

Minutes

City Council/Public Financing Authority City of Huntington Beach

Monday, February 1, 2021
6:00 PM — Virtual Meeting
Huntington Beach, California 92648

A video recording of the 6:00 PM portion of this meeting is on file in the Office of the City Clerk, and archived at www.surfcity-hb.org/government/agendas/

5:00 PM — VIRTUAL ZOOM WEBINAR LOCATION

CALLED TO ORDER — 5:08 PM

ROLL CALL

Present: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize
Absent: None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS ON CLOSED SESSION ITEMS (Received After Agenda Distribution) — None

PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEMS (3 Minute Time Limit) - None

RECESSED TO CLOSED SESSION — 5:11 PM

A motion was made by Carr, second Delgleize to recess to Closed Session for Items 2 - 4, plus New Item *21-108. With no objections, the motion carried.

CLOSED SESSION ANNOUNCEMENT(S)

1. 21-104 Mayor Carr announced: Pursuant to Government Code § 54957.6, the City Council takes this opportunity to publicly introduce and identify designated representatives: Oliver Chi, City Manager, and Travis Hopkins, Assistant City Manager, who will be participating in today's Closed Session discussions regarding labor negotiations with: Huntington Beach Municipal Teamsters (HBMT) and Management Employees' Organization (MEO).

CLOSED SESSION

2. 21-086 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION. Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9: Number of cases, one (1) - Appeal of Southern California Association of Governments

(SCAG) Final Regional Housing Needs Assessment (RHNA) Methodology for the Sixth Housing Element Cycle.

3. **21-087 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Name of case: Brewster (Terri Lynn) v. City of Huntington Beach; OCSC Case No. 30-2020-01160094.**
 4. **21-088 CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code section 54957.6.) Agency designated representatives: Oliver Chi, City Manager and Travis Hopkins, Assistant City Manager. Employee Organizations: Huntington Beach Municipal Teamsters (HBMT) and Management Employees' Organization (MEO).**
- *New 21-108 CONFERENCE WITH LEGAL COUNSEL- Name of case: City of Huntington Beach v. State of California, et al; OCSC Case No. 30-2019-01044945**
(Added 1/29/21)

6:00 PM - COUNCIL CHAMBERS

RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 6:21 PM

ROLL CALL

Present: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize
Absent: None

PLEDGE OF ALLEGIANCE — Led by Mayor Pro Tem Ortiz

INVOCATION

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

5. **21-103 Janet Ewell, Church of Jesus Christ of Latter-Day Saints and Member of the Greater Huntington Beach Interfaith Council**

CLOSED SESSION REPORT BY CITY ATTORNEY — City Attorney Gates announced that in the case of City of Huntington Beach v. State of California, OCSC Case No. 30-2019-01044945; regarding the City's challenge to recent new housing laws known as SB 35, SB1333, SB 166, and AB 101; was brought before City Council in Closed Session. A Motion to Appeal last week's adverse court ruling failed by a vote of 2-5 (Kalmick, Carr, Posey, Moser, and Delgleize – No).

AWARDS AND PRESENTATIONS

6. **21-090 Mayor Carr recognized Black History Month throughout the month of February 2021**

Mayor Carr announced that each year the U. S. celebrates February as Black History Month to honor the historical achievements of African-American leaders who have introduced bold ideas that have improved our communities and enriched our culture. Mayor Carr described this as a time to acknowledge local leaders who bring awareness of African-American culture and diversity, and introduced Vashia Rhone, Chair, Human Relations Task Force, who described some of the ways diversity is celebrated in

Huntington Beach through education and understanding via a video, and announced the *Cultural Cinema Showcase: Black History Month* which runs from February 5th – 7th, with the Q & A Panel on February 7th at 2:30 PM online. Mayor Carr presented a Proclamation to recognize the Human Relations Task Force, and Ms. Rhone thanked the Council for the recognition and honor.

7. 21-091 Mayor Carr presented information about the City's various Town Hall Series on topics including COVID-19, Community Choice Energy, and Homelessness

Mayor Carr presented a PowerPoint communication titled *Virtual Town Hall Series*, with slides entitled *Candid Conversations About COVID-19 (2)*, *COVID-19 en Español*, *HB Homeless Solutions*, *HB Community Choice Energy*, *Central Park Public Art* and *HBTv*, and described the on-going effort to keep residents informed and engaged.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications received by her office following distribution of the Council Agenda packet:

City Manager's Report

#9 (21-094) Two (2) email communications regarding COVID-19.

Consent Calendar

#12 (21-042) Inter-Department Memo submitted by Robin Estanislau, City Clerk, regarding the clarification of an error on the January 19, 2021 regular meeting minutes.

#14 (21-101) Letter of support for the Federal Communications Commission's Emergency Broadband Benefit Program submitted by Mayor Kim Carr.

#14 (21-101) Three (3) email communications regarding the City's involvement in state and national politics.

#15 (21-099) One (1) email communication regarding reduced parking requirements.

#20 (21-076) One (1) email communication regarding Magnolia Tank Farm.

