

May 13, 2025, City Council Agenda Comments

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

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Item 1. Minutes for the April 29, 2025 City Council Meeting

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

Page 302, Item SS2, paragraph 5, sentence 2: “*He also reported that about 70% of current pool users for swim lessons and lap swimming use reside in Newport Beach and 90% in the Newport-Mesa area.*”

[See [video](#). In response to the Mayor’s question, Director Levin displayed his [Slide 16](#) showing 71% of registrants from Newport Beach and 19% from Costa Mesa. Those add to 90% (or, as he said, “the vast majority”) from the Newport-Mesa area. Saying that only about 70% reside in the Newport-Mesa area is wrong and leaves readers wondering where the remaining 30% could come from.]

Page 309, Item SS2, paragraph 1, sentence 1: “*Chad ~~Tilner~~ Tillner stated that the use of amplified music over recent years has increased which could be bothersome to neighbors.*”

[note: Further on page 309, neither the minutes nor the description of the motion mention the modifications to Condition of Approval No. 3 despite the extensive discussion of it seen in the [video](#).]

Page 310, Item 23, paragraph 6, sentence 1: “*Jim Mosher noted that The Irvine Company’s 1,500-unit proposal was relies on units added to the General Plan without a Greenlight vote (Charter Section 423).*”

Item 4. Resolution No. 2025-20: Adopting a Memorandum of Understanding with the Newport Beach Firefighters Association and Associated Salary Schedule

Certain words and phrases in the proposed agreement (Attachment A to the proposed resolution) are, without any explanation I can find, printed in italics. It would have been helpful to indicate, if it is correct, that these are changes from the current MOU and that the words they replace can be found in the redline version presented as [Item 13](#) at the Council’s April 29, meeting.

That said, the use of italics does not appear to be entirely accurate or reliable. For example, in Section 1.B.1 on page 4-10 of the staff report, “June 30” is not italicized even though it seems to be a change from “December 31.”

Item 5. Resolution No. 2025-21: Adopting a Memorandum of Understanding with the Association of Newport Beach Ocean Lifeguards and Associated Salary Schedule

Same comment regarding the use of italics as for Item 4, except that the corresponding redline was presented as [Item 14](#) on April 29 (and “June 30” does not seem to be a change).

Item 6. Resolution No. 2025-22: Accept State of California, Department of Parks and Recreation, Division of Boating and Waterways 2025 Grant for the Marina Park Boating Program

As explained in the last paragraph of the first page of the resolution (on page 6-4 of the staff report), one of the reasons the acceptance of grants of more than \$30,000 comes before the Council for approval is so the Council can review the terms and conditions of accepting the grant.

Given the more than 100 pages of grant documents that follow, the location of the terms and conditions is not immediately apparent. So, it would have been helpful for the report to indicate if the City will incur any obligations as a result of accepting this grant, and if so, what they are.

Item 10. Professional Services Agreement with Deckard Technologies, Inc. for Short-Term Lodging Compliance & Hotline

The proposed contract with Deckard Technologies indicates it will start effective May 13, 2025.

However, the staff report indicates that the existing contract for the same service with GovOS Inc. is not set to expire until August 31, 2025, and [Section 27](#) of that contract (C-7913-3) requires at least 30-days notice to terminate.

How will the transition period over the next 3-½ months be handled? Which contractor will be handling this service? Has GovOS Inc. been put on notice they will be terminated before staff knows if the contract with their replacement vendor will be approved?

Item XVI. MOTION FOR RECONSIDERATION

I think the Council should vote to reconsider its action taken on [Item 22](#) at the April 29, 2025, meeting (Five Crowns Limited Term Use Permit Appeal).

Despite the authorization given (per page 311 of the draft minutes) to City staff to amend in unknown ways the findings in the [proposed Resolution No. 2025-18](#) presented on April 29, the normal practice when the changes are not fully announced during the course of the public hearing would be for the revised resolution to return for the Council's concurrence at a future meeting (typically on the consent calendar).

In this case, the [revised Resolution No. 2025-18](#), signed by the Mayor as having been "adopted" on April 29, even though neither the Council nor the public had a chance to review what was purportedly adopted, has a number of defects. Among them, both the title and the operative clause in Section 2 incorrectly state that the Council voted to "uphold" the Planning Commission's (and Zoning Administrator's) approval of the permit. In fact, after the public hearing had closed, the Council, exercising what it believed to be its prerogatives under NBMC Sections [20.64.030](#) and [21.64.030](#),¹ decided not to uphold, but instead to "modify" the earlier approvals by, among other things, extending allowed operating hours by one hour and deleting all mandatory noise mitigation measures, relying only on the operator's compliance with the

¹ Technically, Subsections 20.64.030.D and 20.64.030.D allow the Council only to *add* conditions of approval, not remove them, although Subsections 20.64.030.D,1,c and 20.64.030.D,1,c imply the *appellant* could have filed the appeal with a request conditions be *deleted*.

City's [Community Noise Control](#) regulations - despite the applicant's own noise consultant concluding such compliance would be possible only *with* the proposed mitigation measures (including a 10 p.m. closing time).

Additionally, there are questions as to the Council's April 29th action's consistency with the posted [Public Hearing Notice](#). In that notice, the construction of a sound wall and a 10 p.m. closing time are described as elements of the proposal being considered for approval or denial at the hearing, not merely as previously-imposed conditions of approval. Yet, with the revised resolution, the Council has not merely modified conditions of approval the Planning Commission thought necessary to make the project work, but has effectively approved a project different from the one that was noticed for hearing, and regarding which the public had no chance to comment since the Council announced it would be considering that modified project only after the hearing had been closed.²

Regarding the last-minute changes, I am not sure the Council members were aware that the City noise standards are (quite reasonably) stricter between 10 p.m. and 7 a.m. than they are during the remaining hours. The sound wall and 10 p.m. closing cited in the hearing notice appear to have been included as project features, rather than mere conditions of approval, because Five Crowns' own noise consultant had concluded that even with those features, events of the sort Five Crowns wants to hold would just barely meet the more lenient City *daytime* noise limits (see Table 4 on [page 22-37](#) of the April 29 staff report). Even with them, the contemplated events would be in violation of the 10 p.m. to 7 a.m. limits.

I could be wrong, but I am not aware of any instance in Newport Beach in which outdoor dining with amplified sound adjacent to residential uses has been permitted after 10 p.m.

By not informing the public such a thing was even under consideration, and for the other procedural deficiencies cited above, the April 29th decision on agenda Item 22 seems ripe for reconsideration, and the Council should request a properly-noticed future re-hearing of it.

² The YouTube video at [2:04:00](#) shows the Mayor denying an audience member's request to comment after the potential revisions to the project had been announced. A second request appears to have been denied at [2:39:50](#).