

**CITY OF NEWPORT BEACH
FINANCE COMMITTEE
DECEMBER 13, 2018 MEETING MINUTES**

I. CALL MEETING TO ORDER

The meeting was called to order at 3:01 p.m. in the Crystal Cove Conference Room, Bay 2D, 100 Civic Center Drive, Newport Beach, California 92660.

II. ROLL CALL

PRESENT: Mayor Pro Tem/Chair Will O’Neill, Council Member Diane Dixon, Committee Member William Collopy, Committee Member Joe Stapleton, Committee Member Larry Tucker

ABSENT: Council Member (VACANT POSITION)
Committee Member (VACANT POSITION)

STAFF PRESENT: City Manager Grace K. Leung, City Attorney Aaron Harp, Finance Director/Treasurer Dan Matusiewicz, Deputy Director/Finance Steve Montano, Administrative Specialist to the Finance Director Marlene Burns, Budget Manager Susan Giangrande, Accounting Manager Rukshana Virany, Public Works Finance/Administrative Manager Jamie Copeland, Purchasing Agent Anthony Nguyen, Budget Analyst Matt Chong, Administrative Analyst Raymund Reyes, Recreation and Senior Services Director Laura Detweiler, Human Resources Director Barbara Salvini, Public Works Director Dave Webb, Real Property Administrator Lauren Wooding Whitlinger, and Revenue Manager Evelyn Tseng

MEMBERS OF THE PUBLIC: Jim Mosher

III. PUBLIC COMMENTS

Chair O’Neill opened public comments.

Jim Mosher inquired regarding the Harbor fees, which were discussed at the previous Finance Committee meeting. He stated the City has an obligation to charge fair-market value for various uses of the Harbor and requested clarification regarding how the fair market value is established. He further requested the City’s appraisal be reviewed by the Finance Committee, as they are the appropriate party to analyze this type of data.

Noting there were no other members of the public who elected to speak on this item, Chair O’Neill closed public comments.

IV. CONSENT CALENDAR

A. MINUTES OF NOVEMBER 29, 2018

Recommended Action:
Approve and file.

Committee Member Tucker submitted proposed modifications to the minutes for the record.

Chair O’Neill requested the word “comprehensive” be struck and replaced with “further,” as he is not proposing an in-depth review of the Section 115 Trust matter (Page 10 of 11).

Committee Member Stapleton proposed a revision to his comments to read, "\$10 million lump sum payment could be a high risk" (Page 8 of 11).

Committee Member Collopy requested his last paragraph be struck from the record as he does not recall making this comment (Page 8 of 11).

MOTION: Chair O'Neill moved, and Committee Member Tucker seconded, to approve the minutes, with proposed amendments. The motion carried 5 – 0, with 2 Committee Member positions vacant.

V. CURRENT BUSINESS

A. REVISIONS TO CITY COUNCIL POLICY F-14 – AUTHORITY TO CONTRACT

Summary:

The purpose of Council Policy F-14 is to establish authority for City contracts, such as service contracts and purchase orders, which collectively encompass the majority of the City's procurement activities. It also provides clarity in areas where the state and federal statutes may be silent or ambiguous. The Finance Department recently conducted a review of F-14 with the overall objective to determine its relevance to current and best practices, trends, and current law. After soliciting input from Department Directors and consulting with the City Attorney, staff is proposing numerous changes to the policy.

Recommended Action:

Staff welcomes input and recommendations on the proposed revisions to Council Policy F-14. Finance staff will bring Committee recommendation, if any, to the City Council for consideration.

Purchasing Agent Anthony Nguyen provided a staff report. A PowerPoint Presentation was displayed with slides entitled Proposed Changes to Council Policy F-14, Review of F-14 Policy, Proposed Changes, Council Policy F-14 (Redline Changes), Objectives of Proposed Changes, Questions, Exhibit A Contract Volume by Authorization Tier, and Exhibit B, Misc. Contract & Purchase Order Statistics.

Purchasing Agent Nguyen provided a background of the policy, noting the last major revision was conducted in 2011. He also stated certain provisions of the policy were open to interpretation and there was a desire to clarify language. A discovery process was undertaken including interviews with City staff, the Charter and Municipal Code, practices implemented by other agencies and review of the City Manager's signature authorization limit of \$120,000.

