

July 15, 2019, Board of Library Trustees Agenda Comments

These comments on Newport Beach Board of Library Trustees (BLT) agenda items are submitted by:
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Item 1. Minutes of the June 17, 2019 Board of Library Trustees Meeting

The following corrections might be considered:

1. **Page 2** (handwritten 5):

last paragraph, line 6, and line 2 from end: "*Patrice ~~Apodace~~ Apodaca*"

last line: "*Marketing Specialist Mielke provides calendars of events to the ~~Peachtree School~~ Peachjar school flyer system and summaries of upcoming events to several community papers.*" [see [NMUSD site](#)]

2. **Page 3** (handwritten 6): top paragraph, next to last sentence: "*Information about Library events ~~are is~~ being posted to NextDoor.*"
3. **Page 4** (handwritten 7): top paragraph, third from last sentence: "*All ? staff will soon be trained for passport services.*" [I don't recall what was said, but it seems unlikely there is a plan to train every library employee to issue passports.]

Item 2. Patron Comments

Comment 6: Comments asking if the NBPL accepts used books are so frequently asked one has to wonder if the Friends program could be more effectively publicized. The website does have [a page](#) (buried a bit deeply) explaining this, but maybe it could be featured, occasionally on the home page.

Item 3. Library Activities

This consent calendar report raises serious concerns about (1) the compliance of NBPL with California library confidentiality laws when sharing patron information with database vendors and (2) the appropriateness of the additional access requirements imposed by some of these online services (in particular, the anticipated new requirements to use Lynda.com). These both seem topics needing Board discussion, and not just mention in a staff report.

For purposes of log-in authentication, NBPL currently appears to provide businesses like Lynda.com with access to a list of currently valid library card numbers. It is not clear what other information NBPL allows these outside businesses to see. Actually using the Lynda.com service (and some others) requires providing a name and email address to set up a separate account with them. It is unclear if that information has to be authentic or match the information in the NBPL records.

In connection with patron confidentiality, it might be noted that for unknown reasons¹ NBPL (like others) requires patrons to sign their library cards. NBPL appears to be unique in that **knowledge of the card number and patron last name is sufficient (with no further authentication) to access the patron account online, showing borrowing information which the patron may assume to be confidential.** If the card is lost, this could be a concern for those whose last name is legible in their signature.

Item 4. Expenditure Status Report

It might be noted that although this report (dated “July 1, 2019”) may appear to reflect the status of the accounts at the end of the fiscal year (with unexpended line item surpluses being returned to the City’s General Fund), there may be “encumbrances” on many of them that have not cleared yet. In particular, the “Available Budget” for the two largest items (“Salary & Benefits” and “Internal Service Funds”) are so close to the “Monthly Expended” amounts that one might ask if the year is truly ending with surplus, or if that will be eaten up by still-pending obligations for June.

Regarding the amounts received from the NBPL support groups, at the City Council’s March 12 Study Session (Item SS2 presentation, [Slide 30](#)), former BLT Chair Jill Johnson-Tucker reported that the Friends of the Library (founded in 1957) raises about \$300,000 per year, while the NBPL Foundation (founded in 1989) takes in annual revenues of about \$750,000.

Per the present report, a very large portion of the Friends’ revenue is getting to the library (\$291,378 in FY19), while only a small part of the Foundation’s (\$153,125). The dollar amounts appear to be part of a long-term pattern of increasing contributions from the Friends and *decreasing* ones from the Foundation, which the BLT might want more information on.

Indeed, if I were a Trustee, I would have some concern as to whether the Foundation continues to act as conduit for contributions from the public *to* the library (the *only* function stated in the Foundation’s 2000 “Restated Articles of Incorporation” per Tab V in the BLT Handbook; see also the “Statement of Policy” found later under the same tab), or has become an independent entity *using* library facilities for programming of its own² (including, on occasion, closing the Central Library to the public in general). I am also concerned that the BLT does not appear to have been following through on any of the public oversight functions it agreed to in the January 18, 2000, Cooperating Agreement between the BLT and the Foundation.

