

# November 15, 2021, BLT Agenda Comments

These comments on Newport Beach Board of Library Trustees (BLT) agenda items are submitted by:  
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## ***Item 2. Minutes of the October 18, 2021 Board of Library Trustees Meeting***

**Suggested corrections:** The passages shown in *italics* below are from the draft minutes with suggested corrections indicated in ~~strikeout~~ underline format.

**Page 1** (page 5 of agenda packet), Item II, Staff Present: Page 3 of the minutes indicates Piers Brown was also present, so he should presumably be added here.

**Page 1** (page 5 of agenda packet), Item V.A.1: The page numbers listed are agenda packet page numbers, not the page numbers in the draft or final minutes. These comments will make little sense to future readers to the minutes since the final minutes will likely not contain the agenda packet page numbers.

To avoid confusion the agenda packet pages numbers should be replaced with the minutes page numbers, which, in this case, are 4 less: 9 → 5, 10 → 6, and 14 → 10.

**Page 3** (page 7 of agenda packet), next to last paragraph: "*In response to Chair Watkins inquiry, Branch Librarian Kachaturian explained it was his third year at Mariner's Branch and his 24th year with NBPL.*" [add comma]

**Page 5** (page 9 of agenda packet), top paragraph: "*The idea was to target school-aged children.*" [insert hyphen]

**Page 6** (page 10 of agenda packet), Item 8, paragraphs 2 and 3: "*Vice Chair Kost inquired if there was a cap on the amount Council would fund. Trustee Ray indicated that the Council would not be pleased if the cost increased significantly and stated that if the project became \$20 million it would not fly.*"

[The minutes of the September 28 City Council Study Session on the Library Lecture Hall proposal conclude: "*With Mayor Pro Tem Muldoon voting "no," there was a 6-1 straw vote for authorization to negotiate a 50/50 split with a **\$6.5 million cap**. With Mayor Pro Tem Muldoon voting "no," there was a 6-1 straw vote to approve the concept and design at the **\$6.5 million cap**."*]

**Page 7** (page 11 of agenda packet), paragraph 1: "*The case statement is very strong, and the Newport Beach **Visitor's Association** is extremely supportive and advised that there are State Economic Development Agency (EDA) funds available for tourism which must be used for infrastructure. The Lecture Hall should meet those requirements so there will be a partnership with the Newport Beach **Visitor's Association** for an EDA Grant.*" [There is no "Newport Beach Visitor's Association." References to it should probably be corrected to: "Newport Beach visitor's association (Newport Beach & Company)."]]

**Page 7** (page 11 of agenda packet), paragraphs 3 and 4: "*Mr. Kappel said he understood that the funds the City planned to provide were part of the COVID relief funds. He asked if Chair Watkins shared his understanding. Chair Watkins indicated he did not know that*

information.” [The [May 25 City Council minutes](#) indicate that during a Study Session on the proposed Capital Improvements Program Budget, “*Council Member O’Neill preferred to set aside Federal funding for the library lecture hall and Junior Lifeguard building if guidelines allow use of the funds for those purposes.*” I do not recall how that came out, but that is likely what this is a reference to, and it will likely become more clear at the November 30 meeting.]

**Page 7** (page 11 of agenda packet), paragraph 5: “*Mr. Kappel explained that Council Member O’Neill told him the funds would be used for the **lifeguard Junior Lifeguards building and the Library Lecture Hall.***” [The Junior Lifeguards building is another pending project advocated by and with support from a community organization.]

**Page 7** (page 11 of agenda packet), end of paragraph 6: “*This is a **proforma pro forma approval of the concept, CEQA, and the MOU.***”

### **Item 3. Patron Comments**

It is surprising to see only two comments for the entire month of October.

Does the opportunity to comment need to be better publicized?

### **Item 7. Review and Adoption of the Library Lecture Hall Policy (NBPL 15)**

**On handwritten page 29:**

The Policy is not consistent about calling out terms and abbreviations at their first use. For example the opening paragraph highlights “Library Lecture Hall (“LLH”)” and “City of Newport Beach (“City”).” But later in the body equally obvious (or unobvious) shorthands, such as “Department,” “Director,” “NBPL” and more, appear without any comparable initial explanation.

Under “Applicability”: It is very confusing to say “This Policy shall not apply to First Priority and Second Priority users (as defined below) of the LLH as provided below ...” when the policy itself defines who is in those categories. It would seem much better to say later, immediately before the parts that don’t apply. that “The following does not apply to ....”

