



AD HOC COMMITTEE REPORT

Date: April 14, 2023

Title: Operating Fund Policy Update

PURPOSE:

With this report the Ad Hoc Committee provides an update to the Board and Finance Committee on its progress, requests feedback on the work completed thus far, and invites the Board to consider options for bringing this project to a conclusion, either at the April 20, 2023 Board of Directors meeting or at a meeting scheduled no later than June 2023.

BACKGROUND:

At the March 24, 2023, Board of Directors Meeting, the board reviewed the Ad Hoc Committee's progress, and considered options for bringing its project to a conclusion. After discussion, Director Levine moved to:

1. Continue the Ad Hoc Subcommittee for the purpose of completing work on a generally updated Operating Fund Policy proposal for consideration by the full board no later than June 2023.
2. Schedule a joint Board of Directors – Finance Committee Workshop in April or May 2023 for the purpose of providing feedback to the Ad Hoc Subcommittee on a draft proposal to update the Operating Fund Policy. This joint workshop may be combined with a joint Board of Directors – Finance Committee Workshop focused on a potential policy for a building replacement schedule and funding program.

The motion was seconded by Director Murrell and approved 5 – 0 by the board.

AD HOC COMMITTEE MEETING TIMELINE, SINCE MARCH 24, 2023:

March 28, 2023 Meeting, Directors Mahoney and Levine, David Mickaelian, and Todd Martyn-Jones.

The Ad Hoc Committee met to discuss the board's direction and to consider next steps. In line with the board's direction to draft a general update to the Operating Fund Policy, the Ad Hoc Committee agreed to expand its draft to address the technical and prudential updates that it identified at its 3/13/23 meeting. The Committee also agreed to refine the draft for the sake of clarity and completeness.



April 10, 2023 Meeting, Directors Mahoney and Levine, David Mickaelian, and Todd Martyn-Jones.

The Ad Hoc Committee met to discuss the edits made following its 3/28/23 meeting, with the understanding that agreements regarding final edits to the draft would be made via email.

DISCUSSION:

The following is a summary of the edits and additions made to the draft policy by the Ad Hoc Committee since the March 24, 2023 Board of Directors Meeting:

1. Numerous minor edits to improve the document’s clarity and precision.
2. Additional language in the principles section to clarify that facility access privileges and access fee pricing scales for non-members should be managed in accordance with the Amenity Access Policy.
3. Additional language to clarify the purpose and expectation of studying cost recovery targets, while also making edits to that language to give management flexibility about how to conduct those studies.
4. Increased the OFCR minimum and maximum balances to address inflation and other increased expense burdens. Where the existing Operating Fund policy ties the maximum balance to Operating Budget revenue, the draft policy ties the maximum balance to expenses.
 - a. Currently, the OFCR minimum balance is \$750,000, and the actual balance is approximately \$1.7 million. If the draft policy had been in place for the 2023 budget, the OFCR minimum balance would be \$2.0 million and the maximum balance would be approximately \$2.4 million.
5. Deleted the existing reference to borrowing from the Development Fund to meet shortfalls that exceed the balance in the OFCR.
 - a. California Civil Code §1365.5 states that “the board may authorize the temporary transfer of moneys from a reserve fund to the association’s general operating fund to meet short-term cashflow requirements or other expenses ... The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer.” It is uncertain whether the Development Fund qualifies as a reserve fund under this law.
 - b. Under the Declaration of Covenants and Restrictions, the Association may accumulate funds in Development Fund for capital improvements to the Common Facilities, Common Area, and Other Association Real Property, “so long as the expenditure is for the purpose for which the fund was established” (Article IX, Section 2(a)(i)). Currently, the stated purposes of the Development Fund do not include potentially borrowing from that fund to meet Operating Fund shortfalls in excess of the OFCR.



- c. If the Board wishes to retain the flexibility to borrow from the Development Fund to meet Operating Fund shortfalls in excess of the OFCR, the Board may need to update the Development Fund Policy to provide for that flexibility. The board may also wish to consider potential policy guidance to ensure that any funds borrowed from the Development Fund are repaid in a responsible and timely manner.

CONCLUSION:

Along with this report, the Ad Hoc Committee has provided the following documents:

- A clean draft Operating Fund Policy proposal
- A document facilitating comparison between the following documents:
 - The existing Operating Fund Policy adopted October 27, 2018
 - The Ad Hoc Committee's March 24, 2023 draft Operating Fund Policy
 - The Ad Hoc Committee's April 20, 2023 draft Operating Fund Policy
- A copy of the Ad Hoc Committee's March 20, 2023 report

Once again, we thank our fellow directors for entrusting us with this project, and we look forward to working with the Finance Committee and the entire Board of Directors to bring this project to a successful conclusion.

Prepared by Directors Mahoney and Levine Board Meeting Date: April 14, 2023
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