

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, September 21, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

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

6:00 PM - COUNCIL CHAMBERS

CALLED TO ORDER A SPECIAL MEETING OF THE CITY COUNCIL/PUBLIC FINANCING AUTHORITY — 6:00 PM

ROLL CALL

Mayor Strickland announced that pursuant to Resolution No. 2001-54, Councilmember Burns request for absence was excused.

City Attorney Michael Gates requested and was granted permission to be absent pursuant to City Charter Section 309 (d), and Acting Chief Assistant City Attorney Paul D'Alessandro attended the meeting in his place.

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Bolton
Absent: Burns

Councilmember Bolton stepped away from the meeting from 6:32 PM – 7:15 PM for Back-to-School Night.

PLEDGE OF ALLEGIANCE — Led by Assistant City Manager Travis Hopkins

INVOCATION

1. 23-809 Huntington Beach Police Chaplain Bob Ewing

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.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads.

Administrative Item #3 (46 email communications)

ADMINISTRATIVE ITEM

2. 23-808 Presentation of potential Charter amendments proposed by Charter Ad Hoc Committee Members Strickland, Van Der Mark and Burns

Mayor Strickland and Mayor Pro Tem Van Der Mark verbally described the Ad Hoc Committee process, timeline and proposed Charter amendments.

ELECTIONS (Sections 702, 705-new):

Voter ID: This item is meant to align with the County's current voting process by asking in-person voters to produce an ID when they state their name and address to verify they are on the voter roll. The committee suggests this as an enhancement to the Orange County Registrar of Voters (OCROV) current practices. To date, the OCROV has yet to take a position on this proposal, and staff estimates it could cost \$1.1M to independently implement the complete election process should the OCROV fail to support it. Additionally, managing the complete election process is not the goal of the Ad Hoc Committee.

Additional Polling Locations: The Committee's recommendation of adding 20 new residential voting locations is intended to increase in-person voting opportunities. An inquiry to the OCROV on this proposal has been met without a response or objections.

Drop Box Monitoring: This item is suggested to build confidence in the drop box process as the OCROV does not currently monitor drop boxes. In light of experiences and concerns from past elections, the Committee suggests monitoring either by camera or another technology that resources allow. This recommendation is not intended to replace or discourage mail-in voting, nor does the Committee expect the City to take on conducting elections, but rather the Committee's objective is to support faith and trust in the voting process and the results.

CITY ATTORNEY (Sections 304, 309):

The Ad Hoc Committee's recommendations related to the City Attorney position do not give this position any new powers, but merely clarify the position's responsibilities to fairly represent the City in all legal matters and strike the vague language in Section 304 which is currently inconsistent with State law regarding attorney/client relationships, and City Council responsibilities.

The proposed changes to Section 309 make it clear the City Attorney is the protector of the City Attorney/client and attorney work product material, unless there is a City Council vote to disclose such material, which is consistent with State law.

The final proposed change for the City Attorney position provides a guardrail to protect the City Attorney's compensation and department budget from political interference and prevent a repeat of past actions by previous City Councils that negatively impacted the functions of elected City Attorney (and City Treasurer, for that matter). The Ad Hoc Committee believes that such guardrails will protect the elected City Clerk, City Treasurer and City Attorney departments from possible City Council defunding.

CITY CLERK QUALIFICATIONS (Section 310): Proposed changes to Section 310, relating to the City Clerk qualifications, are intended to increase community participation for this position, and to use accurate degree titles. No other California charter city requires a four-year degree to run for City Clerk,

and the purpose of the proposed changes is to remove ambiguous language which is open to subjective interpretation.

INVESTIGATIONS OF MALFEASANCE (Section 314-new): This proposed Charter item seeks to clarify that for elected officials, whether City Council, City Attorney, City Clerk or City Treasurer, it is not appropriate for other elected officials or City staff to instigate outside investigations, nor should their email or other materials be searched or read by City staff. Investigations should be done by outside independent agencies to ensure there is no conflict of interest and to remove the potential for wrongdoing.

FLAGS (Section 806-new): The intent of this amendment is to provide Charter authority for the City's current flag flying policy and to allow exceptions for Olympic flags or any other flag the City Council may approve through unanimous consent.