Committee Member Collopy inquired regarding the comparison among the various cities' practices, as many of them have a different structure for their City management. Purchasing Agent Nguyen noted there is difficulty in making comparisons due to the differences in structure, and also stated some cities, such as the City of Redondo Beach, take all contracts to the City Council for approval.

Purchasing Agent Nguyen mentioned the major clean-up provisions which are proposed, as there were circumstances where small scale vendors could not meet the existing purchasing policy provisions pertaining to insurance coverage and other provisions, or the lack thereof, that make contract management less efficient. Proposed changes include language to authorize the City Manager to make exceptions to City's standard contract terms, addition of the City Attorney and City Clerk under authorization limits granted to Department Directors, clarification for the Human Resources Director to enter into contracts to revolve claims, litigation, and other legal disputes up to the Department Director limit of \$75,000, clarification of City Manager authorization to amend a contract to increase by 125% or \$120,000 (whichever is less), maximum 5 year term for on-call service contracts and fee-based recreation instructor contracts, changes to reflect the merger of Policy F-5 with Policy F-14 and separate on-call

service contracts from emergency contracts, and purchase orders for procurement of services to increase operational efficiency which will be subject to strict amount and usage limits.

Purchasing Agent Nguyen explained the current contract provisions impede operational efficiency. An example was given regarding procuring services from smaller vendors/contractors who provide services, such as the track starter for recreation programs, experience difficulty meeting the City's current procurement requirements, which in turn, delays the City from obtaining the needed service. A purchase order for services is proposed at \$7500 per transaction, not to exceed \$15,000 per vendor, per year.

Committee Member Tucker confirmed the purchase order forms still contain the terms and conditions of the City. This was affirmed by Purchasing Agent Nguyen.

Chair O'Neill stated he requested this review, which triggered a Department-wide review of the purchasing process. This policy will delegate authority normally reserved for the City Council and he concluded he is comfortable with the purchasing threshold numbers. He noted that where negotiations result in an outside party requesting specific terms other than those required by the City, the proposed policy would allow the City Manager, after consulting with the City Attorney, to move forward with a desired agreement. Administrative policies are developed by the City Manager and are followed by City staff, and cannot contradict City Council policies. He emphasized the importance of having clear and defined processes and procedures anytime the City Council elects to delegate authority away from itself. In such case, the City Charter prevails, followed by the Municipal Code (Ordinances), City Council Policies, and Administrative Policies, which should all be in concurrence.

Council Member Dixon inquired whether there is a process by which purchases/contracts under \$120,000 can be reviewed in an aggregate manner by the City Council.

City Manager Leung stated the City Clerk posts approved contracts on the City's webpage, and confirmed she will coordinate with the City Clerk as to the potential to transmit these items to the City Council.

Chair O'Neill stated the proposed policy is not related to the budget amendment process.

City Manager Leung affirmed there is a policy that states the City Manager annually review a summary of contracts with the City Council.

Committee Member Tucker stated he was a member of one of the previous Charter Review Committees, where considerable time was given to reviewing purchasing limits. He supports the proposal which allows for flexibility to veer away from standard contracts when necessary. Chair O'Neill stated the City Manager is the only one who can do so under the proposed policy changes.

Committee Member Tucker inquired how the consultation between the City Manager, City Attorney, and Department Directors occur, as proposed by the policy, and whether the method should be specified (Page 1, Paragraph 3). He also stated there was a potential need to strike language, which would imply the City Manager also approves the budget (Page 2, Section A.2.). City Manager Leung noted "City Manager" would be stricken from this section.

Committee Member Tucker noted the Human Resources Director would likely not be receiving funds; however, would rather be expending funds related to settling personnel matters (Page 3, Section A.4.). City Attorney Aaron Harp responded the Human Resources Department has a larger and broader scope, which may include more than personnel matters, including the settlement of tort claims. Currently, the Human Resources Director is also serving as the Acting Risk Manager. Chair O'Neill stated that if there is any modification to the City's Human Resources structure would necessitate an adjustment of the policy.

