ordinance Nos. 2025-7 and 2025-8 Approving an Amendment to the North Newport Center Planned Community (PC-56)

It is certainly helpful to let the public know both that a previously-announced agenda item has been postponed, and the date to which it has been postponed.

It would seem even more helpful to let the public know why the item has been postponed.

Item 4. Ordinance No. 2025-9: Adding Chapter 12.70 (Prohibition on Attending Street Races and Reckless Driving Exhibitions) to Title 12 (Vehicles and Traffic) of the Newport Beach Municipal Code to Prohibit Spectators from Being Present at Street Races and Reckless Driving Exhibitions in Newport Beach

The consent calendar, by its own description, is reserved for “routine” matters, which presumably implies they are straight-forward and not controversial. Yet there seems to be an increasing tendency to put on the consent calendar all the Council’s business that does not legally require a hearing. And to the public’s detriment, Council members seem almost embarrassed to publicly ask any questions regarding what they are being asked to approve. It is possible they have asked questions privately, but the public does not know.

In the present case, the state has seen a proliferation of ordinances criminalizing being a spectator of the sort targeted here, including in Orange County at least in the cities of [Anaheim](#), [Buena Park](#), and [Santa Ana](#). While the ordinances tend to copy language from one another, with some variations, their adoption has not always been without controversy. Out of fears of its entangling innocent bystanders, a [2021 attempt](#) to enact an ordinance in Santa Ana barely squeaked by its first reading on a 4:3 vote, and failed at its second reading, although their present ordinance, linked to above, was adopted on a 6:1 vote two years later.

As to the need for the ordinance, the staff report says “*While the CVC criminalizes both reckless driving and participating in speed contests, it does not currently prohibit spectators at these events.*” However, at least one attorney who offers to defend persons ticketed seems to disagree, [stating](#) that (at least for street racing) spectators are already included under the statewide prohibitions of [Vehicle Code Subsection 23109\(b\)](#), and others for aiding and abetting an illegal activity under [Penal Code Section 31](#).

In copying one another, it is curious that most of the many ordinances (as does the present one) repeat exactly the inartful definition of:

“*Reckless driving exhibition*” means any exhibition of reckless driving referred to in California Vehicle Code section 23103.”

which implies [Vehicle Code section 23103](#) provides a definition of an “exhibition of reckless driving” or provides specific examples of exhibitions that are prohibited and may be referred to.

It does not. It simply defines “reckless driving” in general as driving “*in willful or wanton disregard for the safety of persons or property.*”

It would seem better to say:

““Reckless driving exhibition” means any exhibition of what California Vehicle Code section 23103 refers to as reckless driving.”

although even then, more precision might be needed to define when such driving becomes an “exhibition.”

Similarly, most of the ordinances repeat the statement that:

““Off-street parking facility” has the same meaning as set forth in subdivision (c) of California Vehicle Code section 12500 and includes any public or private parking facility open and accessible to members of the public.”

But if, rather than copying from another city's ordinance, anyone bothered to read [Vehicle Code Subsection 12500\(c\)](#), they would discover it is more nuanced than that. Its definition of “Off-street parking facility” includes *all* publicly-owned parking facilities, but *only* those privately-owned ones that charge no fee for parking. So the ordinances, as written, would not seem to apply to spectating at a reckless driving exhibition that is being conducted (with or without the lot's owner's permission) on a private lot that charges to park. And changing “accessible” to “freely accessible” would not solve this, since the state definition includes publicly-owned lots even if their use is *not* free.

Even the copying is not without errors.

For example, in the first provision at the top of agenda packet page 4-6:

“5. One (1) or more driver is revving a motor vehicle's engine or causing the motor vehicle's tires to spin”

not only does Newport Beach insist (as some of those other cities do) on its odd practice of believing that “One” or “1” is, by itself, not understandable, and needs to be stated both ways, but even more oddly, Newport Beach wants to say “*driver*” where every other city I can find says “*drivers.*”

The proposed arrangement of Section 12.70.040 also seems awkward, with the opening of subsection B repeating part of the introductory paragraph it is a subsection to. It would have seemed sufficient to say:

“B. A totality of circumstances which may include, but are not limited to:”

Finally, although there seem to be many of these ordinances, it would have been helpful for the staff report to indicate whether tickets issued under them have been challenged, and if so, whether they have been found consistent with: (1) the US Constitution's [First Amendment](#) guarantee of “the right of the people peaceably to assemble,” and (2) the state's interest in having uniform vehicular rules that do not vary for jurisdiction to jurisdiction.