Administrative Items

#21 (21-085) Forty (40) email communications received regarding the City's membership in the Orange County Power Authority (OCPA), Community Choice Energy (CCE) Joint Power Authority (JPA).

Councilmember Items

#23 (21-102) Four hundred seventy-two (472) MyHB comments and email communications received by 2:00pm regarding the proposed No Confidence Vote in Mayor Pro Tem Tito Ortiz.

*Comments received after the 2:00pm deadline will be made part of the record on Tuesday, February 2, 2021.

PUBLIC COMMENTS (3 Minute Time Limit) — 58 Speakers via Zoom

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Caller #436, Dave, a resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:32:00)

Gina Clayton-Tarvin, long-time resident of Huntington Beach and Clerk, Ocean View School District Board of Trustees, was called to speak and described the successful effort to provide safe in-classroom teaching, and provided her support for Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:35:37)

Eva Weisz was called to speak and stated her opposition to Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:38:59)

Debbi Parrott was called to speak and stated her support for Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:42:23)

Carol, a healthcare worker at an Orange County hospital, was called to speak and stated her support for Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:44:05)

Cherie Schenck, a resident of Huntington Beach, was called to speak and stated support for Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:47:19)

Mira Dermendjieva, a resident of Huntington Beach and Emergency Medicine Pharmacist, was called to speak and stated support for Councilmember Item No. 23 for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:49:58)

David Martin was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:53:20)

Russ Neal, a resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:56:33)

Lisa Marquise, a resident of Huntington Beach, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (00:57:52)

Claire Ambrosio, a resident of Huntington Beach, and an attorney with an LLM degree in Healthcare, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:01:13)

Katie, a life-long resident of Huntington Beach, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:03:32)

Spencer Kelly, a resident of Huntington Beach, was called to speak and stated his support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:06:43)

James Michalski, a 25-year resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:08:48)

Nick Taurus was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:12:03)

B Sansone was called to speak, but the speaker identified as Ms. Myers, a resident of Huntington Beach, stated her support for Administrative Item No. 21 (21-085), **Option A**, to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority. (01:13:51)

Bethany Webb, a 40-year resident of Huntington Beach and Founding Member of Huntington Beach Huddle, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:15:36)

Justin Frazier, a veteran and Black Lives Matter activist, was called to speak and stated his support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:18:47)

Frank Zappia, a 35-year resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:21:33)

Eli Pascal, a 6-year resident of Huntington Beach, was called to speak and stated support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:24:58)

Megan Merid, a Huntington Beach homeowner, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:27:59)

Libby Frolichman was called to speak and stated her support for Administrative Item No. 21 (21-085), **Option A**, to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority, and support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:30:06)

Bee Nicole, a resident of Huntington Beach, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:32:33)

Gail Bryson, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:34:34)

Jaimie Moore, an educator living in Huntington Beach, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:36:02)

Dave Sullivan, 54-year resident of Huntington Beach and former Mayor and City Councilmember, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:38:22)

Caller #260, Michelle Laughlin, a resident of Huntington Beach, was called to speak and stated her concerns regarding illegal street racing and exhaust systems, which impact parts of Huntington Beach and create very unsafe situations, and asked that City Council share the plan of action to address these issues. (01:41:42)

Caroline Winnik was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:43:23)

Caller #876, Kimo Gandal, a resident of Huntington Beach and Chairman Emeritus, College Republicans at UCI, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:45:34)

Tim Geddes, a 30-year plus resident of Huntington Beach and high school teacher, was called to speak and stated his support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:48:52)

Daniel Pankratz was called to speak and stated his support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:51:09)

John, a 22-year Army Ranger veteran who moved to California in 2012, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:52:43)

Hoiyin Ip, Sierra Club Member, was called to speak and stated her support for Administrative Item No. 21 (21-085), **Option A**, to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority. (01:55:56)

Caller #133, Amory Hanson, a City Council Candidate in 2022 and member of the Historic Resources Board, was called to speak and stated his support for Councilmember Item No. 22 (21-096) regarding a temporary ordinance that limits fees paid by restaurants to third-party delivery services during the COVID-19 pandemic. (01:57:16)

Steve was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (01:58:45)

Caller #870, Joseph, was called to speak and stated his support for Mayor Pro Tem Ortiz, and shared his opinions regarding some of the comments made by previous callers. (02:00:31)

Ann, a microbiologist and 54-year resident of Huntington Beach, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:02:28)

Bob Norland, businessman and life-long resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:04:26)

Ms J, a resident for about 10 years, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:05:56)

Eric Silkenson was called to speak and stated his interest in being involved in an effort to replace a great Huntington Beach landmark, the tree at Main Street and Utica Avenue which came down in the recent storm, and suggested possible ideas for a replacement. (02:08:36)

Caller #616, Kim, a 14-year resident of Huntington Beach, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:11:06)

Caller #196 was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:13:32)

Denise Rede was called to speak and stated that her significant other, Brad Rede, a 32-year resident and veteran, would share comments on their behalf. Unfortunately, their phone connect lost sound. (02:17:09)

Anne Elizabeth was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:18:23)

Sarah was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. She also stated support for Mr. Silkenson's previous suggestions to replace the tree that was recently uprooted at Main Street and Utica Avenue. (02:22:03)