Committee Member Tucker inquired whether there would be an opportunity for the City Council to terminate or not move forward with a contract where the City Manager has exercised an amendment (Page 4, Section B.3.). City Attorney Harp stated the proposed change allows the City Manager to have the amendment approval and requires the City Manager to inform the City Council within 24 hours. He also noted the City Council, through the Mayor, can always call a special meeting to address the matter procedurally.

Committee Member Tucker inquired regarding the difference in language relative to pricing and minimum qualifications for Requests for Bids (RFB) versus Requests for Proposals (RFP) (Page 6, Section B.). Purchasing Agent Nguyen explained the different requirements for each process, noting the Invitation for Bids (IFB) process is governed by state mandates for bidding (lowest responsible and responsive bidder), whereas a RFP process has different types of requirements and considerations.

Committee Member Tucker would prefer the language “best interest”, instead of “greater benefit” be included (Page 6, Section B, Paragraph 2). City Attorney Harp further suggested changing the language throughout the document for continuity purposes.

Committee Member Tucker suggested the phrase “and must” be changed to “but must include” (Page 7, Section F). He also suggested inserting the same termination clause utilized in Section F into Section G of the policy.

Council Member Dixon inquired whether delays in procuring services due to insurance have been addressed, and inquired as to the specifics as to why insurance was the cause for delay. Purchasing Agent Nguyen noted the City’s consultant provided in-house training to improve insurance processing by Departments, and those procedures will be memorialized in the Administrative Procedures.

Chair O’Neill opened public comments.

Jim Mosher stated that in a Council-Manager form of government, the City Council has the authority to review contracts, however he emphasized the public assumes the City Council has the responsibility to review contracts, with the exception of contracts approved as part of the annual budget. The proposed policy appears to be an implementation of Section 421 of the City Charter regarding contracting. In 2012, the Charter language was modified, and he expressed concerns with delegation of the City Council’s responsibility for contract approval. He continues to request clarification regarding items which are approved or not within the City’s budget. He further noted there are contracts that are committing the City to certain actions for which they will receive revenue, and requested clarification of the proposed policy, which would allow City staff to enter into these types of agreements without City Council approval. He expressed concern regarding a lack of internal controls for cumulative contracts with the same vendor. In closing, he commented the City Clerk posts new contracts signed within the last 30 days to the City’s website. However, there is a commitment in the City Charter to keep all contracts in a digital repository in perpetuity; however, this repository is not available to the public.

Noting there were no other members of the public who elected to speak on this item, Chair O’Neill closed public comments.

MOTION: Chair O’Neill moved, and Committee Member Collopy seconded, to approve the modifications to City Council Policy F-14 as proposed by Committee Member Tucker, and as modified through the discussion. The motion carried 5 – 0, with 2 Committee Member positions vacant.

There was no further action taken on this item.

B. REVIEW OF SELECT FINANCIAL POLICIES

Summary:

The Finance Committee is charged with a variety of tasks including, but not limited to, reviewing and monitoring events and issues that may affect the financial status of the City and making recommendations to the City Council regarding amendments to financial and budgetary policies. A subcommittee of the Finance Committee was appointed to review and recommend changes if deemed necessary to nine select financial policies.

Recommended Action:

Review the draft changes to the select financial policies and recommend further changes as needed for submission to the City Council for final approval.

Chair O'Neill introduced the item and noted it was a sub-committee work project. He thanked members of the subcommittee for their work and opened the floor to Committee Member Tucker to lead the remainder of the report.

Committee Member Tucker introduced consideration of Policy F-3.

Committee Member Collopy expressed concern with usage of the word "checklist," and preferred the phrase "itemized budget revisions" be utilized.

City Manager Leung stated "itemized budget revisions" are not to be considered budget amendments.

Committee Member Tucker preferred to use the phrase "supplemental budget items." The previous language ("checklist") was confusing. There was consensus among the Finance Committee to allow staff to develop language that would reduce confusion.

Committee Member Tucker introduced consideration of Policy F-4.

Committee Member Collopy expressed concerns with Policy F-4, Items F through K, as there was no wording compelling the City Council to take specific action. Finance Director Matusiewicz stated the respective items represent staff's attempts to memorialize certain sustainability priorities suggested by previous Finance Committee members. Chair O'Neill noted removing these items would create the appearance the City Council is not proactively working toward these goals.