Indeed, this seems already covered on handwritten page 31, under “Standard Conditions of Use Applicable to Third Priority and Fourth Priority Users,” which opens by saying “*These standard conditions of use shall be and are applicable to Third Priority and Fourth Priority users only; with the exception of standard conditions B, D, and F, the standard conditions are not applicable to First Priority and Second Priority users.*” This more specific explanation not only makes the blurb on page 29 redundant, but contradicts it. If page 31 is to be believed, the Policy *does* apply to First Priority and Second Priority users.

Under “Purpose C”: The City’s preferred spelling seems to be “*ensure*” rather than “*insure*” used here.

**On handwritten page 30:**

Under “A. FIRST PRIORITY”: Why is the NBPLF given priority over the NBPL itself? Should there perhaps be three sub-categories, instead of two, with “Library-conducted events” above NBPLF and “Library sponsored (or co-sponsored) events” below NBPLF?

Under “B. SECOND PRIORITY”: Should the stated groups be in this category only when the program they offer is freely available to the public (not a pay or members-only event)?

Under “C. THIRD PRIORITY”: I would suggest revising “Schools, colleges, hospitals, or other similar groups not qualifying under the previous definitions of non-profit.” As written, it would seem to *disqualify* a school, college or hospital that *is* a 501(c) but *is not* a recreational, social, or civic organizations. I doubt that is the intent.

Under “D. FOURTH PRIORITY”: “*Municipal agencies*” seem to have been previously placed in C.1. Is this trying to say they have fourth priority if they want to use the LLH for something other than “*educational or informational programs*”? If so, it could be more clearly stated.

Are there any categories of applications that would be automatically rejected? If so, it would seem helpful to state that. For example, for-profit events hosted by for-profit entities?

**On handwritten page 31:**

The section title “Standard Conditions of Use Applicable to Third Priority and Fourth Priority Users” should be shortened to “Standard Conditions of Use” because part of what follows under it are Standard Conditions of Use that apply to more than Third and Fourth Priority Users.

That said, the effort to carve out an exception for the Foundation seems both awkward and unnecessary. Why should the Director not be allowed discretion to impose a standard or special condition on a Foundation event. For example, its exemption from standard condition A would seem to say the BLT sanctions the Director approving use of alcohol by the Foundation in the LLH *without* permission of the Alcoholic Beverage Control Board. Why would the BLT want to jeopardize the standing of a Library facility in that way?

**On handwritten page 32:**

Standard Condition J would seem to be a “*must*” rather than an “*may*.”

Under “Fees, Deposits and Cancellation Procedures” the reference to resolutions of the BLT is intriguing. I think the BLT *should* take action by written resolution, but I cannot recall it ever having one so before.

**On handwritten pages 32 and 33:**

Since the documents described are not likely to be readily available to readers of the policy, it would be useful to provide [a link to the complete Declaration of Special Land Use Restrictions](#). Without that, readers are unlikely to know who the “Declarant” is or what the content of the Sections 2.1(a) and 2.2(a) that it references might be.

In particular, the language implies Sections 2.1(a) contains a list of acceptable uses for the LLH that applicants are bound to comply with, but what those might be remains unexplained in the Policy.

Especially inscrutable to Policy readers is the inclusion of the SLUR provision regarding the number of parking spaces that must be kept available for public use “on the Land.” How does this affect applicants? Are they obligated to count the spaces prior to their event? And are the ones used by their attendees (or organizers and speakers) taken out of public use?

### ***Item 9. Balboa Branch Replacement Update***

In the absence of a staff report, it is difficult to understand the significance of the agenda attachments for this item, but they have the appearance of a “receive and file” matter.

Given that, and having missed the last several BLT meetings because the City scheduled its Aviation Committee meetings at the same hour, I am becoming concerned the BLT may have delegated oversight of the Balboa Branch Replacement to a two-Trustee committee that makes independent decisions and simply reports back to the full BLT on its notable actions – and even then does not require public approval by the full BLT of those actions.

If this is true, all meetings and deliberations of the committee should be taking place at publicly-noticed sessions to which the public is invited – something I have not seen happen.

While it is true this would be described as an “ad hoc” (that is, limited purpose and limited duration) committee, this would not be the kind of [ad hoc committee exempted from Brown Act meeting requirements](#). To qualify for the exemption, an ad hoc committee’s role must consist *solely* of bringing back a recommendation about a topic for consideration by the full board.

In brief, it does not seem appropriate, to me, for a non-publicly meeting subcommittee of the BLT, however well meaning, to be directing staff to do a needs assessment or “approving” a survey and simply reporting back at a public meeting that they have done so. Only the full BLT should be directing library staff, and it should be doing that publicly with an opportunity for public input.