

February 21, 2017, BLT Agenda Item Comments

Comments on the Newport Beach Board of Library Trustees (BLT) agenda items submitted by:
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Item 1. Minutes of the January 17, 2017 Board of Library Trustees Meeting

The following changes are suggested:

Page 4 (handwritten = page 1 of minutes): “*Staff present*” should probably include ***Assistant City Manager Carol Jacobs***, who is mentioned on handwritten page 6.

Page 6 (handwritten = page 3 of minutes), last paragraph before Item 7, sentence 2: “*Mr. Mosher commented that other locations were better suited for construction of **the Corona del Mar a** branch, because the current location was close to Central Library.*”

Page 6 (handwritten = page 3 of minutes), next to last sentence: “*In reply to Chair Johnson-Tucker’s inquiry, Support Services Coordinator Kelly advised that the Fire Department paid the electric bill **at the Balboa Branch** because there was only one meter for the building.*”

Page 7 (handwritten = page 4 of minutes), paragraph 3 from end: “*In reply to Vice Chair Ray’s concerns regarding painting, nicks in columns, carpet, and chair upholstery, Support Services Coordinator Kelly explained that the lower-grade carpet **in the Children’s Room expansion** was installed as part of the project with the Civic Center.*” [? or was the reference to the entire expansion area?]

Page 10 (handwritten = page 7 of minutes), last sentence of first partial paragraph: “*Staff did enforce the language **unilaterally uniformly** and fairly.*” [?]

Item 3. Library Activities

Regarding the Pew Research Center’s [Libraries 2016](#) survey (see handwritten page 16), and NBPL’s recent decision to resume (at least on a limited basis) allowing WiFi access outside of normal library hours, the figure of “7% saying they have connected to a library’s Wi-Fi system when the library building itself was closed” could be artificially low if a substantial number of libraries either block the service (as was true of NBPL in recent years), do not advertise it (NBPL, for example, does not appear to mention after-hours availability either on its [website](#) or in the proposed new WiFi access policy, agenda Item 9), or do not provide a welcoming place to use the service (such as outdoor seating in an area where the signal is available).

It might be noted that the after-hours WiFi access (which presumably costs the library very little to provide) offers not only a good internet connection to those who, for whatever reason, may need one, but potentially it provides a mechanism for holiday and after-hours access to services requiring an “in library” presence, such as certain databases that could not otherwise be used during those hours – although it is not clear to me the extent to which the NBPL “in-library-only” services are, or are intended to be, available through the NBPL WiFi connection.

Regarding the planned daytime repairs to the first floor restrooms at Central (handwritten page 18), it seems hard to believe the small restrooms on the second floor could carry the full load very effectively (unless their usage from 9 a.m. to 3 p.m. is less than I imagine). During similar repairs at Mariners, it is apparently planned to keep one restroom open at a time. I'm not sure I understand exactly how that's expected to work, but would it be possible to do something similar during the repairs to the first floor restrooms at Central?

Item 5. Board of Library Trustees Monitoring List

It seems odd to see the election of officers scheduled for August.

Although City Charter [Section 704](#) no longer provides the guidance it once did (prior to 2013 it required every City board and commission to elect a chair "*As soon as practicable, following the first day of July of every year*"), I believe the directive to elect officers in July is still part of the [BLT's by-laws](#).

Item 6. Arts and Cultural Update

The update is good. But the report does not make clear what role the Library Board has in the connection with the "Cultural Arts Division."

Item 7. Corona del Mar Branch Project Update

It seems to me the public has been somewhat flim-flammed on this item.

In discussing the [Facilities Financial Plan](#) at the February 16, 2017, meeting of the City's [Finance Committee](#), City Manager Dave Kiff made the rather remarkable statement that if the construction bids in December had come in at or under the City's estimate, he still would have recommended not going forward with the rebuilding of the "Fibrary."

That seems to contradict the staff report presented at the December 13, 2016, Council meeting (agenda [Item 17](#)), on the basis of which the outgoing Council very clearly directed staff *not* to place the project on hold, but rather to "repackage" the language of the request (without changing its substance) and ask for new bids as quickly as possible so construction could get underway without undue delay, the anticipation being the new bids would be lower. If the City Manager intended recommending the Council reject the bids that would result for that process regardless of their amount, there would have seemed little reason to go ahead with the trouble and expense of asking for new ones.

It is also troubling to me that after being directed by the full Council to readvertise the project, City staff apparently allowed newly-selected Mayor Kevin Muldoon to override that directive, and put the process on hold until the Council considered it again. Individual Council members, including the Mayor, are not supposed to direct City staff, and certainly not to direct them to do something different from what the full Council has directed.