BIENNIAL BUDGET (Sections 401, 601, 602, 603, 604, 605): The intent of recommending a two-year budget is to make it easier for staff, and build in more predictability and planning for future expenses and opportunities to identify revenue streams. This item is supported by Chief Financial Officer Sunny Han.

CLERK AND TREASURER ELECTION CYCLE (Section 300): Proposed to simply align the elections of these positions with the gubernatorial cycle.

PROPERTY TAX REAL ESTATE TRANSACTIONS (Section 618-new): Proposed by Councilmember McKeon in July 2023, the item addresses concerns that the City had engaged in real estate transactions which resulted in taxpayers forgoing approximately \$500,000 in property tax revenue per year. The Ad Hoc Committee recommends the voters should decide whether or not transactions should be entered into by the City that result in forgoing of property tax revenue.

MEASURE C UPDATE (Section 612): Proposed for more flexible Measure "C" spending by permitting park and beach improvements such as new or upgraded restrooms and playground equipment. Measure "C" was a citizen driven ballot initiative many years ago which was not drafted by City staff, nor approved by City Council for the ballot. Interpreting Measure "C" has always presented challenges and has tied the City's hands in keeping parks and beach child friendly, safe and esthetically pleasing.

CANCELLATION OF MEETINGS (Section 303): This is a clean-up effort related to Council meetings and conducting business in a proper, efficient and orderly manner.

PUBLIC COMMENTS (90-Second Time Limit) — 38 Speakers

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>.

Barbara Shapiro, Huntington Beach homeowner, was called to speak and stated her opposition to all proposed Charter amendments. (00:25:13)

Shirley Dettloff, a resident since 1964, was called to speak and stated opposition to all proposed Charter amendments because of the process being used. (00:26:57)

Shammy Dee was called to speak and stated dissatisfaction with the focus and performance of the newly elected Councilmembers. (00:28:40)

Betty Kanne, 40+ year resident, was called to speak and stated opposition to all proposed Charter amendments. (00:30:28)

Buzz McCord was called to speak and stated opposition to all proposed Charter amendments. (00:31:56)

Wendy Rincon was called to speak and stated interest in clear answers to the questions the residents have raised about the proposed Charter amendments. (00:33:21)

Linda Moon, a 49-year resident, was called to speak and shared her opinions related to the proposed Charter amendments regarding elections and office of City Attorney, including the fact that the Orange County Board of Supervisors is the ultimate authority on conduction of elections in the County. (00:34:35)

Andrew Einhorn, Huntington Beach resident, was called to speak and stated opposition to proposed Charter amendments. (00:36:18)

Tim Geddes, a 40-year resident with over 20 years of civic affairs involvement, was called to speak and stated the need for tangible evidence, real facts and figures regarding expense and content for the proposed Charter amendments. (00:37:42)

Ms. Reed, former U. S. History and Civics teacher, was called to speak and suggested that Councilmembers need to attend classes with her. (00:39:15)

Neal Kuster was called to speak and thanked speaker Linda Moon for explaining how proposed election changes could ultimately be decided by the County Supervisors, and stated he is still waiting for answers to the questions community members are asking about the proposed Charter amendments. (00:41:16)

Bethany Webb, longtime resident, was called to speak and asked Councilmembers to stop focusing on issues that do not exist and to focus on their core responsibilities. (00:42:52)

Unnamed Guest was called to speak and shared his opinion that Councilmembers are not listening to, not adequately responding to, resident questions. (00:44:10)

Cathey Ryder, resident voter since 1985, was called to speak and shared her concerns related to lack of budget transparency, expected deficits, and effect of a special election on finances. (00:45:54)

Mary Kyle, 25-year resident, was called to speak and stated opposition to all proposed Charter amendments. (00:47:25)

Brenda Glim, a resident, was called to speak and shared her opinions on Council focus and actions. (00:49:03)

Amory Hanson was called to speak and suggested an additional Charter amendment requiring a special election in the event of a Council vacancy, unless the Councilmember's term would soon expire and a General Election would soon be held anyway. (00:50:48)

Meg Robinson was called to speak and shared her opinion related to potential election costs if the election related proposed Charter amendments are passed. (00:51:41)