¹ In theory, the signature acknowledges the patron’s understanding of their responsibility for the materials borrowed. However, it is unclear why this signature is on the card rather than on a separate document retained by the library. In fact, since the only copy of the “contract” is held by, and can easily be destroyed by, the patron, this practice not only diminishes patron confidentiality, but NBPL appears to have no independent proof a contract was ever signed for its benefit. An additional purpose is to identify whose card it is in the event it is misplaced or comingled with others (for example, in a family with more than one).

² On page 1 of the “Restated Articles of Incorporation,” purpose (7) for the funds raised is “community programs.” However, from the context it is clear that, like the remainder of purposes (1)-(8), this would be to support programs put on *by the NBPL*, not independent programs put on by the Foundation.

It seems possible that while contributions intended for the NBPL have been increasing, the amount getting to NBPL has been decreasing. It is also possible the Foundation has been saving for a lecture hall; but that seems to be a separate, independent activity, with dedicated pledges of its own. Whatever the answer, this seems like it needs to be a BLT discussion item.

Item 5. Board of Library Trustees Monitoring List

The Monitoring List mentions the election of BLT officers. That is a natural thing to do when there is a change in membership on the BLT, and it appears on the current agenda. The Monitoring List also mentions “Trustee Liaisons” for this meeting, but that is *not* on the agenda and seems to historically happen at the August meeting. However, I notice no names are associated with any of the “Monthly Reports” in Part VII.B of the current agenda.

Changes in committee assignments might also be considered, although I am not sure how many, if any, currently active committees the BLT has. The BLT does not appear to maintain a roster of assignments.

Item 6. Statistical Comparison Report of Peer Libraries/Meeting Spaces

I have lost track of how this list of “peer” libraries was arrived at.

Cerritos, we have been repeatedly told, has a different operating model; while Mountain View and Palo Alto would seem to many far outside the local region. And many libraries closer to us are not included.

Of Southern California beach communities, I might think Santa Barbara and La Jolla would be more similar to Newport Beach than many of these (even with a UC campus nearby). I have no idea what their public library offerings are. And in Orange County we have several cities other than Huntington Beach with libraries, although I don’t know how many of those are independent of the County system.

In short, I don’t know what criteria were used to declare this particular list (and not others) to be “peers” of NBPL. The controlling factor doesn’t seem to be population, community affluence or geographic proximity. Any of those would rule out some and require the inclusion of others.

Whatever the criteria, it might be noted that despite having apparently excellent auditorium facilities next door, the Mountain View library reports low program attendance (I lived in Mountain View for four years in the late 1970’s and don’t recall being particularly impressed by its facilities at that time. I liked the nearby Los Altos Library – which, like most California libraries, had reciprocal borrowing privileges – better).

Item 7. Proposed Library Closures for Winter Holidays 2019

The staff report refers to the holiday schedules negotiated by NBPL employees through their MOU's (Memorandums of Understanding).

Despite the BLT being tasked with administering the City's library system, I do not recall the BLT ever discussing how library employees are represented, or what their current agreements are.

Current copies and summaries of the MOU's with various employee groups are accessible on the City's [Human Resources Department page](#). Lists of represented positions can generally be found as attachments at the end giving the agreed to salary range for each job title. I believe most of the library employees are represented by the City Employees Association or the Part Time Employees Association (which has complicated rules as to whether employees are actually "represented" by it, or not), while others (the Director and Library Services Manager) fall in the Key & Management category, which isn't a represented group but seems to get benefits in alignment with them. It is not immediately clear from these documents that the part-time employees actually have any agreement as to holidays (including the half-day off on Christmas and New Year's eves).

Item 9. Lecture Hall Update

It is surprising there is no written staff report on this item as a lot has happened since the last BLT meeting on June 17.