Council Member Dixon confirmed that approval of fee increases is under the jurisdiction of the City Council, however, the Finance Committee should be aware of any proposed fee increases or potential for recovering costs for City services. Chair O'Neill recommends the Finance Committee continue to receive fee-related reports as receive and file items.

Deputy Director/Finance Montano noted it was staff's understanding proposed fee increases are taken to the City Council for their consideration and can also be brought before the Finance Committee for informational purposes under review and file. Chair O'Neill would prefer the items come before the Finance Committee for review and file, with no specific action requirements.

Committee Member Collopy encouraged the continuation of the joint meeting process with the City Council and Finance Committee (Policy F-3, Item C). Chair O'Neill stated he is comfortable with the language as proposed, with the joint meeting to be conducted by the second meeting in May of each year.

Committee Member Collopy requested the joint meeting be conducted as an informal round table. Chair O'Neill confirmed that all study sessions conducted by the City Council are held in the City Council Chamber. Discussion ensued regarding the format for the joint meeting.

As related to City Council Policy F-3, Council Member Dixon inquired as how to codify the long-term financial planning process. Deputy Director/Finance Montano noted that Policy F-3 would be the appropriate policy to include the language memorializing the long-term financial planning process. Discussion ensued regarding the inclusion of some portion of the previous performance plan process, as Council Member Dixon found it to be informative, especially for new Committee Members and the public. Staff confirmed the performance plan process constituted a significant amount of time for City staff and the Socrata software performs a similar function. Chair O'Neill stated the budget message included at the front of the annual budget book provides clarification to the public as to how the budget is developed each year.

Council Member Dixon requested the approved City budget be posted online by a specific deadline each year. It was suggested this item be placed under Policy F-3, Section C.

Council Member Dixon inquired as to Policy F-3, Section D, Item 3 – Assessment District Appropriation. Discussion ensued regarding clarification of wording related to the maximum amount estimated, as it would not be known how many property owners would opt to pay the assessment in full. At the conclusion of the discussion, there were no suggested changes in wording to this section.

Council Member Dixon requested clarification related to the phrase “carry-over” versus “re-budget.” Discussion ensued as to the definition of each of the two phrases. Chair O'Neill provided an example, noting the Corona Del Mar Library and Fire Station was included in the City's approved Capital Improvement Plan, however, the City Council did not take action to encumber specific monies towards those projects in that budget year. If the monies were approved and dedicated in the following fiscal year budget, that would be considered a re-budget. Once the funds are approved and encumbered, they could be carried forward into a subsequent fiscal year. At the conclusion of the discussion, there were no suggested changes to the proposed wording.

Chair O'Neill moved forward to consideration of Policy F-7.

Committee Member Tucker described the history of land-use for Old City Hall, noting it had been determined the land was most valuable for housing than any other use. The public preferred a hotel in the location and the City Council responded to their desire by instituting a ground lease deal to retain the property. He noted there are many elements to a ground lease and preferred a deep look into the value of a ground lease prior to disposing of a City-owned property. He emphasized the property owner, in this case the City, has more control. Owning property in a desirable location, such as Newport Beach, should be considered not only from a rental fee perspective, but also from all perspectives, prior to consideration of its sale.

Committee Member Tucker suggested the addition of a paragraph to Policy F-7, Section E, in order to ensure good governance and a best-practice operational structure, which will keep the City out of any future disputes. He proposed language that would require a non-profit lessee, which is seeking to lease tideland property, or other such public-use property, to include in their by-laws a procedure that requires their membership to include members of the public and a best-practice governance and operational structure, to be approved by the City Council. Committee Member Tucker emphasized that certain properties, such as tidelands, are particularly public property, as they are not just utilized by City residents, but considered a statewide resource.

Discussion ensued on the topic related to audit requirements, resolution of disputes, and the City's jurisdiction to become involved in any disputes within the lessee organization. Chair O'Neill recommended adding a 7th subsection to Section E, noting whenever the City Council enters into a new lease or a lease renewal, they must make the findings as listing in Section E, Items 1 through 7, with the 7th Item stating the City Council may waive a particular finding if it discovers the action would be impossible for a potential lessee. Committee Member Tucker

emphasized that when a property is being leased for less than fair-market value, certain findings must be made, as that organization is already being granted favorable conditions through the reduction in rents.