Ken Inouye, a 50-year resident, was called to speak and stated his interest in knowing what the proposed Charter amendments could cost with a proper accounting, amount of funds in the Unrestricted Reserve account, and City Attorney's legal opinion on the legality of the proposed Charter amendments. (00:52:59)

TJ England, 55-year resident and homeowner, was called to speak and shared her concerns about various decisions made by the current City Council. (00:54:40)

Unnamed Guest was called to speak and shared her opinion that a majority of residents are being ignored by the Councilmembers. (00:56:24)

Jeanne Farrens was called to speak and stated after reviewing the summary statements for the proposed Charter amendments she is more confused, and is opposed to the current grouping of unrelated items. (00:58:05)

Andrew Goffe, Candidate for U. S. Congress 47th District, was called to speak and shared his opinions regarding proposed Charter amendments related to voter ID and monitoring of ballot collection boxes. (00:59:49)

Mary Martin, a resident since 1989, was called to speak and stated opposition to all proposed Charter amendments. (01:01:19)

Steve Wells was called to speak and shared his opinions referencing newly-elected Councilmember campaign platforms. (01:02:55)

Kathryn Goddard was called to speak and stated opposition to all proposed Charter amendments, and suggested the appointment of a citizen Charter Review Commission to proceed in a transparent manner. (01:04:28)

Diana Lithgow, 41-year resident, was called to speak and stated opposition to the proposed Charter amendments. (01:05:52)

Harry McLachlan, a resident, was called to speak and stated opposition to proposed Charter amendments #1, #2 and #3. (01:07:02)

Ann Palmer, 30-year Huntington Beach homeowner, was called to speak and stated her support for some, but not all, of the proposed Charter amendments. (01:08:39)

Synde Manion, resident, was called to speak and stated opposition to all proposed Charter amendments. (01:10:14)

Unnamed Guest was called to speak and stated his opposition to the proposed Charter amendment regarding voter ID. (01:11:36)

Perry Clitheroe was called to speak and stated opposition to the proposed Charter amendments related to voting without evidence of wrongdoing by the Orange County Registrar of Voters. (01:13:13)

Ellen Riley was called to speak, recommended implementing a Citizen's Oversight Committee for Huntington Beach, and stated opposition to all proposed Charter amendments. (01:14:48)

Laura Sire, 60-year resident, was called to speak and stated opposition to all proposed Charter amendments. (01:16:35)

Paula Schaefer was called to speak and stated opposition to all proposed Charter amendments. (01:18:11)

Melvyn Sterling was called to speak and stated opposition to all proposed Charter amendments. (01:19:51)

Rick Brown was called to speak and shared his opinions regarding several topics. (01:20:41)

Valentina Bankhead was called to speak and stated support for the proposed Charter amendments. (01:22:08)

ADMINISTRATIVE ITEM

3. 23-807 City Council discussed potential Charter amendments proposed by the Charter Ad Hoc Committee and staff; opportunities to propose and discuss additional amendments to be considered for the March 5, 2024 Statewide Primary Election

Mayor Strickland reminded everyone that if Council approves the proposed Charter amendments, there is still the need for voter approval before they would become effective. He also noted the staff report did provide the projected cost of approximately \$370,000 to \$460,000 for putting three items on the March 5, 2024 Statewide Primary Election ballot. Mayor Strickland stated for clarification that he did campaign against the previous Council's proposed Charter amendments, but he did not ever state he would never propose any Charter changes. For the record, he also stated that Acting Chief Assistant City Attorney Paul D'Alessandro worked with the Ad Hoc Committee to ensure the legality of the proposed Charter amendments.

Acting Chief Assistant City Attorney Paul D'Alessandro confirmed there is nothing to prohibit placing Council approved proposed Charter amendments on the March 5, 2024, Statewide Primary election per Section 1415 of the Elections Code and added that none of the proposed Charter amendments fall into several categories that are prohibited.

Councilmember Kalmick stated he extensively reviewed legislative analyses and other sources regarding what is, or is not prohibited, for Statewide Primary elections, and asked Acting Chief Assistant City Attorney D'Alessandro for the specific legislative record. Councilmember Bolton added she would like to see the actual legal pros and cons for each proposed Charter amendment, not legal conclusions without the analyses.