In connection with the latter, it might be noted that the state regulations, being in the Vehicle Code, focus on the drivers of cars engaged in reckless activity. Some of the local ordinances add passengers, as well as spectators, to their scope. Given the lack of discussion, it is unclear

if the omission of passengers from this proposed ordinance is intentional, inadvertent, or thought to be covered by it or the state law.

Item 9. Resolution No. 2025-30: Adopting a Memorandum of Understanding with the Newport Beach Police Association and Associated Salary Schedule

This looks like a very generous adjustment. How does it compare to the compensation being offered for similar work in other Orange County cities?

Item 10. Resolution No. 2025-31: Amending the Structure, Membership, Roles and Responsibilities of the Aviation Committee

The Council's Aviation Ad Hoc Committee members might be commended on the promptness with which they have formulated their recommendation, but much less so on the transparency with which it was arrived at.

Given that the City has an existing [Aviation Committee](#) that exists to advise the Council on aviation-related matters, it is curious they were not consulted as to how to make their work more effective. Or were they? The staff report doesn't say.

On the City Clerk's page devoted to [Boards, Commissions and Committees](#), the Aviation Committee has a unique status as the only one listed under the category of "Council/Citizens Ad Hoc Committees," even though it does not seem to be an "ad hoc" (limited purpose/short duration) committee, and even though it is unclear what distinguishes it from the many bodies listed under "Citizens Advisory Committees" (a majority of which have, despite the name, Council members on them).¹

The proposed structure does seem to be unique in some respects:

1. It is the only committee with non-Council members that I can think of in which the number of citizen members is "up to" rather than a definite number, implying that it might have no citizen members at all.
2. Current citizen members are invited to "serve" through June 30, although since no meetings have been scheduled during that time, it is unclear what their service might consist of.
3. With only quarterly meetings planned, it seems unlikely to maintain the interest of its members.

On a more technical level, it would have been helpful to provide a redline showing more exactly how the proposed resolution differs from the existing one. I might note:

1. The "Authorization" section on agenda packet page 10-7 is missing Resolution Nos. [9833](#) and [10098](#), both of which extended the term of the original "Orange County Airport Aviation Committee," prior to its renaming as simply the "Aviation Committee."

¹ The committee categories are defined in City Council [Policy A-2](#). The committees listed as "Citizens Advisory Committees" that include Council members appear to have been incorrectly listed. According to the Policy A-2 definitions, they belong, with both the existing and proposed Aviation Committee, under "City Council/ Citizens' Committees (Standing or Ad Hoc)."

2. Given the stated wish to appoint citizen members who “Possess expertise and professional experience in an aviation or airport related field,” I am completely baffled by the listing of experience in “commercial real estate” as an example of such expertise. Is this a misprint? Or are the authors expecting some role for the committee other than one would expect from the resolution?
3. In the past, the inclusion of an Aviation Committee member living in Newport Coast has been said to be an inviolable condition of the Newport Coast Annexation Agreement. How has the elimination of that position been justified without amending the Agreement?
4. The “Purpose & Responsibilities” section refers to Council [Policy A-17](#), but does not indicate if the committee is being asked to review or suggest revisions to it. Isn't Policy A-17 due for an update?
5. While adding clauses about matters not anticipated in Policy A-17, such as Advanced Air Mobility, it refers to such prior concepts as the Corridor Cities Coalition as if they were still viable. To the best of my knowledge, having the support of an active and engaged Corridor Cities Coalition was considered important to negotiating the prior Settlement Agreement amendments. Yet the City has done nothing to nurture it since, and as far as I know, the coalition no longer exists. Is the proposed new committee supposed to revive it? If so, a committee of technical experts does not seem particularly well-suited to accomplishing that task.