Item 8. Budget

Regarding the expected expenditures (handwritten page 33), this is the level at which the City's Finance Committee and Council see the budget – or even less that level, since there the expenses are [reported](#) not just for the department as a whole, but by division within the Library Services department. One might hope the Trustees would see an even more detailed breakdown of the expected expenses in the coming year that go into these anticipated categories' totals, and how the anticipated expense details differ from what they were in former years. For example, exactly what “training and travel” expenses are expected in each division? And how different are those activities expected to be compared to previous years? And by how much does the “professional services” budget exceed the expected basic cost of printing, janitorial and window cleaning services? And what additional professional services does staff anticipate a need to spend that excess on?

Regarding the expected revenues (handwritten page 35), it is unclear why “Private Contributions/Donations” appears in two separate places. In the current year's published overall City budget, the expenses associated with the second of these accounts (“106053”) are printed (without further explanation) on [a page](#) (D247 in the printed version) labeled “Designated Gifts.” Are these for gifts that are received directly by the Library rather than through one of the support groups, and meant to distinguish “restricted” from “unrestricted” ones?

Also regarding the expected revenues, anticipated grant income seems extremely low. Some City departments, such as Public Works, trumpet their ability to fund City projects with large infusions of outside money, relieving the burden of the City's funds. Is the Library Services department as aggressive as it should be in seeking grant funding for its various services and initiatives?

Finally, there are aspects of the City's budget in which the Trustee's role is unclear to me. As agenda Item 6 (“Arts and Cultural Update”) alludes to, there is a budget for “Cultural and Arts” ([account 1060603](#)) within the City budget that, although it is reported within the “Library Services” department, does not appear to fall under the purview of the BLT. And there is a “Literacy Services” budget the BLT seems only peripherally involved in ([account 10606034](#)). And there is a [Capital Improvements Program](#) budget (for such things as rebuilding branches and making major improvements to facilities) that the BLT is very much interested in, but seems to have little influence over.

Item 9. Newport Beach Public Library Wireless "WiFi" Internet Access Policy

I agree with those Board members who believe the new WiFi Access policy should be combined with the existing [Internet Use Policy](#) (aka “City Council” Policy I-8) to create a single, unified policy.

The advantages of a combined internet/WiFi policy are manifold, including the elimination of inconsistencies and redundancies. Matters such as when a library card number is required can

be stated once, as can the copyright warning. And it can be made clear that the children's protections exist only when access is obtained via the designated children's computers.

Should the Director feel a need to send the Library Board's combined policy on to the Council and City Clerk as a receive and file courtesy, to post and publish as they like, that does not seem a great burden. But I bristle at the idea expressed in the staff report that a separation of the two policies is required because changes to 8 of the 11 Library Board policies listed on the [Library Policies page](#), including the Internet Use Policy, **require** Council approval, while others do not, the reasoning being that those 8 happen to be reproduced in the [Council Policy Manual](#) on the City website (where they appear as "I-1" through "I-8").

To clarify, the Newport Beach Board of Library Trustees was created on June 7, 1920, by [Ordinance 166](#), relying on the [Library Act of 1901](#) as revised in [1909](#) (the "Municipality Library Act") and subsequently amended, which has been carried forward in state law with remarkably little change as the present day California Education Code [Secs. 18900](#) et seq.

The Act gave the appointed library boards the power "*to make and enforce all rules, regulations, and by-laws necessary for the administration, government and protection of all the libraries under their management, and all property belonging thereto.*" While charter cities appear to be exempt from the act, Newport Beach's 1954 City Charter carried forward the essential features of the Act into Charter [Section 708](#), the primary change being to extend the state-mandated three year terms of the trustees to the four year terms of all other Newport Beach boards and commissions. In particular, Section 708(a) continues to reserve to the Trustees the **power and duty** to "*Have charge of the administration of City libraries and **make and enforce such by-laws, rules and regulations as may be necessary therefor.***"

It should be understood that by this language the setting of library rules is a power given *exclusively* to the Library Board, and *not* a power or duty shared with the Council or to be exercised only with the Council's concurrence. That is because Charter [Section 405](#) gives the Council broad, but not unlimited, powers: "*All powers of the City shall be vested in the City Council **except as otherwise provided in this Charter.***" In this case, the setting of library rules and regulations is clearly a power "otherwise provided in this Charter," and therefore *removed* from the powers of the Council. This is similar to the powers assigned to the City Manager, which the Council not only cannot second guess, but is explicitly prohibited from interfering with by [Section 406](#).