Acting Chief Assistant City Attorney D'Alessandro confirmed that the legislative record is not super clear about the push for collective bargaining rights and noted the difference in California law regarding elected v. other employees who are protected by bargaining rights. In response to Councilmember Bolton's request, Acting Chief Assistant City Attorney D'Alessandro stated City Attorney Gates noted that the City Attorney's Office does not submit written legal opinions or memos into the record of public Council meetings primarily because they can be used as a roadmap to challenge Council's decision. When pressed by Councilmember Bolton, Acting Chief Assistant City Attorney D'Alessandro stated he personally doesn't believe the risk is large for a possible lawsuit.

Mayor Strickland noted part of the purpose for increasing public speaking opportunities is to hear other proposed Charter amendments, such as the one presented by Mr. Amory Hanson regarding Council vacancies. To address this proposal, Mayor Strickland suggested following the process used by the U. S. Senate whereby the Senate makes a short-term appointment until the next election. If the appointee is interested in keeping the position, they must run with all interested candidates at election time where the winner is selected through voter approval.

Councilmember Kalmick noted he made that same Charter amendment proposal for 2022, but also required at least four affirmative votes to appoint someone for the vacancy. There was discussion that the item was most likely voted down because of other items it was packaged with on the ballot.

Councilmember McKeon, speaking as a member of the previous Charter Review Commission, noted there was very little public interest or participation in those meetings. He stated his support for this current process that includes time for public comments and encouraged patience in taking these issues one step at a time.

To answer questions about the budget, Councilmember McKeon provided a brief overview of the budget process and described the initial deficit actually ended up becoming a surplus with additional adjustments, and invited Chief Financial Officer Sunny Han to explain why the budget has not yet been posted on the City's website.

Chief Financial Officer Han stated it takes some time for staff to update and document the impacts of the final budget adjustments which Council approved on June 26, 2023. In addition, several specific criteria are required by the Government Financial Officers Association for the City to continue to receive the distinguished budget award, which it has for 29 consecutive years. CFO Han stated the budget is expected to be released on September 22, along with a press release.

Councilmember McKeon and CFO Han discussed the \$4.9M balance in the Unrestricted Reserve account for next year's budget, plus additional one-time funds received which brings the total balance to approximately \$5.5M.

Councilmember McKeon asked that Councilmembers cordially debate the issues, and noted there is additional public speaking time after Council's discussion tonight to ask questions not answered during this discussion. He noted that Councilmembers will be prepared at the next meeting to answer the new questions presented tonight and determine if the proposed Charter amendments are worth the investment. He noted the importance of civil discourse on differences of opinion, and added that in the end, if a majority of voters do not approve, then none of the proposed items become policy.

Mayor Pro Tem Van Der Mark stated that she did not state during her campaign the City Charter should never be changed, but rather disagreed with some of the proposed Charter changes previously on the ballot. She noted that some of the Charter changes currently being proposed are repeats of the 2022 proposals as recommended by the Charter Review Commission.

Councilmember Kalmick stated he still does not clearly understand whether or not the City can legally require voter ID. In proposed Section 705. Special Provisions Relating to Municipal Elections, he questioned the language in the second sentence, "The City **shall** verify the eligibility of Electors by voter identification." He suggested using words that allow for options, such as ". . . **may** verify . . ." or "the City Council reserves the right to set its own election rules" in case the Orange County Registrar of Voters and/or County Supervisors determine verifying the eligibility of Electors is not legal and possibly demand Huntington Beach hold and pay for their own elections.

Councilmember Kalmick, Mayor Strickland, Mayor Pro Tem Van Der Mark and City Clerk Estanislau discussed how the number of additional in-person voting locations was determined by the Ad Hoc Committee.

Councilmember McKeon shared his opinion that the goal is to increase faith in the election process as well as voter participation.

Councilmember Kalmick suggested the proposed specific election-related Charter amendments could best be implemented through an Ordinance.

Acting Chief Assistant City Attorney D'Alessandro noted that "shall" is mandatory and "may" is permissive regarding verifying the eligibility of Electors. Discussion ensued regarding possible options for the City if any election-related item is ever determined to be illegal by the State Elections Code.

Councilmember Kalmick asked if the intent is not to discourage or replace mail-in ballots, nor is it intended for the City to take on elections, then that should be stated in the proposed Charter amendment. He stated he believes the proposed election-related Charter amendments are creating barriers that do not currently exist for a constitutionally protected right.

