

April 22, 2013 Finance Committee Agenda Item Comments

The following comments on items on the April 22, 2013 Newport Beach City Council Finance Committee agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 4. Approval of March 25, 2013, Minutes

A couple of suggested changes are shown in **strike-out** and **underline** below, however I found many of the sentences in these minutes phrased in such a way as to leave me uncertain, without great effort, as to their intended meaning.

Suggested corrections:

Page 1:

- “*Outside entities: ...; **Lafe Laith** Ezzet, HF&H Consultants, LLC*”
- Paragraph 1 under Item 4: “... a consensus was reached to use the existing PERS reserve to fund the \$765,000 ~~cost to not defer~~ upfront cost of not deferring the phase-in of increased contribution rates.”

[As originally written, the preceding phrase gave me, at least, the impression the Committee had recommended an action that would result in a net \$765,000 cost to taxpayers. Instead, I believe it was intended to produce a net savings. This kind of difficulty in communication seems common in this set of minutes, and I have neither the time nor interest to suggest ways in which many of the remaining sentences could be rewritten to improve clarity. Most of those are not outright wrong, they are just inscrutable. Hopefully, the audio of the meeting will be preserved, and those interested can use it to decipher what was actually said.]

Comment:

Page 5 includes an announcement that “*Filed with these minutes are copies of all material distributed at the meeting.*”

- Does this include a copy of the written comments submitted by the public, referred to extensively in the March 25 minutes?

Item 5.A. Reserve Policy Review and Update

In the staff report:

- On page 2: The reference to “*Termination of the Senior Citizen Site and consolidation of the reserve balance with the Senior Center Rental Reserve*” makes it sound as if there is a plan to close OASIS.
- With reference to “*Attachment A. Summary of June 30, 2012 Fund Balance[s] and Working Capital*”:

- Is this intended to be a comprehensive and complete list of *all* City funds, and the categories of balances within them, or just the categories of balances called out in Policy F-2? If it is less than comprehensive, what City fund balances are *not* shown in the spreadsheet?
- Under “*Neighborhood enhancement B*” and “*Unassigned*” (second item from end) what is the meaning of the negative balances? It would seem to imply something was “borrowed” from them, but how can one borrow more than was ever in them?
- Next to “Off ~~Street~~ Street Parking” and “*In-Lieu Parking*” do the dashes in all columns mean the balances are zero or that the funds have been discontinued?

In “Attachment B. Council Policy F-2 Reserve Policy (Strikeout version)”:

- On page 2:
 - Under “A. *Non-spendable fund balance*,” if the list is intended to be comprehensive, should “**Examples of Non-spendable fund balance include:**” be changed to read something like “*The City maintains the following Non-spendable fund balances:*”?
 - Does “2. *Reserve for Long Term Receivables and Advances*” include the “receivables older than one year” that the auditor called attention to in Item 5A at the Finance Committee’s February 28, 2013, meeting?
 - The policy seems to call for two separate and distinct Permanent Endowment Reserves, but the spreadsheet shows only one line item. Is that a combined total, or was one inadvertently omitted?
- On page 4:
 - On the first line, the interest on principal portion of the “*Permanent Endowment for Bay Dredging*” does not seem to be reported in the spreadsheet.
 - Under “1. *Contingency Reserve*”: “*Appropriation ~~and-or~~ and/or access to these funds are reserved for emergency situations only.*”
- On page 5:
 - Near the top, the new clause “*Inability of the City to meet its debt service obligations in any given year.*” seems to have been inadvertently inserted *before* the new letter “f.” instead of *after* it.
 - Under Item 2, the change in terminology from “*Facilities Replacement Plan*” to “*Facilities Financing Plan*” seems inconsistent with Council Policy F-28 which currently calls itself a “*Facilities Replacement Program.*” The latter may need to be re-titled if that is what is being referred to (I am guess the “plan” is the spreadsheet implemented as part of the “program”?).
 - At the end of the final line: “~~Oasis~~ OASIS” is an acronym, and should be in all caps.
- On page 6:
 - Near the top, the staff report provides no explanation, other than the opaque sentence mentioned at the start of these comments, of why the large section detailing a 2005 Cooperative Agreement with Friends of OASIS has been struck out. What became of the agreement that “replaced” the Council policy?