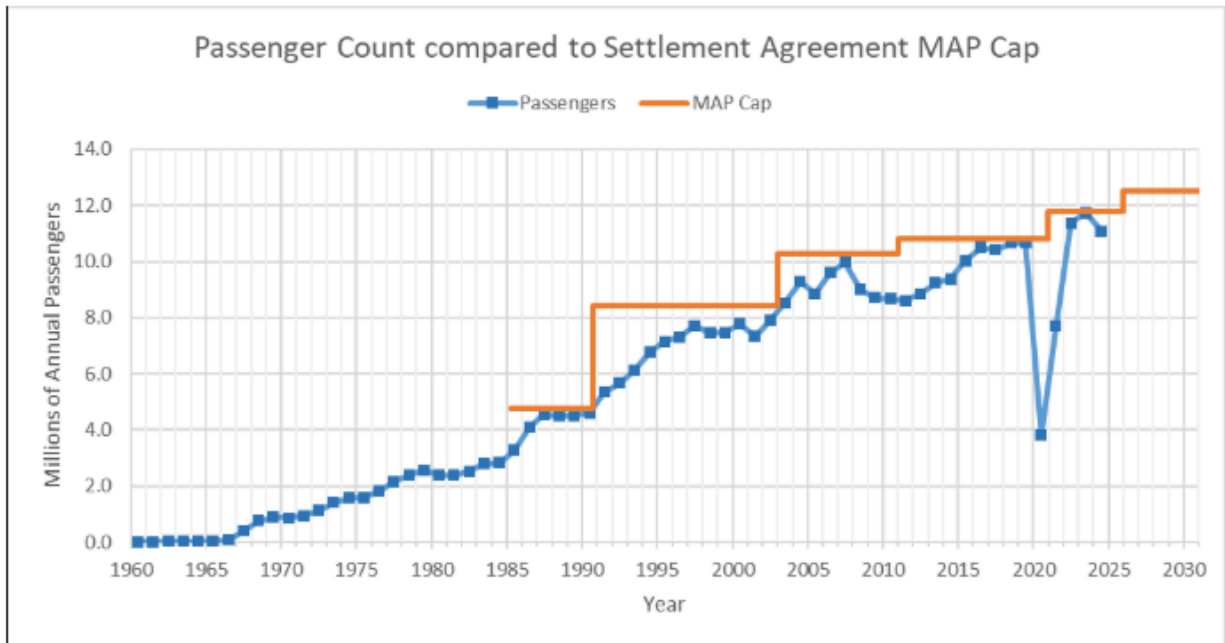
Regarding the existing committee, I don't think the current dysfunction is a result of its structure so much as the way it has been run, with infrequent, and even then, frequently-cancelled, meetings, leaving members with a sense they lack purpose or effectiveness.

I also think the ad hoc committee making this recommendation fails to properly understand what has historically been one of the key functions of the Aviation Committee, which is to provide a forum for residents to voice their concerns about the airport to the City, which the City can then articulate to those with the power to do something about them. The current chair has mistakenly told attendees that those concerns would be better directed to the County [Airport Commission](#) or to airport staff at JWA's [Quarterly Noise Meetings](#). But that is not the function of the Airport Commission (they exist to review staff reports going to the Board of Supervisors) and random citizens speaking at the noise meetings do not have the influence that attaches to an official and united message presented by the City government.

Regarding preparation for the next round of [Settlement Agreement](#) negotiations (the neglect of the existing committee having supposedly resulted from City staff and Council being so busy with that they had no time for the committee) I think there is much misunderstanding about the Agreement. Many seem to think it created the JWA curfew (which for “general aviation” is only a stricter noise limit during late night hours) and is necessary to maintain it. In fact, the curfew and the noise limits for both commercial and general aviation aircraft are part of the County's somewhat misnamed [General Aviation Noise Ordinance](#), which slightly predates the Settlement Agreement. The Agreement merely prevents the County from weakening or repealing the curfew and noise limit provisions during its term.

Since, in previous negotiations, the City gave up limitations of the physical size of airport facilities, essentially the only thing that actually depends on the Agreement anymore are its limitations on the number of passengers and departures by the noisiest aircraft – and the City has not been particularly effective at reining those in.