Acting Chief Assistant City Attorney D'Alessandro confirmed it is within the legislative power of the City Council to include the information as suggested by Councilmember Kalmick, but currently it is in a legally adoptable format.

City Clerk Estanislau noted there is nothing within the Charter which states Huntington Beach must consolidate with the County for elections, but rather reads that elections shall be held in accordance with provisions of the Elections Code of the State of California.

Councilmember Moser noted research shows that implementing voter ID disproportionately impacts communities that are already underrepresented, and the intent should be to make voting more accessible for every eligible voter. She stated she has full faith in the abilities of the Orange County Registrar of Voters to provide safe and secure elections, including transparency, accuracy, and ensuring every vote is counted securely. Further, she does not believe that Huntington Beach, with limited resources, could provide all of the services needed for safe and secure elections.

Councilmember Bolton stated the importance of signatures and their verification in the voting process, and referenced the State's Election Code process for situations when a signature may be challenged. She stated her concern that if someone challenges the proposed voter ID Charter amendment, she is uncertain if the City would prevail. She would like to see examples of cases and legislative history to support approving the amendment — history that would help clarify potential liability/legal risk and cost.

Chief Financial Officer Han clarified that the current estimated cost to hold an election is \$1.3M – \$1.65M which includes one-time capital costs and recurring costs, but does not include tracking or cyber security.

Councilmember Bolton stated there is no way this item should be proposed without complete financials.

Councilmember Moser stated that most residential polling places will not meet the standards used for determining polling locations, such as the Americans with Disability Act (ADA) compliance.

Councilmember Moser stated she doesn't see justification for requiring voter ID in Huntington Beach because of the cost for a professional secure system, considering that a professional secure system already exists, and there is no proof of voting fraud.

There was discussion of the fact that any Orange County voter can vote anywhere within the County and they will be provided with a provisional ballot which contains the ballot measures for their community of residence.

Mayor Strickland responded there is no intention for the City to hold their own elections, but rather to merge with the County elections.

Councilmember Moser noted the technical difficulties that exist with the MyHB app, and stated her doubt that the City could ensure electronic safety for elections. She also noted not even an estimate of those costs is available at this time.

Councilmember Bolton stated voter ID should not be enshrined within the Charter because it creates unforeseen issues down the road, just like Measure "C" has done.

Councilmember Kalmick moved on to the proposed Charter amendments related to the Office of the City Attorney, and stated he reviewed the documentation for all California charter cities with an elected City Attorney. He asked how the last sentence of Section 304 (b) is presently inconsistent with State law that defines the attorney-client relationship.

Acting Chief Assistant City Attorney D'Alessandro responded that one of the major concerns with the language that was added to Section 304 in 2010 is that it creates an internal inconsistency with Section 309. He added there are recent advances regarding the work product doctrine that this wording is inconsistent with and noted the language in Section 304 (b) is inconsistent with a couple of long held court cases: Hicks v Board of Supervisors and Hutton v O'Connor. The specific rule on attorneys representing corporations is in Section 1.13, which Acting Chief Assistant City Attorney D'Alessandro did not have in front of him.

Councilmember Bolton stated for her it is important to have that information available for a productive discussion. She quoted a clarifying statement from the Cal Cities Guide regarding the relationship between city councils, city attorneys and the voters: "Essentially all of the duties and requirements applicable to appointed city attorneys apply to elected city attorneys. Although the elected city attorney is accountable to the public through the election, the city, not the public, is the city attorney's client." She believes the city council is the client that makes decisions and holds the attorney-client privilege, not the city attorney. Councilmember Bolton sees the proposed attorney changes as ridiculous, not consistent with law, unworkable, bizarre, and an emotional response to a situation that happened a couple of years ago.

Mayor Stickland responded that the proposed language is similar to Long Beach's Charter.

Acting Chief Assistant City Attorney D'Alessandro agreed there are similarities with Long Beach, the city is the client, the city is directed by the city council for matters such as setting policy and settling lawsuits, but none of this affects the proposed change for Section 304 (b). He noted it is not unusual for city charters to express concern about certain employees, such as the Huntington Beach Charter which has a special carveout for the Police Chief, who cannot be fired, without the consent of the Council, by the City Manager.