Deputy Director/Finance Montano introduced the City's Real Property Administrator, Lauren Wooding Whitlinger.

Administrator Wooding Whitlinger suggested the revision of language to Section E., Item 3. She suggested substituting the phrase "costs or expenses" for the word "allowances." Committee Member Tucker agreed with this change, although he noted in the private sector the term "allowances" is commonly utilized.

Administrator Wooding Whitlinger suggested the revision of language to Section J. She suggested a bullet point be added prior to Section J, Item 1, which states:

Whether the City is prevented from selling the property by tidelands, grants, Coastal Commission guidelines, other State or Federal regulation, or otherwise restricted by deed or agreement

Chair O'Neill stated this would essentially affirm whether the subject land could be even be sold legally.

Committee Member Tucker requested additional time to review this particular section, as he believed it was covered within another section of the document.

Chair O'Neill stated these constitute different findings from Section E, Item 1, and there should be a clarification process as to whether a property can legally be sold.

Administrator Wooding Whitlinger suggested modification of the Section E, Item 1 to state: *The maximum open market value of the City's interest in the property in its as-is condition and its highest and best use.* Committee Member Tucker did not necessarily want to include the concept of highest and best use, as on occasion, the City Council may prefer a particular property to have an alternative use. He requested additional time to review the wording of Policy F-7 overall to ensure clarity of the document before forwarding it to the City Council for their review.

Chair O'Neill continued the review of Policy F-7 to the next Finance Committee meeting to allow Committee Member Tucker to work with Administrator Wooding-Whitlinger to revise the language of the policy.

Discussion ensued among the Finance Committee members regarding whether a list of City properties exists and whether the properties should be itemized within the policy. Committee Member Tucker emphasized that requiring a potential lessee to have a good governance and operational structure prior to granting the lease will reduce the City's involvement in future disputes. Chair O'Neill stated he would prefer the policy not to include references to specific properties, as it would potentially require unnecessary modification to add or delete such references if a change were to occur.

Chair O'Neill moved forward to consideration of Policy F-8.

Committee Member Colopy inquired if there was a particular problem the City was trying to resolve in requiring the Finance Director to approve all official travel prior to the time of travel (Section C). Discussion ensued on the topic, with staff noting up to 20 to 25 requests are reviewed and approved per week, mostly related to Police Department requests. Committee Member Colopy inquired if this approval can be delegated to the Department Directors. Chair O'Neill did not see any need to change the City's current practice.

Committee Member Collopy inquired if the City had a continuity of City government policy. City Manager Leung confirmed she would research the matter and return to the Finance Committee with any related information.

Chair O'Neill moved forward to consideration of Policy F-11.

Committee Member Collopy inquired whether the City has a City-owned property control system or authorization process that addresses procedures related to usage constraints, location, transfers, and disposal of assets. Deputy Director/Finance Montano confirmed the City has an asset inventory system, which is updated periodically. Committee Member Collopy requested to meet with Deputy Director/Finance Montano to review the City's system.

Chair O'Neill moved forward to consideration of Policy F-13. There were no comments made on this item.

Chair O'Neill moved forward to consideration of Policy F-15.

Committee Member Collopy inquired as to how the areas of audit emphasis are selected each year. Director Matusiewicz stated the auditors independently select the area of risk to be evaluated, and the City could request additional areas of focus as an agreed-upon process. Committee Member Collopy would prefer the Finance Director, City Manager, and City Attorney as a group make the determination of the areas of highest risk.

Deputy Director/Finance Montano noted the City had developed an internal control audit roadmap that had been shared with the Finance Committee at a previous meeting. Director Matusiewicz also affirmed an external auditor is utilized due to their independent nature and they should maintain control of the audit process, as is currently the preferred and established auditing standard.

Chair O'Neill moved forward to consideration of Policy F-25.

Committee Member Collopy stated in reference to Section A, he would prefer the Program Administrator and the Finance Department both be ultimately responsible for correct grant accounting. He emphasized grant accounting is very specialized, and that skill may not be available at the Department level. Director Matusiewicz affirmed that many of the grants are specialized and require Department-level staff to serve as Program Administrators due to their discipline-specific knowledge. Finance staff may not have the specialized knowledge required to administer a particular grant program.