In particular, at the City Council's June 25 meeting (as non-discussion [Item XII](#)), Mayor Diane Dixon asked for a future agenda item to discuss the creation of a committee to oversee the future Library Lecture Hall, and at the July 9 meeting such an item not only appeared on the agenda, but both the creation of the committee and the Mayor's appointments to it were approved without comment or discussion as a consent [Item 7](#). And although the committee includes citizen members, its function and membership was developed in private with no opportunity for members of the public to apply to serve on it.

As a result, it appears the BLT has, in the Council's mind, effectively been cut out of any direct future involvement in the LLH.

Meanwhile, at the June 25 meeting, Barbara Glabman was added to the BLT specifically for her fundraising skills (see [Item 21 video](#)).

So apparently the Council sees further substantive decisions regarding the LLH falling within the purview of an independent Council-created committee, while they see the Charter-created BLT as having some sort of as-yet-to-be-revealed fundraising role in support of the Committee's activities.

To elaborate, the "Library Lecture Hall Design Committee" consists of Mayor Diane B. Dixon, Janet Ray, Jill Johnson-Tucker, Matthew Witte and Karen Clark. Mayor Dixon's appointment

appears to be contingent on her being a member of the City Council, while Janet's appears to require her being a member of the BLT. So they would, presumably, be replaced if they ceased to hold those positions. The other appointments appear to be permanent. The LLHDC will initially review the responses to the Request for Proposals (which has apparently already been published) for the LLH Project and recommend a contractor or contractors. It will continue to exist until the LLH opens, and during that time it will not only recommend the contractors, but direct staff in their implementation of the work. Who will manage the LLH after it opens does not seem to have been decided yet.

I am concerned that public resources are being used to create, on library grounds and without any control by the BLT, a facility intended for use by the Foundation.

Since I had naively assumed the BLT had control over development on its "campus," the take-over of LLH oversight from the BLT caught me entirely by surprise. So I made some effort to understand how this happened, including compiling the references to the auditorium / lecture hall in the [BLT](#) and [Council](#) minutes since 2015, which run to some 18 pages.

They actually start on November 4, 2013, with a comment to the BLT from former NBPL Foundation Director Tracy Keys about "*discussion of a larger auditorium*" (among many other things) at one of the recent Foundation Board meetings. Director Hetherington mentioned a similar discussion to the BLT on January 20, 2015, and at the March 16 BLT meeting Trustee Jill Johnson-Tucker (following a trip with Foundation members to the San Diego Public Library) volunteered to form a subcommittee with BLT Vice Chair John Prichard to investigate the matter.

In public comment at the May 12, 2015, City Council meeting, Jill and Foundation Chair Dorothy Larson asked for a feasibility study to be included in the City's new Capital Improvement Budget, an idea endorsed by a formal vote of the BLT on May 18.

At the October 17, 2016, meeting Jill announced she was still gathering information and Trustee Janet Ray volunteered to help her (Trustee Prichard having left the BLT).

From November 2016 through December 2018, Jill reported discussions with OASIS architect Robert Coffee, who since May 1, 2016, seems to have a \$120,000 "on call" contract with City staff ([C-1821-1](#)).

Between those times, at the January 17, 2017, BLT meeting, the Board voted to ask the Council to waive former [Council Policy A-5](#) ("Fund Raising/Contracts by City Boards, Commissions or Committees" – now incorporated near the [end of Policy A-2](#)) "*to allow the Board of Library Trustees to assist in the collection of funds on behalf of the Newport Beach Public Library Foundation for the specific purpose of the construction of a lecture auditorium on the Central Library site*" over the next five years. I do not recall the outcome of this, but I'm not sure the request was ever presented to the Council.

On February 21, 2017, the BLT voted to "*to support a presentation of the lecture hall project to the Library Foundation and City Council.*" No presentation to the City Council appears to have occurred.

On March 19, 2018, then BLT Chair Johnson-Tucker *“suggested the formation of a committee to promote, review, and later fundraise for a lecture hall. The committee could be comprised of members from the Library Foundation, the Witte Committee, and the general public.”* And *“appointed herself and Vice Chair Ray to a lecture hall capital campaign committee.”* If the BLT actually created a committee including members not on the BLT, it is not clear how it avoided the Brown Act requirement for the committee to meeting only at noticed public meetings.