Caller #598, Susan, a resident of Huntington Beach, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:23:37)

Call-In User #1, Miriam, a 21-year+ resident and homeowner in Huntington Beach, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:26:34)

Scott Rothert, life-long resident of Huntington Beach, was called to speak and requested that Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz be tabled until Councilmembers make an honest effort to resolve their differences and stand behind their unanimous decision to appoint Mr. Ortiz as Mayor Pro Tem in December 2020. (02:29:39)

Caller #294, Tia, was called to speak and stated her support for Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:32:14)

Caller #171, Steve, a resident of Huntington Beach, was called to speak and stated his support for Mayor Pro Tem Ortiz, and encouraged the Council to resolve their issues and focus on serving and seeking solutions rather than causing further division. (02:36:17)

Barbara Klein was called to speak and requested that Council conduct safe, in-person vs. virtual meetings, and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:37:21)

Caller #460, Casey McKeon, was called to speak and stated his support for Administrative Item No. 21 (21-085), **Option B**, to withdraw from the Orange County Power Authority, and direct staff to complete all requisite documents necessary to terminate our participation in the CCE JPA. Mr. McKeon also stated opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:40:50)

Jose Trinidad Castaneda was called to speak and stated his support for Administrative Item No. 21 (21-085), **Option A**, to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority. (02:44:07)

Liberty Belle was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:44:32)

Becky Ettinger, a homeowner in Huntington Beach, a Registered Nurse, and Professor of Nursing with degrees in Community Health, was called to speak and stated her support for Mayor Pro Tem Ortiz, and thanked all the Councilmembers for serving. (02:45:16)

Courtney S. was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:48:13)

Martha, a 30-year resident of Huntington Beach, was called to speak and stated her opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:50:29)

Ayn Craciun, OC Clean Power Community Group Volunteer, was called to speak and stated her support for Administrative Item No. 21 (21-085), **Option A**, to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority. (02:53:15)

Galaxy A21 was called to speak and stated his opposition to Councilmember Item No. 23 (21-102) for consideration of a No Confidence Vote in Mayor Pro Tem Ortiz. (02:54:53)

COUNCIL COMMITTEE — APPOINTMENTS — LIAISON REPORTS, AB 1234 REPORTING, AND OPENNESS IN NEGOTIATIONS DISCLOSURES

Councilmember Kalmick reported attending an Orange County Power Authority (OCPA) meeting where mainly administrative tasks were addressed. He also attended an Orange County Sanitation District (OCSA) meeting for discussions on expansion of the groundwater replenishment system, met with Curt Pringle & Associates on a potential project in Huntington Beach, attended an Orange County Council of Governments (OCCOG) meeting as well as an audio meeting of the Brookfield Town Home project.

Councilmember Delgleize announced her appointment of Stacy Taylor to the Citizens Infrastructure Advisory Board (CIAB).

Councilmember Posey reported that Orange County Vector Control is looking for a new headquarters building and has evaluated one building.

Councilmember Peterson thanked Dick Theil who recently retired from the Community Services Commission after six years of service, and announced Pat Burns as his new appointee.

Councilmember Moser reported also attending the Brookfield Town Home project meeting, as well as the virtual Town Hall meeting with the Brookfield community, a meeting of the Greater Huntington Beach Interfaith Council, and a meeting of the Human Relations Task Force.

Mayor Carr reported attending a meeting of the Intergovernmental Relations Committee (IRC), a Communications meeting to discuss a new logo for HBTV and to consider additional programming options, a meeting of the Mobile Home Advisory Board, as well as Orange County Council of Governments (OCCOG) Board meeting where it was noted that Governor Newsom has budgeted \$4M – \$5M for a Housing Accountability Unit to monitor City Council and board meetings to ensure that cities and counties are meeting their housing production requirements.

8. 21-083 Approved Amendment to the 2021 Council Liaison List

Mayor Carr made a motion to approve the amendment to the 2021 Council Liaison List to make Councilmember Posey the Primary and herself as the Alternate for the Orange County Council of Governments (OCCOG).

The City Clerk called for objections. Seeing none, the motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

CITY MANAGER'S REPORT

9. 21-094 Update of the City COVID-19 Response Plan and Vaccination Update

City Manager Oliver Chi and Fire Chief Scott Haberle presented a PowerPoint communication entitled *COVID-19 Update* with slides titled: *COVID-19 Situational Overview, Widespread Tier Restrictions, US Totals, 7-Day Average Lines, California, Currently Hospitalized with COVID-19, Change is Hospitalizations, Orange County (3), Huntington Beach, Summary, Situation for Orange County, Orange County ICU Status, HBFED EMS Response Impacts, Orange County Vaccination Status, Current Vaccine Eligibility, and Vaccine Registration.*

10. 21-098 Downtown Outdoor Dining Program Update

City Manager Chi presented a PowerPoint that included slides titled *Downtown Dining - Adjustment in Hours, and Questions?*

Councilmember Posey thanked City Manager Chi and Police Chief Haberle for working with the Downtown business owners to extend the hours of operation.