Committee Member Collopy emphasized grant accounting is specialized, and would like Section D to reflect that financial and grant reporting require two signatures, one from the Program Administrator, and one from the Finance Department, for final approval. Discussion ensued among the Committee and staff as to the appropriate process by which the City can be assured the financial reporting for grants will be completed correctly and any requirements that would be necessary during an audit of the grant. At the conclusion of the discussion, it was determined the current process, as put in place by the City, involved internal controls to assure the City Manager and City Council correct accounting for grants is taking place and no changes were made to the proposed wording of the policy.

Committee Member Collopy inquired in regard to Section A as to why the Mayor would need to execute a grant contract. Discussion ensued on the matter with the final determination made that the Mayor executes documents, such as resolutions, which are approved by the City Council, which on occasion are grant contracts.

Chair O'Neill moved forward to consideration of Policy F-28. There were no comments made on this item.

Chair O'Neill opened public comments.

Jim Mosher suggested the checklist wording in Policy F-3 be amended to be budget corrections.

Committee Member Collopy responded the checklist items are not correction, as that would imply there was an error.

Mr. Mosher stated that the joint meeting of the City Council and Finance Committee could be held in the City Council Chamber, as the Coastal Commission currently meets there and the dais can accommodate 12 chairs. He further stated the performance plan did contain useful information, however, he does not know whether it warranted the commitment of staff time toward the process.

Noting there were no other members of the public who elected to speak on this item, Chair O'Neill closed public comments.

MOTION: Chair O'Neill moved, and Committee Member Stapleton seconded, to incorporate the changes to draft City Council Policies F-3, F-4, F-8, F-11, F-13, F-15, F-25, and F-28 as proposed in the staff report and as amended through the discussion with the Finance Committee, return them on a future agenda for further review, and continue the discussion of City Council Policy F-7 to the next Finance Committee meeting. The motion carried 5 – 0, with 2 Committee Member positions vacant.

There was no further action taken on this item.

C. WORK PLAN REVIEW

Summary:

Staff has prepared a list of key FY 2019/20 budget preparation milestones and alternate dates for Finance Committee meetings in calendar year 2019. Specific and detailed work plan elements can be determined in January after the new City Council session begins.

Recommended Action:

Select appropriate meeting dates for calendar year 2019 or select the date of January meeting and defer work plan development to January.

Chair O'Neill determined the regular meeting schedule would be the second Thursday of each month, as a general rule. Discussion ensued on meeting topics pursuant to Chair O'Neill's request for items. By consensus, the Finance Committee determined the following topics should be discussed by the Finance Committee in the upcoming meetings: Water (Dixon), Long Range Financial Plan (Collopy), Obligation side of the Unfunded Pension Liability (Collopy), and Public Works Department deep-dive.

Discussion ensued on the meeting dates for 2019. The following dates were agreed upon, by consensus of the Finance Committee, for 2019:

January 17, 2019
February 14, 2019
March 14, 2019
April 25, 2019
May 16, 2019
May 28, 2019 – Joint Meeting with the City Council
May 30, 2019
June 27, 2019

September 12, 2019
October 10, 2019
November 14, 2019
December 12, 2019

Chair O'Neill opened public comments.

Jim Mosher reported the Zoning Administrator meetings are also held on Thursdays at 3:00 p.m., which would create a conflict for members of the public who would also attend the Finance Committee meeting.

Noting there were no other members of the public who elected to speak on this item, Chair O'Neill closed public comments.

The item was unanimously received and filed by the Committee.

There was no further action taken on this item.

VI. FINANCE COMMITTEE ANNOUNCEMENTS ON MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

VII. ADJOURNMENT

The Finance Committee adjourned at 5:02 p.m. to the next regular meeting of the Finance Committee on January 17, 2019, at 3:00 p.m.

Filed with these minutes are copies of all materials distributed at the meeting.

The agenda for the Regular Meeting was posted on December 7, 2018, at 2:31 p.m., in the binder and on the City Hall Electronic Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

Attest:

Will O'Neill, Chair
Finance Committee

Date