The fact that a library board does *not* need council consent to set policy was certainly the intent of the state's Municipality Library Act, as supported by the interesting 1989 case of *Friends of the Library v. City of Monterey Park*, [211 Cal.App.3d 358](#), in which the court prohibited a city council from attempting to take over management of a city library created under the Act and demote the library board to the status of an advisory commission. And there is nothing to suggest the Newport Beach City Charter intended to change this. On the contrary, where council consent of Newport Beach Library Board actions *is* required, the charter makes that quite clear, as in [Sections 708](#) (c), (f) and (g), which largely mirror parallel provisions in the state Act. By implication, the lack of a requirement for Council concurrence in the remaining powers, including the power to create and enforce library rules and regulations, is intentional. By further

way of proof, this may be contrasted with the City Arts Commission ([Section 712](#)) or the Parks, Beaches and Recreation Commission ([Section 709](#)) where the strictly advisory (to the Council) status of their powers and duties is clearly spelled out throughout.

In summary, select library policies have historically been forwarded to the Council out of courtesy, not necessity. The fact that the City Clerk chooses to reproduce the “receive and file” copies she is given in the Council Policy Manual does not make them Council policies – and even if they were considered such, that would be of no effect since the City Charter does not allow the Council to make library policy any more than it allows the Council to hire or fire administrative staff (aside from the city manager, clerk and attorney).

In this connection, it might be noted that far from being the arbiter of library policy, the copy of “I-8” on the [city website](#) differs from the Internet Use Policy on [library website](#). The latter (which is presumably the correct and valid policy) has an opening paragraph and revision history that differ from the former, which shows a most recent amendment date of October 10, 2006, while the later omits that date and instead claims to have been most recently “Amended & Reassigned” on May 7, 2012 (perhaps when the opening paragraph was added). “Reassigned” presumably refers to the note saying “Formerly I-22” at the end of the page. But that is, in itself, confusing since the current designation as “I-8” is not indicated anywhere I can see, and it seems unlikely the City Clerk’s somewhat arbitrary designation has been “reassigned” three times.

Regarding the substance of the proposed policy, if it is to be combined with the existing [Internet Use Policy](#), then both will clearly need extensive revision.

Even if the WiFi access portion were to be a standalone policy, it still appears to need some work. For example, the opening sentence (handwritten page 39) implies NBPL WiFi is available *only* during normal Library business hours. But from the Director’s report (see handwritten page 16) the current policy actually seems to be to offer WiFi daily from 6 a.m. to 10 p.m.

As previously stated, I also believe the copyright “warning” should provide not just an admonition to users, but also a link to where reliable information about what the copyright restrictions are (particularly in a library context) can be obtained.

Item 10. Library Laptop Policy

I believe items “5”-“11” in the revised policy (handwritten page 43) should be renumbered “4”-“10” and a revision/approval date should be added at the bottom.

Since the review of library policies is an ongoing objective of the BLT, one has to wonder if the need for any other changes has been noticed in the last four years, aside from the removal of the language referring to iPads?

As an example, item “8” (or more properly “7” in the revised policy) is poorly written, with the reference to “*Laptops checked out less than 2.5 hours before closing ...*” making no particular sense – and in fact making it appear the 30 minute rule doesn’t apply to laptops checked out

earlier in the day. I believe the intent was simply: *“Laptops must be returned to the location from which they were obtained at least 30 minutes prior to closing.”*

I also believe the correct statement of item “6” (really “5”) may not be that patrons are allowed one laptop per library card, but rather that they are allowed one CASSIE checkout at a time (laptop OR desktop workstation). That is, I don’t know if a cardholder is actually allowed to checkout a laptop (as the present language implies) if one is already logged onto one of the library desktops.

Other clauses in the policy might similarly be amenable to improvement.

Item VIII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Closely related to the next to last comment on Item 10, above, I have noticed a possible problem with the CASSIE system.

The new desktop computers provide part of their functionality through a USB strip to which various peripherals (such as memory sticks and disk players) can be attached. It seems these USB strips fail with some regularity, but since many library users do not need it, the workstation is left running and available with a *“USB (or some other component) not working”* sign on it.

In circumstances where CASSIE has a wait list, it is not clear if patrons who need to use a USB strip have a way to ensure they are assigned to a station with a functioning strip, or what they are supposed to do if they are assigned to one where it isn’t working. Does staff have a work-around for this? (It might be noted, the present computers are actually very small boxes mounted behind the monitors. They appear to have their own built-in USB ports, and previously the monitors had USB ports along their sides – so perhaps all that’s needed is a sign pointing out not simply “broken” but also where the alternative plug-in locations are located?)