Councilmember Moser expressed her concerns about elderly community members who may not be mobile and therefore unable to easily get to a vaccination site, or those without an email address to even set up an appointment. City Manager Chi shared that the County is coordinating volunteer opportunities through registration at oneoc.org for people wanting to assist with these types of situations. He also reminded everyone that vaccine supply is currently not available to meet the demand throughout the State, and there will be an effort as vaccine supply increases to make vaccines available through local clinics, doctor offices, and targeted outreaches to the most impacted communities.

CITY TREASURER'S REPORT

11. 21-051 Received and Filed the City Treasurer's December 2020 Quarterly Investment Summary Report

City Treasurer Backstrom presented a PowerPoint communication entitled: *Quarterly Investment Report* with slides titled *Economic and Market Overview, Interest Rates - U.S. Treasury Rates, Portfolio Summary, Investments by Type, Monthly Activity - Quarterly Activity, Portfolio Earnings, Selected Investment Policy Compliance Requirements, and Summary.*

A motion was made by Moser, second Delgleize to receive and file the City Treasurer's Quarterly Investment Report for December 2020, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

CONSENT CALENDAR

Councilmember Kalmick pulled Consent Calendar #14, and Councilmember Peterson pulled Items #15 and #20 for further discussion.

12. 21-042 Approved and Adopted Minutes

A motion was made by Delgleize, second Posey to approve and adopt the City Council/Public Financing Authority regular meeting minutes dated January 19, 2021, as written and on file in the office of the City Clerk ***as amended by Supplemental Communication.***

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

13. 21-063 Adopted Resolution No. 2021-08 approving the 2021 Investment Policy

A motion was made by Delgleize, second Posey to adopt Resolution No. 2021-08, "A Resolution of the City Council of the City of Huntington Beach Approving the Statement of Investment Policy 2021."

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize
NOES: None

14. 21-101 Approved positions on Local, State and Federal Issues, as recommended by the City Council Intergovernmental Relations Committee (IRC)

Councilmember Kalmick pulled this item to thank staff and note his support for the Federal Communications Commission's Emergency Broadband Benefit Program for low-income people to subsidize their internet connection fees and purchase of network equipment.

Councilmember Posey shared his opinion that approval of Item A), Resolution No. 2021-11 requires responsibility for exercising local control. He further stated his support for Item C) because it includes an exemption for tourism.

Councilmember Peterson stated his opposition to Item C) because local technology currently uses safe horizontal drilling from on-shore.

A motion was made by Carr, second Posey to adopt Resolution No. 2021-11, "A Resolution Expressing Support for Actions that will Further Strengthen Local Governance and Authority Over Housing-Related Issues in Huntington Beach"; and/or approve a letter of support for the Federal Communications Commission's Emergency Broadband Benefit Program.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize
NOES: None

A motion was made by Carr, second Posey to approve a letter in opposition to oil and gas drilling off Southern California coast through the Bureau of Ocean Energy Management's National Outer Continental Shelf Oil and Gas Leasing Program.

The motion carried by the following vote:

AYES: Kalmick, Carr, Posey, Moser, and Delgleize
NOES: Peterson, Ortiz

15. 21-099 Adopted the 2021 City Council Work Plan

Councilmember Peterson stated he is against some of the objectives, and therefore will not support the item now but will address specific concerns when items return to Council. City Manager Chi clarified that approving this item does not approve the objectives, and stated they will return to Council as either Councilmember or Administrative items for individual consideration

Mayor Carr stated that the Strategic Planning objectives is a wish list of directives for top priority, and the objectives will be returning as Councilmember Items.

Councilmember Posey stated that the Strategic Planning Workshop provides an opportunity to meet and bond with staff members.

A motion was made by Carr, second Posey to adopt the 2021 City Council Work Plan.

The motion carried by the following vote:

AYES: Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: Peterson

16. 21-089 Approved the COVID-19 Small Business Micro Grant Program

A motion was made by Delgleize, second Posey to approve the COVID-19 Small Business Micro Grant Program.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

17. 21-056 Approved Agreement for Professional Engineering and Environmental Consulting Services between the City of Huntington Beach and Moffatt & Nichol for the Davenport Bridge Project in Huntington Harbour

A motion was made by Delgleize, second Posey to approve and authorize the Mayor and City Clerk to execute the Agreement for Professional Engineering and Environmental Consulting Services between the City of Huntington Beach and Moffatt & Nichol in the amount of \$487,314.70.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

18. 21-061 Approved 3–Year Professional Services Contracts for As-Needed Environmental Engineering Services with Geosyntec Consultants, Inc., Environmental Engineering Contracting, Inc. (EEC Environmental), Huitt-Zollars, Inc., and CWE