- Item “5. *Off Street Parking*” (per NBMC 12.44.025) should probably be listed under “Restricted” rather than “Committed.” Although it was the Council that “committed” to the creation of these funds, they were, according to the language of NBMC 12.44.025, set up as special capital improvement funds under the provisions of Section 1113 of the City Charter, which states that a vote of the people is required to divert the balance to any purpose other than that for which it was originally dedicated. Why is no balance shown? 50% of gross parking meter revenues is supposed to be flowing into these. And does the City have any other Section 1113 funds?
- In Item 7, the newly inserted phrase “*refurbishment of ... fee-based activity programs*” needs some work. Council Policy B-2 refers to the “*development*”, not “*refurbishment*,” of new programs, and it does not say they have to be fee-based. The new phrase should probably be added after, and separate from, the list of items to be refurbished. Policy B-2 also sets up a whole series of separate reserves with separate rules.
- Item 6 contains a minor typo: “*Funds accumulated may be used only for paramedic related purpose purposes as directed by the City Council.*”
- Item 10 (“Neighborhood Enhancement – A”) should be checked to ensure it correctly states NBMC 12.44.027. The code mentions Meter Zone 8 (as well as 9), and the policy may suggest *all* the meter revenues are supposed to go into this reserve, but I believe that as in Item 11 it is 50% of the gross collections.
- On pages 6 and 7, under “D. *Assigned fund balance*,” is it possible for funds other than the General Fund to have “assigned” balances? If so, why are none shown in the spreadsheet? And should the directive at the end of the section (“*When the City Manager or his designee authorizes a change in General Fund, Assigned Fund Balance, City Council shall be notified quarterly.*”) include more than the General Fund?
- On page 11, the first sentence of the inserted text about Internal Service Funds makes it appear the Finance Director is being given the authority to make transfers between funds without further oversight, but the final sentence makes it sound like these would only be recommendations that have to be approved by Council. Which is correct? Also, is the Finance Director authorized to make transfers between ISF’s belonging to different departments? Or only between ISFs belonging to the single department?
- On page 13:
 - Item “3. *Insurance Reserve Funds*” appears to contain a typo: “*The Insurance Reserve funds account for the activities of general liability and claims workers’ compensation claims.*”
 - The new sentence inserted before “*Policy & Practice*” was probably intended to read: “*Therefore, the target funding of insurance reserves should exceed the “Expected Level” to account for adverse estimate deviation.*” although it seems generally redundant with the first sentence following “*Policy & Practice*.”
- On page 14, the reason for the two proposed deletions is unclear. Are these implementing direction given by the Committee at an earlier meeting?

- On page 16, the revised description of the new “*Post Employment Healthcare Plan*” suggests the City **does** have some continuing funding obligation after the employee’s retirement. Is this correct?

Item 5.B. Final Review of Debt Management Policy and Changes to Facilities Replacement Program Policy F-28

As noted in the comments to page 5 of the previous policy revisions, there is a minor, but on-going, confusion in terminology between “Facilities **Replacement**” and “Facilities **Financing**” which, despite protestations that they are generally synonymous, has yet to be fully resolved as evidenced by both forms being used even in the brief staff report, where it is left unclear if some subtle distinction in meaning is intended.

- Regarding the staff report, when this is presented to the full Council (and public), some clearer explanation might be desirable of why, if it had formerly been the centerpiece of a prudent policy had been to keep facility replacement costs to *no more than* 5% of the General Fund operating budget (with no floor), it is now prudent policy to insist they be *no less than* 3% (with no ceiling). Should there be some suggested range, with *both* a floor and a ceiling?
- I have not had time to review the proposed *Debt Management Policy*.
- Regarding the proposed changes to Council Policy F-28, this does not seem to be an accurate strikeout comparison with the August 11, 2009 version, for without any indication that has been done, the term “*Facilities Replacement Program*” appears to have been replaced throughout with “*Facilities Financing Program*” and the current 3.0% to 4.5% range with a 5% maximum has been replaced with 3% minimum funding. Apparently the strikeouts show changes relative to some intermediate revision, rather than to the existing policy?
 - More importantly, is it the intention of the new policy that the *General Fund contribution* to the FFP be at least 3% of the GF operating budget (as stated), or that that the total of *all contributions* to the FFP (including development fees, City property sales proceeds, etc.) be at that level?

Item 5.C. Second Review of Facilities Finance Plan (FFP)

Again, it may seem trivial, but despite what the first sentence of the staff report implies, the City Council Policy F-28 proposed in the preceding item calls itself “*Facilities Financing Program*,” not “*Facilities Financing Plan*.” If no distinction is intended, it would be nice to have some consistency.

- On page 2, in addition to “*The maximum annual General Fund contribution to the FFP*,” won’t keeping track of, and reporting, the **minimum** contribution equally (or more?) important now, under the proposed new policy?

- In the attached FFP scenario:
 - There is a minor typo in the “*Priority Projects*” list to the right of the “dashboard”: “FS 1 – ~~Penisula~~ Peninsula”
 - The inclusion of the “*Development Agreements and Private Contributions*” spreadsheet, which was not part of the March 2013 handouts provided to the public, is most helpful.
 - An earlier FFP presented to the Finance Committee in April 2011 mentioned several contributions that do not seem to be mentioned now. Were they inadvertently omitted?
 - \$2M from Girl Scouts for Marina Park Girl Scout house in 2011-2014
 - \$1.3M of Cable Franchise Reserves in 2011-12
 - \$5M of Hyatt Newporter development fees in 2016-17

Item 5.D. Quarterly Financial Review, FY 2013-14 Budget Update and Review of Long-range Fiscal Forecast:

I have not had time to carefully review this item, but on page 4, under “*Sales Tax*,” would it be possible to separate the sales tax generated by restaurants from those generated by hotels? Or are there restaurants within hotels that cannot be separated? Also does “restaurants” include *all* food serving establishments (that is, *all* “members” of the restaurant BID including such things as bakeries and gas station/supermarket concessions)?

Item 5.E. 2013 Work Plan Update

- In suggestion “1. *Designate one member of the Finance Committee to review and provide comment on the QFR on behalf of the committee*” on page 1 of the staff report, it should be understood that the designated member could not, without violating the Brown Act, purport to represent the views of the Committee as a whole.
- A similar problem (in addition to the indicated typo) exists with the proposal for June 2013 that “*Auditors will contact members of the Finance Committee individually to discuss ~~discuss~~ the work plan for the fiscal year ending 6/30/2013 CAFR audit.*” If based on those contacts the auditors feel they have received a consensus direction from the Committee, then the auditor has been asked to conduct a prohibited hub-and-spoke serial meeting.