

May 10, 2022, City Council Agenda Comments

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

Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item SS4. Residential Refuse Program Roll-Out Update

I submitted [written comments](#)¹ under this heading when it appeared on the April 26 agenda, only to be continued to the present meeting. I also submitted comments on [February 8, 2022](#), [January 25, 2022](#), [January 11, 2022](#), [November 16, 2021](#) and [March 23, 2021](#).

Although no further information has been released in advance of this study session, at the [May 5th Water Quality Coastal Tidelands Committee meeting](#) I heard what was likely a preview of what will be presented.

It bothers me that staff continues to inform the public that the City Council (or a “working group” of it) has authorized a new interpretation of the “charter provision” requiring free curbside residential trash collection in Newport Beach.

This suggests to me that neither they, nor likely the Council, have ever looked for this provision nor given any serious thought to how much latitude it gives them to make modifications to the program. At the very least, it indicates they pay no attention to my comments, for I have repeatedly and consistently pointed out there is no such City Charter provision.

There is, instead, a voter-enacted ordinance, originally from 1959 ([Ordinance No. 878](#)), but amend and replaced by voter-enacted [Ordinance No. 96-46](#), and appearing (in now somewhat inscrutable form) in our Municipal Code. I would suggest those who would modify it first consult the originals, as well as the ordinances they reference for definitions of terms ([Ordinance 1403](#) and [Ordinance 1558](#)). Without modification by voters, they do not support a distinction between “trash” and “recyclables,” nor a limitation on volume collected.

I was also surprised to hear on May 5th that CR&R’s date to start billing residents for supplemental services (such as “owning” extra carts) had been extended from **April 1** to **July 1**. That does not accord with the letter from CR&R referred on page 2 of my comments from April 26. It told residents in my area that the new charges would go into effect on May 1 if residents did not remove unwanted services by April 24.

Was that letter wrong? (there was no follow-up from CR&R to suggest it was)

I was pleased to hear on May 5th that (as I had already read in the aforementioned letter) that by opening an online account with CR&R, I would be able to review and make changes to the services they believe I receive, schedule new services (such as bulky item pickup) and more.

Unfortunately, when I did open an account online, I found none of that – only an opportunity to view and pay my bill (which, mercifully, was \$0, presumably because I have no supplemental services, although there was no way to verify what the bill was based on). I may be somewhat

¹ Unfortunately, the hyperlinks those comments contained do not function in the version archived by the City Clerk. In addition, the City provides no official way to link to documents in its Laserfiche archive, so even the links in the present document, that do work as submitted, may require multiple clicks before they do so without returning a cryptic error message.

unusual in that I already had a “Web-Pak” account with CR&R that I had used to pay bills for a disabled uncle in Orange, and the instructions in the letter required me to add a “new account” I manage for my home address, rather than creating a completely new one. Nonetheless, the absence of the advertised online options, or the ability to correct incorrectly listed service charges, was troubling.

The Water Quality Committee also heard on May 5th that the City (or CR&R?) had conducted an “audit” of 1,000 households in the Eastbluff area and had found 35% contamination in the trash and recyclable carts and 24% contamination in the organics carts (if I got the numbers right) – “contamination” meaning something in a cart that belongs in a different cart.

I would be curious to understand better what those numbers are thought to mean. Are they percent of carts with obviously wrong materials? Or percent by weight of misplaced materials within the carts?

If this is anything like what the Costa Mesa Sanitary District does, as reported in my April 26 written comments, the trash collected in a particular kind of cart from all the households on a route is mixed in a great pile, and then some small, random samples from that pile are hand-sorted into the three categories of organics, recyclables and other waste, and weighed. The 35% seems low to me, since CMSD found 24% food and green waste in their combined non-organics carts, and I would suspect that in addition to that, a substantial weight of recyclables continues to go in Newport’s black-topped carts.

In that regard, I would suspect many Newport Beach residents, myself very much included, even if they are trying to comply, have only a vague idea of what CR&R wants in the blue-topped recycling carts, and what it does not, especially given the many contradictory instructions and the widespread rumors that much of what is listed as recyclable is, in fact, not recycled.