A motion was made by Delgleize, second Posey to approve and authorize the Mayor and City Clerk to execute a 3–year (with optional 1 year extension), not-to-exceed \$600,000 Professional Services Contract between the City of Huntington Beach and Geosyntec Consultants, Inc. for As-Needed Environmental Engineering Services; and, approve and authorize the Mayor and City Clerk to execute a 3–year (with optional 1 year extension), not-to-exceed \$600,000 Professional Services Contract between the City of Huntington Beach and Environmental Engineering Contracting, Inc. for As-Needed Environmental Engineering Services; and, approve and authorize the Mayor and City Clerk to execute a 3–year (with optional 1 year extension), not-to-exceed \$600,000 Professional Services Contract between the City of Huntington Beach and Huitt-Zollars, Inc. for As-Needed Environmental Engineering Services; and, approve and authorize the Mayor and City Clerk to execute a 3–year (with optional 1 year extension), not-to-exceed \$600,000 Professional Services Contract between the City of Huntington Beach and CWE for As-Needed Environmental Engineering Services.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

19. 21-073 Approved Final Tract Map No. 18068 and Subdivision Agreement for the Shorehouse Residential Subdivision by C3 DLG 414 Main Street, LLC at 414 – 424 Main Street

A motion was made by Delgleize, second Posey to approve Final Tract Map No. 18068 and accept the offer of easements pursuant to findings and requirements (Attachment No. 1); and, approve and authorize the Mayor and City Clerk to execute the Subdivision Agreement by and between the City of Huntington Beach and C3 DLG 414 Main Street, LLC, Inc. (Attachment No. 6); and, accept Faithful Performance Bond No. PB02497501239, Labor and Material Bond No. PB02497501239 and Monument Bond No. PB02497501240 as sureties for the installation of the subdivision's required public improvements and survey monumentation (Attachment No. 7); and, instruct the City Clerk to file the respective bonds with the City Treasurer and notify the Surety, Philadelphia Indemnity Insurance Company of this action.

The motion carried by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, and Delgleize

NOES: None

20. 21-076 Adopted Ordinance No. 4225 (Zoning Map Amendment No. 17-001), and Ordinance No. 4226 (Development Agreement No. 19-001) — Magnolia Tank Farm Approved for introduction 1/19/2021 — Vote: 5–2 (Peterson, Carr — No)

Councilmember Peterson pulled this item to ensure he is recorded as a "No" vote. Mayor Carr also stated her "No" vote.

A motion was made by Posey, second Delgleize to adopt Ordinance No. 4225, "An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance to Rezone the Real Property Generally Located on the Westside of Magnolia Street at Banning Avenue from PS–O–CZ (Public-Semipublic — Oil Production Overlay — Coastal Zone Overlay) to SP–18–CZ (Specific Plan — Coastal Zone Overlay)(Zoning Map Amendment No. 17–001);" and, adopt Ordinance No. 4226, "An Ordinance of the City of Huntington Beach Adopting a Development Agreement By and Between the City of Huntington Beach and SLF–HB Magnolia, LLC (Developer) (Development Agreement No. 19–001)."

The motion carried by the following vote:

AYES: Kalmick, Posey, Moser, and Delgleize

NOES: Peterson, Ortiz, and Carr

ADMINISTRATIVE ITEMS

21. 21-085 Approved Maintaining a Membership with the Orange County Power Authority (OCPA), a Community Choice Energy (CCE) Joint Power Authority (JPA)

City Manager Chi presented a PowerPoint communication entitled *Community Choice Energy*, with slides titled: *What Is A CCE?*, *CCE Background in HB*, *OCPA Membership Considerations*, *MRW Findings: OCPA is a Viable CCE JPA*, *OCPA vs. SCE Rates: Less by Between \$.01 - \$.03 /kWh*, *Key Risks Identified for OCPA*, *OCPA Offers Tangible Financial Benefits*, *Mitigated Risks*, *City Council Determination Regarding Membership in OCPA*, and *Questions*.

Councilmember Delgleize confirmed with Orange County Power Authority CEO Brian Probolsky that the City of Irvine is paying the \$2.5M start-up costs, as well as cash collateral for future funding, and the \$2.5M commitment has been paid. CEO Probolsky also confirmed that all participating cities will have one seat and Irvine will have two seats because of their initial financial commitment, cities are not creating another city bureaucracy by participating, and currently OCPA is meeting twice a month to process the initial administrative items, but future meetings will be held once a month.

Councilmember Delgleize described the experience of Marin County over the past 11 years and their use of generated funding to provide a lower price for energy purchases through focusing on preventing greenhouse gas. Consultant Gary Saleba stated that some counties focus on rate savings, while others focus on preventing greenhouse gas.

Councilmember Posey verified that consumers will have a 60-day opt-out notice before the switch, another 60-day opt-out time after the switch, or a total of 120 days to choose to opt out. Councilmember Posey stated that positive news is coming regarding some large utility users who are in discussions regarding the competitive advantage that CCE can provide. Councilmember Posey and Consultant Saleba discussed how CCE can borrow the money to purchase power at about four percent (4%) whereas Edison pays about eight percent (8%), and the overhead costs for CCE with two or three employees compared to Edison's hundreds doing product procurement, are much less. Those CCE savings are passed on in the form of cheaper rates for consumers. CEO Probolsky stated CCE expects to be fully staffed with eleven positions in a few years.

