

Comments on December 3, 2012 BLT Agenda Items

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Item 3. Public Comments

I continue to think that the practice of allowing members of the public a single 5-minute opportunity at the start of each meeting to comment on all items on the agenda continues a policy improperly imposed by the City Attorney and perpetuated by staff in preparing the agenda boilerplate. I would suggest that, as at City Council meetings, this item be renamed "*Notice to the Public*" and regarded as an invitation for the public to participate in the discussion or deliberation of individual items as they are brought up (and a statement of the rules governing public participation), not as a command to "speak now or forever hold your peace."

By playing games with the Brown Act's requirement to provide an opportunity for the public to directly address the Board "*before or during*" its consideration of each agenda item (Cal. Gov. Code Sec. 54954.3.(a)), the City Attorney's policy limits and discourages meaningful public participation and by allowing the Board to conduct deliberations and make decisions less well informed by public input than they might be, it seems contrary to the Brown Act's overriding purpose that the public "*retain control over the instruments they have created*" (Cal. Gov. Code Sec. 54950). The public has no control if it can't contribute to the deliberations.

A few of the many problems with the current policy are:

1. In view of the general absence of staff reports and/or complete agenda descriptions of most of the items to be considered, the public has no way to know what is going to be discussed until after hearing the presentation for a particular item. Commenting at the beginning of the meeting requires the public to anticipate what may be said, forcing the Board to listen to comment which may prove off-topic, while preventing the Board from hearing comment on matters the public could not guess would be part of the discussion.
2. Members of the public arriving after the close of the "Public Comment" item (which, in the absence of comment, can happen as little as a minute after the official start of the meeting) are precluded from offering any input on an agenda item even though they may be present for the entire item.
3. The policy as implemented does not pass the "reasonableness" test of the Brown Act's Sec. 54954.3.(b) wherein restraints on public participation are allowable only to the extent they are reasonably necessary to ensure equitable participation by the public. The examples given in the Brown Act are limiting the total time, or the time per speaker, on a *particular* topic. Particularly in view of the small amount of public input received by the Library Board, arbitrarily limiting the time allowed on *all* agenda items, independent of how many items might be on a particular agenda, is not reasonable.
4. Even on a particular item, arbitrarily limiting the time (and/or providing a single comment opportunity) may prevent the Board from receiving relevant input from speakers not

comfortable (or experienced) with the concept of stating all their points in a single fixed length comment. Again, such artificial rules limit both what the public can say and what the Board hears, and seem particularly inappropriate and inhibiting in view of the current small amount public input received at Library Board meetings.

Item 5.A.4. Board of Library Trustees Monitoring List

For the benefit of both the Board and the public, it would seem helpful to try to populate this list with the expected dates at which the various topics are expected to be discussed and/or acted upon.

At least one of the items, "*Election of Board of Library Trustees Officers*," should be obvious since the Board's By-laws require that the officers "*shall be elected at the first meeting in each fiscal year*" (incidentally, the Board could presumably change this since Measure EE deleted, for unknown reasons, the City Charter Section 704 requirement that a presiding officer be elected "*as soon as practicable, following the first day of July of every year*").

Item 5.B.1. Discussion of Library closures on December 26, 2012

I will be interested in seeing how this item comes out, and am surprised to see it limited to a discussion of how December 26 will be handled.

Previous discussions seem to have been predicated on the assumption that most Newport Beach City offices were going to be closed between Christmas and New Years, and the idea that there was a certain unfairness in requiring library employees to work on days when others would be off (even though library employees normally work different hours than other City employees, and might actually want the opportunity to work). My current understanding, based on press reports, is that, contrary to the original assumption, most other City offices are expected to remain *open* this year, making it increasingly difficult to justify why library facilities would be open other than their normal hours.

If that is correct, it will also be interesting to hear if the Central Library will be closed independent of whether construction work actually necessitates the closure.

Item 5.B.2. NBPL Foundation Update on Naming Opportunities in the New Library Space

In view of the meager references to in the minutes to the discussion at previous meetings, and the absence (as far as I know) of any posted staff report or plan, I doubt the public is very well informed about this issue.

