

**NEWPORT BEACH CITY COUNCIL AGENDA
COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD
ADJOURNED REGULAR MEETING
December 2, 2009**

I. CONVENE IN OPEN SESSION - 5:30 p.m.

II. CLOSED SESSION - Council Chambers Conference Room

A. Conference with Legal Counsel – Existing Litigation (Government Code § 54956.9(a)):

Eleven matter(s):

1. ***Group Homes Matters:*** Five matters all arising out of the Group Homes litigation brought against the City, as follows:

- a. ***City of Newport Beach v. Morningside Recovery***, a cross-claim in the ***Concerned Citizen's v. City of Newport Beach*** matter, (the ***Concerned Citizen's*** complaint has been previously resolved to the satisfaction of the parties and is no longer pending.)
U.S. District Court Case No. SACV 08-00192-JVS (RNBx)
- b. ***Sober Living By The Sea v. City of Newport Beach***
U.S. District Court Case No. SACV 08-00200 JVS (RNBx)
- c. ***City of Newport Beach v. Morningside Recovery***
Orange County Superior Court Case No. 07CC11694
- d. ***Pacific Shores v. Newport Beach***
U.S. District Court Case No. SACV 08-00457 AG (PLAx)
- e. ***Newport Coast Recovery v. City of Newport Beach***
U.S. District Court Case No. SACV 09-0701 DOC (ANx);

2. ***Group Homes Matters:*** Six matters all arising out of the Group Homes investigation brought against the City, as follows:

- a. ***Pacific Shores v. Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-08-0592-8
- b. ***Newport Coast Recovery v. City of Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0713-8
- c. ***Paul Murdoch v. City of Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0831-8
- d. ***The Kramer Center v. City of Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0833-8
- e. ***Oxford House v. City of Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0830-8
- f. ***Yellowstone v. City of Newport Beach***
U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0834-8

Testimony given before the City Council is recorded.

Yellow light indicates that the speaker has one minute for summation;
and the red light will signify when the speaker's time limit is up.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda
will be made available for public inspection in the Office of the City Clerk
located at 3300 Newport Boulevard during normal business hours.
In addition, such writings and documents will be posted on the City's website at www.newportbeachca.gov.

III. ROLL CALL

IV. PUBLIC HEARING [6:00 p.m. time certain]

1. **APPEAL OF HEARING OFFICER'S DENIAL OF USE PERMITS AND REASONABLE ACCOMMODATIONS - YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC. - 1561 INDUS (UP 2008-034) (RA 2009-004) (PA 2008-105); 1621 INDUS (UP 2008-035) (RA 2009-005) (PA 2008-106); 1571 PEGASUS (UP 2008-036) (RA 2009-006) (PA 2008-107); AND 20172 REDLANDS (UP 2008-037) (RA 2009-007) (PA 2008-108). [Continued from the 9/22/09 and 11/24/09 Council meetings]**

Action: a) Conduct public hearing; b) staff recommends the City Council determine whether substantial evidence in the record supports the Hearing Officer's decision to deny Yellowstone's applications for the use permits and reasonable accommodations; and c) if the City Council determines that substantial evidence supports the denials, the Council should sustain the decisions of the Hearing Officer; OR d) if the City Council determines that substantial evidence in the record does not support any of the denials, the Council must then choose between one of three possible actions: 1) reverse the Hearing Officer's decision and authorize the issuance of the requested use permit(s) or one or more of the requested reasonable accommodations to Yellowstone, under conditions the Council determines are appropriate based upon the evidence in the hearing record; or 2) modify the Hearing Officer's decision denying the use permit and/or reasonable accommodation to Yellowstone based upon the evidence in the hearing record; or 3) remand the matter to the Hearing Officer for further consideration, which remand shall include direction either to consider specific issues, or to conduct a *de novo* hearing on whether to grant, conditionally grant, or deny a use permit and/or reasonable accommodation to Yellowstone; OR e) if the City Council determines the Hearing Officer's findings are not supported by substantial evidence and directs action be taken based upon choosing one of the three options above, direct staff to prepare a resolution setting out the determination of the Council and the findings supporting that determination, and that the resolution be brought back to the Council for approval and adoption as the Council's final decision on the matter.

V. PUBLIC COMMENTS

Public Comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Council -- Speakers must limit comments to 3-minutes. Before speaking, please state your name for the record.

VI. ADJOURNMENT