Councilmember Peterson and Consultant Saleba discussed that the two consumer opt-out options of 60 days will not incur a cost for the consumer; however, outside of those timeframes the consumer is required to provide a 6-month opt-out notice to the CCE and can opt back in, with a 12-month commitment, for \$5 per month fee for residential, or approximately \$25 per month fee for commercial accounts. Councilmember Peterson stated his opposition to maintaining membership with the Orange County Power Authority (OCPA).

Mayor Carr and CEO Probolsky discussed the legal communication requirements to notify consumers of their options. CEO Probolsky stated that the outreach plan is being developed and expected to start in about 9 months. Attorney Ryan Baron stated that the customer enrollment process, including communication schedule, has to be approved by the Public Utilities Commission (PUC).

Councilmember Peterson, CEO Probolsky and Consultant Saleba discussed the process for a city that may decide in the future to withdraw from the Orange County Power Authority, which would require a 180-day notice. It was explained that one city which pulled out of a CCE was able to sell their pre-purchased power options for a profit on the open market.

Councilmember Delgleize and Consultant Saleba discussed a statement made by a community member that the real cost for electricity is moving it through the transmission lines and it is hard to believe that savings of \$200/year can be realistic for the residential consumer. Consultant Saleba explained that the

wire charge is the same whether or not you are a CCE customer; however, the power supply cost is the component that will be reduced for the CCE customer.

A motion was made by Posey, second Delgleize to maintain membership in the Orange County Power Authority Community Choice Energy Joint Power Authority.

The motion carried by the following vote:

AYES: Kalmick, Carr, Posey, Moser, and Delgleize

NOES: Peterson, and Ortiz

COUNCILMEMBER ITEMS

22. 21-096 Approved Item Submitted by Councilmember Moser — Directed staff to prepare a temporary ordinance that limits the fees paid by restaurants to third party delivery services during the COVID-19 pandemic

Councilmember Moser provided a brief history of third-party delivery services, stated some are charging restaurants up to 30% since the pandemic forced restaurant closures, and a temporary ordinance would place a 15% cap on fees paid by restaurants and a 5% cap on non-delivery fees paid by customers until current COVID-19 restrictions are lifted for indoor and outdoor dining.

Councilmembers Delgleize and Moser discussed how the delivery services have responded to similar ordinances in other cities, and Councilmember Moser explained that restaurants typically increase menu prices to cover delivery service fees which are activated when apps are used for restaurant orders.

Mayor Pro Tem Ortiz thanked Councilmember Moser for bringing this item forward.

Councilmember Peterson explained that he cannot support this item in a free market society, as he does not think it is not appropriate to take from one business to give to another business. He added that the restaurants negotiate their third-party delivery service fees, usually based on volume.

Councilmember Moser responded by stating that the four major delivery services (DoorDash, Grubhub, Uber Eats and Postmates) reported nearly twice the revenue from April to September 2020 compared to the year prior, and she doesn't believe the very small businesses have the volume to be able to negotiate rates.

Councilmember Peterson stated he is not in favor of making even temporary rules based on a certain industry's profits, and he is still opposed to this item.

Councilmember Kalmick explained that the identified third-party delivery companies are all owned by massive private hedge funds, they are running every dollar out of the pandemic they possibly can, and they don't care if Huntington Beach restaurants can't afford to stay open because they don't live in Huntington Beach. He further stated his belief that this is one way to have a substantial positive impact for local businesses.

Councilmember Posey stated his position that government should not be in the business of price control, and he believes prices are best controlled through competition, therefore he cannot support this item.

Mayor Carr and Councilmember Moser discussed that reports from other cities that have passed similar ordinances do not show that any of the delivery services left their area.

Councilmember Delgleize suggested the proposed ordinance have a specific ending date. City Manager Chi stated that if Council decides to move forward it would be best to link the expiration date with either the Governor safely re-opening the economy, or when the local emergency declaration ends.

Councilmember Kalmick confirmed with City Manager Chi that the final decision on how long the temporary ordinance would be in effect will be decided when the proposed ordinance is brought back to Council.

A motion was made by Ortiz, second Moser to recommend that the City Council direct staff to prepare a temporary ordinance that places a 15% cap on fees paid by restaurants and a 5% cap on non-delivery fees paid by customers until current COVID-19 restrictions on both indoor and outdoor dining are lifted.

The motion carried by the following vote:

AYES: Kalmick, Ortiz, Carr, Moser, and Delgleize

NOES: Peterson, and Posey

23. 21-102 CONSENSUS REACHED TO TABLE Item Submitted by Mayor Carr, Councilmember Posey, and Councilmember Kalmick — Consideration of a No Confidence Vote in Mayor Pro Tem Ortiz, and Removing him from the Mayor Pro Tem Leadership Role

Mayor Carr introduced this item by describing the honor and dignity her position requires every day to serve the community, and described how she took advantage of every learning opportunity when first elected because she had never been a Council Member before. She described her ambivalence to nominate newly elected Councilmember Ortiz as Mayor Pro Tem, but shared that a personal meeting with him beforehand convinced her that his heart was in the right place regardless of having no previous City board or commission service, and she thought he would be capable of making a positive impact for the City. Mayor Carr stated that politics plays no part in her opinion of Mayor Pro Tem Ortiz, and that her focus is on what's important for the citizens of Huntington Beach. She shared her impression that Mayor Pro Tem Ortiz appears to be more concerned about his personal philosophy rather than what is best for the City. She also stated need for a Mayor Pro Tem she can count on to represent her, following the mandated safety protocols during this pandemic and based on his comments to the press, the community and on social media, she has lost faith in his ability to truly represent the City. She stated that this action was brought forth as a result of the texts, phone calls and emails she received from people in the community who were also concerned about his actions.