The following chart compares the actual growth in Million Annual Passengers at JWA (counting both arrivals and departures) to the limits set by the Agreement. In its initial phase, in the years 1987 through 1990, it definitely put a lid on growth. But since then, the negotiations have repeatedly raised the limit to a level that seems almost always above the level that would have been reached by unrestrained growth. In only a handful of years (2007, 2017-2019, and 2023) does it seem to have kept a lid on the expansion. Last year (and likely this) it looks like the Agreement allows a number of passengers well above current demand.



Efforts to rein in the noise from commercial jet operations have had a similarly modest result, as illustrated by the following table showing the departures by class at 10-year intervals over the last 30 years, with “<SENEL>” being the average individual event noise in decibels at the close-in monitor #3 on Anniversary Lane (just north of the Muth Center and YMCA on University Drive):

	1994Q3	RMS 3	2004Q3	NMS 3	2014Q3	NMS 3	2024Q3	NMS 3
	Number	<SENEL>	Number	<SENEL>	Number	<SENEL>	Number	<SENEL>
Class A	3,737	93.6	7,582	94.1	7,268	93.8	7,959	94.2
Class AA	2,766	89.4						
Class E	2,565	88.3	3,416	89.8	2,491	88.7	3,467	89.1
total:	9,068	91.5	10,998	93.1	9,759	93.0	11,426	93.2
Commuter	29	82.0	1,860	87.4	466	87.0	706	86.8

As shown on the pink line, not only are there more departures than there were 30 years ago, but, remarkably and unexpectedly, the average commercial departure generates more noise today (93.2 dB) than it did in 1994 (91.5 dB), at least at this close-in location, which is one of the few where JWA’s measurements allow a reliable comparison.

The increased average noise per departure results largely from there having initially been an intermediate class of departures, “Class AA,” with a tighter noise limit. That was negotiated

away in 2003, so we now allow not only a larger number, but a much larger proportion in the noisiest class, "Class A."

Additionally, every time the equipment used to measure the sound has changed, the County has convinced the City and the other Settlement Agreement signatories to raise the decibel noise limits. To the best of my knowledge, JWA is the only airport where decibel limits have been relaxed from their historical values, allowing noisier operations by supposedly quieter planes.

Item 13. Community Programs and Special Event Grants Recommendations for Fiscal Year 2025- 26

At the top of page 13-5, the staff report says "*Staff met with three councilmembers to discuss its recommendations for the Community Programs and Special Events Grants.*" That does not seem like transparency to me. Why did staff meet with three council members? Who chose them? What role did they play in shaping the recommendations, and why should their role be any different from that of the other four council members we have elected?

These programs seem largely to support a static list of organizations that expect, and have perhaps become dependent upon, an expected amount of public funding each year. Are their actual proposals available for public inspection?

The table on page 13-11 shows three new applicants this year. Has anyone who received support last year not re-applied for support this year?

Of the new applicants:

1. What park is the Balboa Peninsula Point Association's "Chili Cook-Off and Picnic at the Park" held at? As with their others and some of the other organization's requests, is it open, on an equal basis, to members of the public who are not members of the Association? If not, why would they be any more deserving of support than other neighborhood's events?
2. I thought "3rd Thursdays" (the largest new request) was a new initiative of the Corona del Mar Chamber of Commerce. Why is the applicant organization listed as "Visit Newport Beach"? Doesn't Visit Newport Beach already receive generous funding from the City?

Item 14. Confirmation of Appointments to the Water Quality/Coastal Tidelands Committee

This committee, and the appointments to it, have a very confusing history.

The City's Water Quality/Coastal Tidelands Committee [webpage](#) cites [Resolution No. 2021-11](#) as its current enabling document, which in turn cites [Resolution No. 2012-115](#) as the document that created it. However, as the preamble to that indicates, this was more of a name change, with the group having a long prior history, operating previously as the Coastal/Bay Water Quality Citizens Advisory Committee and before that as the Harbor Quality Citizens Advisory Committee.

Despite that long history, it has had trouble attracting citizen applicants, and although not mentioned on the webpage or in the staff report, an additional [Resolution No. 2023-36](#) was

adopted to allow continued service, granting a one-time waiver of the term limits for appointments made in June 2023.