On May 8, 2018, as part of a City Council budget study session, Jill and Dorothy Larson again advocated in public comment for the allocation of architect funds, this time with Perkins and Will.

At the May 21, 2018, BLT meeting, *“Assistant City Manager Carol Jacobs reported all parties have agreed to the terms of the contract for design of a lecture hall. The architect will prepare three conceptual designs and evaluate the location. Once the Board chooses one design, it will be presented to the Council for input.”* Exactly who “all parties” are is not explained, and the Board did not ask to review the \$70,000 contract, which was signed by City staff on May 21 ([C-7444-1](#)).

Monthly reports followed on progress by “the team,” with it never being entirely clear who the team was or how it had been selected.

On September 17, 2018, Jill showed the BLT various concept drawings, mostly relating to site placement options and asked for input. No action appears to have been requested or taken.

On January 22, 2019 (at a BLT meeting scheduled at the same time the City Council was meeting), under an agenda listing of “Item 13. Lecture Hall Update -- The Lecture Hall Ad Hoc Subcommittee will submit a proposed location for a lecture hall on the Central Library site for Board approval,” the BLT approved Vice Chair Watkins’ elaborate (270 word) motion to *“support the proposed Lecture Hall site in the northwest corner of the Central Library parking lot”* as well as for Jill to make a presentation to a City Council Study Session and *“ask the Council to proceed with a Request For Proposal based on needs that have been identified by the Board of Library Trustees, to review reply bids leading to the selection of an architect for architectural services for the planning and design of the Lecture Hall, and to fund such architectural services.”* One might have guessed the BLT would have expected to have some role in the review of the RFP, although that is not clear from the motion as it was recorded.

Jill’s presentation came at the March 12, 2019, City Council Study Session as [Item SS2. Slide 34](#) presented the BLT’s request from Vice Chair Watkins’ January 22 motion, again leaving it unclear who, if anyone other than City staff, would review the RFP or the responses received to it.

From January to the present time, the BLT has heard reports from Jill and her husband that the RFP was proceeding and had been sent to nine architects selected by an unknown process. From the minutes, it does not appear the Trustees have inquired much into any of the details, or why they have not been asked to review any of the documents.

To me, this is not how government is supposed to work, and to the extent the LLH is a BLT project, the Board as a whole seems to have abdicated its public oversight role, assigning that

to the judgment of individual members and others selected by those individuals, the great bulk of the decision making taking place outside of public view.

Item 10. Library Services

Item 10 seems to be the same as agenda Item 3. It is not clear why it is listed twice³. To the extent it is intended as a Board (and public) discussion item, this seems the more appropriate placement. However, if particular items are intended to be discussed they should be more clearly announced on the agenda.

The report does not mention that as [Item 7](#) at its June 25 meeting, the City Council (on its consent calendar, and without comment or discussion) approved removing the Library Meeting Rooms Policy ([former Policy I-7](#), "Library Meeting Rooms") from its [Council Policy Manual](#). The BLT (and, under it, the Library Services Department) now appears to have complete control over all library rooms other than the Jorgensen Room at Mariners, which remains the subject of Council [Policy B-5](#) ("Vincent Jorgensen Community Room in Library"). This change is reflected in the new [NBPL 14](#) ("Friends Meeting Room") appearing on the BLT's Monitoring List (current agenda Item 5).

As a result of these maneuverings, I believe the BLT is without a policy for use of the Conference Room in which it meets.

Item VII. Public Comments on Non-Agenda Items

1. With the ["Daily Pilot Digitization" project](#) being "complete" according to current agenda Item 4 (see Foundation attachment), should thought be given to extending this effort back in time to make accessible online copies of still earlier (that is, pre-1940) local papers and items of cultural interest?

³ In former times, I seem to recall the equivalent of the present Item 10 was an oral report from the Director on activities up to the date of the Board Meeting, while the equivalent of Item 3 was a written memorial of the *previous* month's activities (including topics covered in the previous month's oral report).