Councilmember Kalmick stated this action has nothing to do with politics, but is about stepping up to lead and use good judgment in making decisions while representing all residents of Huntington Beach. Councilmember Kalmick described making a phone call to Mayor Pro Tem Ortiz to set up a meeting to strategize on how they could work together for the benefit of the City and stated that phone call was never returned. Councilmember Kalmick further stated the Council didn't want to suspend Resolution No. 6320 (parliamentary procedure for selection of a Mayor and Mayor Pro Tem), and put another Councilmember in the Mayor Pro Tem position because they had faith Councilmember Ortiz was up to the challenge. Councilmember Kalmick added that communication with fellow Councilmembers, and participating in what are sometimes long and boring meetings, are part of being an effective team member. He acknowledged the unique life perspective that Mayor Pro Tem Ortiz has and believes that

his voice is important, but his behavior has not matched what is required of someone who truly represents the whole City, including no evidence of his reaching out to fellow Councilmembers asking for their help to assist him in becoming a successful Mayor Pro Tem.

Mayor Pro Tem Ortiz stated appreciation for the many messages of support from residents of Huntington Beach, and described some of the challenges he experienced while growing up in Huntington Beach, and his decision to not become a victim. He described how he worked hard to achieve his goals and objectives, including protecting Huntington Beach, along with many residents, when threatened by protesters this past summer. At that time, he realized he wanted to find a way to give back to his City, which led to his decision to run for City Council. He worked a non-stop campaign for three months to meet with thousands of residents and the residents rewarded his efforts by providing him with more votes than any other Council candidate in the City's political history. He discovered that his journey was encouraging to many Hispanics of all political parties that they too could achieve their political goals and aspirations, but unfortunately, he has also experienced repeated attacks because of the "political" interpretation of science which seems to vary, depending upon which state you live in. He stated that Huntington Beach has been criticized for many years for its lack of Hispanic representation on the City Council, but he feels there is an effort by certain members of the leadership team to disrespect his Council position. He expressed concerns about not being kept informed of important events in the last couple of months, and took it upon himself to have multiple meetings with Downtown business owners, concerned citizens and business leaders to resolve problems and discuss appropriate solutions to ensure he is properly informed and his vote on Council items represent the constituents. Despite the local and national efforts to silence and censor conservative voices, Mayor Pro Tem Ortiz stated his intentions to proudly continue representing Huntington Beach residents as Mayor Pro Tem. He expressed his belief that this City Council will do the right thing and not attempt to ignore the will of the greatest number of voters in Huntington Beach. He stated he is not perfect, has made mistakes, for which he apologized, and is attempting to learn how to best represent Huntington Beach. He stated he has never been a politician and was surprised to have Mayor Carr introduce herself to him as a Democrat. He described combativeness and fighting to survive his whole life, and he certainly did not expect the constant attacks he's received since becoming a Councilmember which he explained have kept him in a defensive mode.

Councilmember Delgleize described the ways she reached out to learn about and understand the role of a Councilmember. She expressed her opinion that Mayor Pro Tem Ortiz is capable of and intent on contributing in positive ways, and because she wants to see him succeed, stated she has shared with him details via email regarding opportunities to learn for new Councilmembers. Councilmember Delgleize further described her efforts as Mayor to focus on ways to help Huntington Beach become a City of Kindness, and stated that the residents now want to see the same passion from him about doing what is best regarding the pandemic as he exhibited in the summer to protect the City from protesters. Councilmember Delgleize stated she would not be supporting the item tonight because Mayor Pro Tem Ortiz was duly elected, and stated her expectation that Mayor Pro Tem Ortiz will take a stand, wear a mask when required, and become the leader the residents want.

Mayor Pro Tem Ortiz defended his social media postings regarding mask wearing by explaining that the information shared comes from people in the medical field, adding he is not posting lies.

Councilmember Posey described several conversations he had with then City Council Candidate Ortiz where he advised him to analyze the budget and become familiar with the City Charter, and offered to help if he had any questions. After a successful election, Councilmember Posey stated he left a voice message asking for a meeting so they could get to know each other, and he never received a reply.

Councilmember Posey explained that the Mayor Pro Tem must be involved in the Economic Development and IRC meetings, as well as Agenda Review meetings, none of which Mayor Pro Tem Ortiz has attended. Councilmember Posey described the many opportunities he took to learn about his responsibilities as a new Councilmember, and his involvement in regional boards to become an effective Councilmember, and stated that Mayor Pro Tem Ortiz needs to get involved in these opportunities to become a truly effective and policy-making influencer. Councilmember Posey explained that the difference between a private citizen and a public servant is what you say and how you say it, and a Councilmember is supposed to be non-partisan. He also explained that he wears a mask out of respect for others, not because he believes or does not believe in wearing masks.