Although I realize the names mentioned at the November 5 meeting were offered only as placeholders, I am in favor of the idea of naming library areas to honor important literary figures

of the past with perhaps some small recognition of donors who paid to defray the cost of the naming. I am opposed to the idea of naming such areas for living persons, particularly based only on how much they pay for the naming.

The latter seems to be an increasingly popular practice, especially with regard to cultural facilities and professorships, and the City Council in grappling with the same policy issue in their Council Policy B-9 ("Naming of City Parks & Facilities") seems to have come to the conclusion that whole facilities in Newport Beach should not be named after persons (living or dead), but that rooms and amenities can be "*if done as part of a capital/fundraising campaign.*" Despite the increasing popularity of this funding incentive, I can think of very few instances in which naming public property after living "donors" is appropriate.

Among the problems I see with naming after donors are:

1. It implies the person (or persons) endowed the *full* cost of building (and perhaps maintaining?) the thing named after them, even though that is probably rarely the case.
2. It implies the only thing worthy of recognition in Newport Beach is a large monetary contribution, and that those with the wherewithal to make them are somehow more important than others; or alternatively that we have a "pay for play" mentality, in which those who make large monetary contributions can expect special importance or different treatment.
3. It denigrates the contributions of the many others who may, cumulatively or individually, contributed as much or more in time, money, effort, innovation or inspiration.
4. The present proposal does not appear to be part of a comprehensive policy embracing all the City's library facilities, or even the whole of the Central Library. Can donors who pay enough have areas of the existing Central Library named after them? Or areas in the branch libraries?
5. Future Boards will eventually be faced with the same problem that the Parks, Beaches and Recreation Commission currently faces with respect to the City's other donation/recognition programs (for example, for park benches): at some point in the future the named item will be demolished or fall into disrepair and be in need of remodeling. What happens to the original naming recognition? Can it be supplanted by a new donor? A clear understanding needs to be part of the program.

Item 5.B. 3. Discussion and Possible Appointment of One or Two Board of Library Trustees to Serve on a Committee for Possible Art in Public Places

Since "Art in Public Places" is generally the purview of the City Arts Commission, I have the impression this committee would be focused either on display of art in all library facilities or integrating the displays at the Central Library into some broader scheme for display throughout the new "Civic Center" (comprising the Central Library, City Hall and adjacent parks).

With regard to the latter, the City Council has set a bad example with their non-public three-member "Ad Hoc Building Committee" which, by claiming an exemption from the Brown Act, appears to make decisions for the public and Council regarding issues involving the Civic Center completely out of public view. Hopefully, the Library Board is not planning to go down that same bad path.

Attempting to apply the Brown Act to what I believe is the current proposal I come to the peculiar conclusion that two Library Trustees and two Arts Commissioners could, without any public notice, meet privately and informally to discuss their mutual interests with respect to their respective board matters; but if they are formally "appointed" (see below) to an identical body, all their discussions would have to be publicly noticed and conducted in public.

In view of the uncertainty of that conclusion, I hope if the Library Board chooses to participate in such a "Committee," it will insist either that all its discussions be noticed and public (in which case any number of Trustees can be appointed to participate) or alternatively that if it is to meet privately that at most one Trustee be appointed.

The problem with appointing two Trustees to an informal non-public advisory group is that body reaches a consensus regarding a proper course of public action, then for that course to be endorsed by the full Board they need to publicly convince only 1 or the remaining 3 Trustees. Assuming the 3 non-member Trustees respect the judgment of the two on the committee, this means the decision will be endorsed with at most minimal public airing of its pros and cons.

Beyond that, my problem is who is creating this proposed Committee? Is it being created by the City Arts Commission? Or by the Board of Library Trustees? Or both? And exactly what is its role, purpose, scope and tenure and who defines that?

It would seem to me that if what is being proposed is a joint committee of the Arts Commission and Library Trustees then the two bodies need to meet jointly to agree to those details before making any appointments.

Item 7. Public Comments on Non-Agenda Items

I would like to commend the Board and staff for providing notice of this meeting on the library's home web page, and after clicking on that link providing a further link to the City pages containing the present and past agenda packets.

I would also like to thank staff for returning to operation, after an absence of about two months, the document scanner at the Mariner's Branch.