As on April 26, I continue to think the most useful thing would be clear communication to the public of the things CR&R most often finds incorrectly placed in the various carts. Those wishing to comply could then try to do better. Without that information, the mistakes will continue and the percentages of “contamination” will not improve.

Beyond this, I took offense, again, at the assertion on May 5th that staff and Council has arrived at the appropriate cart mixes suitable for free curbside collection for the average Newport Beach household. There is no average household. They differ not only in number of residents, but in lot size and amount of vegetation. A single organics cart may be overkill for a home with no yard, yet it is completely inadequate for a home with an acre of landscaping. Not allowing for this, and charging homes with many people or large yards a premium is clearly incompatible with the voter-enacted ordinance – as is the recycling fee now that residents are required to do their own source separation.

***Item IV.B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS -
Property: 1201 Dove Street***

I would guess this property is being considered as a site for possible relocation of the Police Station, currently in Newport Center. If so, why not say so, allowing people to offer comment as to its suitability, or lack thereof?

***Item IV.C CONFERENCE WITH REAL PROPERTY NEGOTIATORS -
Negotiating Parties: All lessees of properties in Beacon Bay***

Without further information, it is difficult to guess what this is about.

Is this a return of the 2019 proposal from the Beacon Bay home owners to increase revenue to the City by lowering their land lease rates?

The Council received that proposal as [Item SS2](#) at its February 12, 2019, study session, at which time it requested a recommendation from the Finance Committee. That recommendation was received and filed as [Item 10](#) on the October 8, 2019, consent calendar, with no further action proposed or taken.

It is difficult to imagine what could have happened in the intervening two and a half years to prompt reconsideration of the 2019 proposal in closed session without further public discussion.

In essence, the 2019 proposal was to reduce the annual rent the home owners pay the City from 2.5% of the private sale price to 1%. While I appreciate lower rent will increase the private resale value of the properties, if it is good for the City, then by extension offering completely free use of the public land for private residential improvements, and letting the private parties enjoy the full profit attendant thereto, would be even better for the City. Yet allowing free use of public land hardly seems compatible with the public trust. I hope the Council is not privately considering agreeing to this proposal.

As of the February 2019 staff report, 49 of the leases ran through 2044 and the remainder through 2062 or later, memorializing a rent formula approved by the State Lands Commission (in return for the City making multiple concessions for the benefit of the Beacon Bay home owners, including dedicating other City-owned lands to the state). With no leases expiring in the near future, why would anything be re-negotiated at this time?

Item 1. Minutes for the April 26, 2022 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 65.

Page 297, paragraph 4: **Correction:** *"In response to Mayor Muldoon's questions, Deputy Community Development Director Campbell noted the City did receive a more helpful tone from the California Department of Housing and Community Development (HCD), ~~and~~ Community Development Director Jurjis clarified that the police and fire stations are included in the property owner requests, ~~and~~ Mayor Muldoon expressed support for the plan as drafted."*

[see [video at 39:00](#): As drafted, the comments of three separate speakers are incorrectly all attributed to a single one (Mr. Campbell).]

Page 300, Item XIII, paragraph 1: **Comment:** The draft minutes say I *"took issue with the substitution options and permit appeal process related to Item 3."* That may mean something to the person who wrote it, but I doubt many readers will be able to guess what *"substitution options"* are or why I might take issue with them. I believe I objected to the ordinance in question being presented as something *"unanimously approved by the Harbor Commission"* without any disclosure that substantive changes had been made since they reviewed it.

Item 12. Approval of On-Site Mobile Car Washing and Detail Services

Isn't it customary to provide a copy of service contracts the Council is asked to approve, allowing the public and Council to verify what is being contracted for?

Why is no proposed contract attached to this staff report?

As to the existing contracts with City Detail and Newport Auto Spa, whose expiration is said to be fast approaching, the only one I can find in the City Clerk's [contracts archive](#) is an short-lived one with City Detail that expired in 2019 ([C-7644-1](#)), even though under [Section 603\(c\)](#) of our City Charter the Clerk is required to maintain files of all City contracts.

I could have missed them, but where are the existing contracts?