Councilmember Bolton and Acting Chief Assistant City Attorney D'Alessandro further discussed the effect of the proposed changes, and Acting Chief Assistant City Attorney D'Alessandro stated the changes do not take away the privilege from the client but confirm the attorney's duty is to maintain and protect all confidential attorney-client privilege and attorney work product information. The privilege still resides with the city, as the client, expressed through the will of the Council. Or, if there is a document protected by attorney-client privilege, that privilege is not held by an individual Councilmember, but is held by the City expressed through a majority of the Council.

Acting Chief Assistant City Attorney D'Alessandro agreed that implementation is a different question from what is being proposed, which is legal and able to be voted upon by the people.

Councilmember Moser and Acting Chief Assistant City Attorney D'Alessandro further discussed that the City is the client and the City Council as a whole is authorized to speak on behalf of the client. Acting Chief Assistant City Attorney D'Alessandro stated the City has adopted a lot of rules and regulations where it has delegated to various members of staff in various other instances.

Councilmember Moser shared portions of her previous email communication with City Attorney Gates to demonstrate her concern about how the City Attorney is treating the public. Acting Chief Assistant City Attorney D'Alessandro clarified that Councilmember majority can only legally act in a Closed Session or City Council meeting, not as individuals outside of those meetings.

Councilmember Kalmick noted that the City Charter will no longer contain any language that says the City Council shall have control of all litigation, and the proposed action appears to isolate the City Attorney's role as being very independent and moves power away from the City Council and delegating through the Charter to other elected folks. He also stated the proposed budget Charter amendments appear to be restricting Council consideration with a formula and not allowing discretion for including community priorities.

Mayor Strickland invited Alisa Backstrom, City Treasurer, to describe how a former City Council, through Ordinance 3097, purported to transfer a majority of the City Treasurer's Charter mandated powers and duties to the Finance Department. City Treasurer Backstrom noted that an ordinance cannot be in conflict with the Charter and stated that elected officials are accountable to the citizens who voted them in to be stewards of the taxpayer monies as check and balances within the operational structure.

Councilmember Kalmick stated the budgetary recommendations appear to put up walls with no emergency ladders for a fiscal emergency, and he objected to the proposed Charter directed locked in percentage.

Mayor Strickland and Councilmember McKeon stated the attempt is to prevent another Council from arbitrarily removing the power and duties of an elected official.

Councilmember Kalmick believes there are better ways to do that without locking up the budget.

City Treasurer Backstrom clarified she was hired for the position after a previous Council acted to purportedly remove Charter mandated powers and duties, during a time when the former City Treasurer had resigned to accept her election to the County Treasurer position. In response to Mayor Pro Tem Van Der Mark's question, as to whether or not it appeared the taxpayer monies were negatively impacted through the changes, City Treasurer Backstrom stated now that her duties have been realigned she has seen areas that can possibly be improved with more focus, such as the collection of delinquent accounts, procuring savings through review of current contracts which haven't gone out to bid for some time, review of business processes for potential improvements to enhance internal controls, and reviewing how current technology may save time and money.

Councilmember Moser stated she concurs with Councilmember Kalmick's statements and suggested the proposed Charter amendments should be handled through ordinances. In her opinion, it is not appropriate for the City's future budgeting policies to be cemented to this Council's governing approach, or current circumstances. The main function of the City Council is to determine the budget, including for elected offices.

Mayor Strickland expressed appreciation for the suggestions made by Councilmembers Kalmick and Moser, and stated he would revisit the proposed amendment's reference to budget.

Councilmember McKeon thanked all Councilmembers for participating in this discussion, and the process to fine-tune the proposed Charter amendments. He added that even if some of the issues being addressed happened in the past, it is appropriate to discuss, uncover facts, and determine if guardrails should be implemented to prevent repeat incidents.

Councilmember Bolton stated she cannot support hamstringing any future Council with a specific budget percentage in a Charter amendment.

Councilmember Kalmick stated that Council should be focused on creating equity by stating a budget could not be decreased unless it is decreased across the board for all departments. He also noted that changing an ordinance allows for public input without requiring the costs of an election.