It is particularly confusing how the appointments have come to be made in June when Resolution No. 2021-11 says “*appointments shall occur in January.*”

The staff report for [Item 19](#) from June 27, 2023, the last time WQ/CT appointments were made says:

When Resolution 2021-11 was considered by the City Council on February 23, 2021, Council Member Diane Dixon orally revised the resolution to clarify that the end of the terms would expire on June 30 in order to match the end of terms of other committee appointments ending on June 30. Accordingly, Lawrence (Tom) Houston and George Robertson were each reappointed for the shorter, staggered term of only two years and six months, which will expire June 30, 2023.

This oral revision is reflected in the following passages from the [February 23, 2021, minutes](#) saying:

Council Member Dixon requested an amendment to Item 5 so the terms of the Water Quality/Coastal Tidelands Committee members end on June 30, thus confirming staggered terms of 2.5 and 4.5 years.

XV. CONSENT CALENDAR

and

Motion by Council Member O'Neill, seconded by Council Member Brenner, to approve the Consent Calendar; and noting the amendments to Items 1, 5 and 6, and the recusal by Council Member Blom to Item 6.

However, they also indicate that on that date “*Peter Belden, Curtis Black, Charles Francher and Richard McNeil*” were appointed “*to serve on the Water Quality/ Coastal Tidelands Committee for four-year six-month terms.*”

**City of Newport Beach
Study Session and Regular Meeting
February 23, 2021**

- 5. Resolution No. 2021-11: Waiving the Term Limits Established by Resolution No. 2012-115, Amending the Water Quality/Coastal Tidelands Committee Membership to Stagger the Terms, and Confirming Appointments [24/100-2021]**
 - a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
 - b) Adopt amended Resolution No. 2021-11, *A Resolution of the City Council of the City of Newport Beach, California, Waiving the Term Limits and Amending the Water Quality/Coastal Tidelands Committee Membership to Stagger the Terms*; and
 - c) Appoint Louis Denger, Tom Houston and George Robertson to serve on the Water Quality/Coastal Tidelands Committee for two-year six-month terms, and Peter Belden, Curtis Black, Charles Francher and Richard McNeil to serve on the Water Quality/Coastal Tidelands Committee for four-year six-month terms.

And no written revision to Resolution No. 2021-11 seems to have been made.

Additionally, unless there is something wrong with my math, a “four-year six-month” or “4.5 year” term from February 23 (or possibly February 1, as seems to be specified in Resolution No. 2021-11) would end on July 31, 2025, or August 22, 2025, not on June 30.

If the Council wants a June 30 term ending date, shouldn't it amend Resolution No. 2021-11 to reflect its current understanding of the WQ/CT terms?

Regarding the proposed appointment of Sharon Ray, since she is currently a Council appointee to the [Aviation Committee](#), that would normally require waiving the policy against appointing people to more than one standing committee at a time. A waiver would not be necessary if Item 10 terminating all the current members of the Aviation Committee on June 30th is approved, but that Item 10 will be approved is an assumption rather than a certainty.

Item 16. Confirmation of Nominees for Scheduled and Unscheduled Board and Commission Vacancies

At this “confirmation of nominees” stage, it would seem helpful to indicate the number of applications for each position that the Appointments Committee had to choose among. It would be even more helpful to indicate the names of those not nominated by the committee, since this is presumably the opportunity for the council members not on the committee to add nominees.

Item 17. Proposed Relocation of Newport Beach Fire Station No. 3 to 1550 Avocado Avenue

The staff report is very incomplete.

“1550 Avocado Avenue” would seem to be OCTA's Newport Center Transportation Center. Is the fire station proposed to completely replace it? Or to co-exist with it? If it is planned to replace the Transportation Center, where would the center go?

Additionally, justifying the relocation on the basis that it will reduce the response time to certain areas seems to ignore that it must increase the response time to others. It is impossible to judge the overall effect from what is provided. How many residents will be better served and how many worse?

On a map, the relocation doesn't make a lot of sense, since it will place Station 3 closer to Station 5 in Corona del Mar and to Station 8 in Newport Coast, leaving areas like Eastbluff less well served than now. A location near the intersection of MacArthur and Ford Road/Bonita Canyon Drive would seem more equally-spaced from the other stations.