Councilmember Posey made a motion to table the item for 6 weeks and to bring it back in the middle of March to re-evaluate if Mayor Pro Tem Ortiz has exhibited different actions that demonstrate his ability to serve effectively as Mayor Pro Tem.

Councilmember Moser, a life-long resident of Huntington Beach, explained that her involvement in public service began a number of years ago when she became concerned about division at local and national levels. She explained her belief that effective leaders are committed to truth and fact, and wearing a mask demonstrates that commitment. She continued by explaining that a vote of no confidence as Mayor Pro Tem would not negate the fact that Mr. Ortiz was elected to the City Council. She also described opportunities to participate in activities that have helped her have a better understanding of her role as a Councilmember, and encouraged Mayor Pro Tem Ortiz to do the same. Councilmember Moser stated that she defines "common community values" mentioned by so many members of the public in their communications on this issue as honesty, personal responsibility, and protecting the health and safety of the community. She concluded by stating that if Mayor Pro Tem Ortiz agrees to do his best to support those core values, she will also vote to oppose this item.

Councilmember Moser and Mayor Pro Tem Ortiz had further discussion on the summer's protest activities and clarified their differing opinions on the events and communications that led to Mr. Ortiz personally getting involved, and agreed to engage in future dialogue to help people better understand diversity of thoughts and ideas to provide opportunities for change and expansion of viewpoints.

Councilmember Peterson expressed his opinion that Mayor Carr would have demonstrated leadership had she confronted Mayor Pro Tem Ortiz personally to address her concerns, versus a public spectacle taking hours of Council and public time. He further stated his opinion that each Councilmember has people who love them, and people who hate them but regardless, most people just want Council to focus on doing what is right for the City. Councilmember Peterson described his failure to return a phone call from Councilmember Kalmick requesting a social meeting, and his belief that it is up to each individual to decide for themselves whether or not to regularly schedule time with the City Manager as some have suggested Mayor Pro Tem Ortiz should be doing. Councilmember Peterson shared his opinion that this item should just be tabled with no stipulation to bring it back at a future date.

Mayor Carr stated she would like to focus on her initial concerns about Mayor Pro Tem Ortiz being unavailable to fill in for her, and his inability to provide accurate, credible information as he has misrepresented himself and the City. She also claimed that Mr. Ortiz mischaracterized their initial introduction and her introducing herself as a Democrat, sharing that he failed to include the full context of the conversation about political partisanship and the importance of focusing on the City as a whole.

Mayor Carr provided support for Councilmember Posey's motion because she believes Mayor Pro Tem Ortiz can improve by using better judgment, being open to understanding opposing views, and becoming an honest and transparent Councilmember.

Councilmember Peterson reiterated his opinion that the item be tabled indefinitely as he doesn't understand whose standards are going to be used to determine if Mayor Pro Tem Ortiz's actions measure up in the next six weeks, and that Mayor Carr can bring this issue back in the future if she believes it is the appropriate method. Councilmember Peterson further explained that virtual meetings prevent the typical conversations and sharing that previously happened with fellow Councilmembers at in-person meetings.

Councilmember Posey advised Mayor Pro Tem Ortiz to make it a priority to review the White Paper information in the City Council Manual titled *The Ethics of Speaking One's Mind* and start by incorporating those practices and disciplines in his social media communications. Councilmember Posey stated his continued opposition to censuring, and added that there should be actionable results from successful communication which will be demonstrated if Mayor Pro Tem Ortiz is sharing, involved and dedicated to making Huntington Beach a better place. In his opinion, the phone is still an effective communication tool whether there are in-person meetings or not.

Mayor Carr stated her hope that continued effort and dialogue to address the issues will not require another Councilmember Item in six weeks, and suggested tabling this item with the understanding that the authors can bring it back anytime in the future if necessary.

Mayor Pro Tem Ortiz thanked everyone and stated he will work harder to be less defensive and more effective. Councilmember Posey reminded Mayor Pro Tem Ortiz that he is surrounded by experts with experience who are willing to assist and support him if he chooses to reach out to them.

A substitute motion was made by Carr, seconded by Peterson, to table the item indefinitely. With no shared objections, a consensus was reached.

COUNCILMEMBER COMMENTS (Not Agendized)

Councilmember Moser encouraged everyone to go to the Human Relations Task Force website and sign up for the virtual Cultural Cinema Showcase which takes place, Friday, Saturday and Sunday, February 5th, 6th and 7th.

Councilmember Delgleize announced that Tuesday, February 2, is the second day of the virtual Association of California Cities - Orange County (ACC-OC) Sacramento Advocacy trip from 9 to 11 AM.

Mayor Carr announced she is moderating another virtual COVID-19 Vaccine Town Hall with Orange County Health Department.

ADJOURNMENT — 12:07 AM on February 2, 2021, to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, February 16, 2021, at 4:00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>

City Clerk and ex-officio Clerk of the City Council of
the City of Huntington Beach and Secretary of the
Public Financing Authority of the City of Huntington
Beach, California

ATTEST:

City Clerk-Secretary

Mayor-Chair