Councilmember Kalmick weighed in on the proposed changes for the City Clerk educational requirements, noting some city charters don't address job requirements, but rather it is addressed through the municipal code. He also stated that more and more Orange County cities are appointing, rather than electing, their City Clerks.

Mayor Strickland stated the intent is to remove ambiguity and prevent one person from subjectively determining what an appropriate related field is.

When asked by Councilmember McKeon, City Clerk Estanislau noted that "related field" is used in most job applications, and the process typically used by Human Resource departments is to in addition, review experience and where that experience was acquired. City Clerk Estanislau explained if she had any questions or reservations about the qualifications of a particular City Clerk applicant, she would seek involve the City Attorney or other City staff in the discussion and decision process. She stated that in her review of all Orange County City Clerk job descriptions, 23 of 31 cities have qualifications that refer to Public Administration, Business Administration, Public Policy or Records Management. She respectfully suggested having the term "administration" follow "business" for a correct degree title, but objected to the removal of "or related field" language.

Councilmember Moser stated that if the concern is ambiguity, then stating Business Administration or Bachelor of Science would be appropriate, as well as keeping "or related field".

Councilmember Bolton stated support for Councilmember Moser's comments.

Mayor Strickland stated he is not trying to lower the standards as some have said, but rather he is attempting to eliminate ambiguity to ensure anyone can understand whether or not they qualify to run for City Clerk in Huntington Beach. He added that changing to an appointed position is a different discussion.

Councilmember McKeon noted that Measure "C" was passed to protect the City's open spaces, parks and beach, and has tied hands related to renovating existing facility structures and there is a need to remove ambiguity.

Director of Community & Library Services Ashley Wysocki described the need to define what a structure is, noted the Measure "C" minimum dollar amount threshold of around \$220,000 is under the cost of most current projects, and the 3,000 sq. ft. limitation is really a very small footprint. She stated that the volume of work and cost required to bring a shovel-ready project to a vote of the people is prohibitive, especially if the project is voted down. She defined staff recommendations to remove the restrictive dollar amount threshold and bringing a project to a vote of the public at the conceptual phase.

Councilmember McKeon stated his support for bringing a project to a vote of the public at the conceptual phase, and allowing City Council to ensure the project stays within budget. Determining parameters for renovating existing structures, as well as controlling a project through square footage rather than by footprint are additional items to consider changing.

Councilmember Moser stated her support for staff recommendations, believes the proposed added language is still too ambiguous. and recommended taking the time needed for more staff discussions. She stated the ultimate goal of Measure "C" was to preclude commercial development on public property, but in the end it has actually made it nearly impossible to do things that would benefit the entire community.

Councilmember Moser and Director Wysocki discussed the process of determining whether or not a park change or improvement plan will potentially need to go to a vote of the people.

Councilmember Moser stated her interest in keeping any changes to Measure "C" as close as possible to the original intent. She believes this will require more time and might help to also ensure voter approval. She provided examples relating to the lease portion of Measure "C" and suggested more time is needed to adequately consider some changes there also.

Director Wysocki confirmed the first need is to define "structure", then determine if existing buildings currently meet the needs for public service delivery and provide an opportunity to reimagine those spaces to ensure the longevity of public open spaces while being flexible and fluid in meeting the demands of a growing community. She stated it is a complex issue that may not be totally answered in a week.

Councilmember Bolton returned to the issue of election costs, noting all of the various numbers that have been stated, to illustrate the need for more time to prepare proposed Charter amendments. She doesn't believe there is any need to rush something as important as this.

Councilmember Moser shared her opinion that neither the previous changes presented to update Measure "C", nor the current proposed changes, fix the problem. More time is needed to allow proper staff and community engagement for defining appropriate changes.

Mayor Strickland reiterated the purpose to consider going to a biennial budget is to make the process easier for staff and provide more predictability and better planning.

Councilmember Kalmick stated it seems reasonable, but proposed wording does lock the City into a two-year budget, and he suggested wording change that would allow flexibility.

Mayor Strickland invited Chief Financial Officer Sunny Han to weigh in on this item. She stated that going to a biennial budget process would still include annual reviews and opportunity for mid-cycle adjustments as is currently done. CFO Han also stated that if there are ever items that need to be appropriated or which may fall outside of the budget adoption cycle or mid-year budget update, staff can always bring those items to Council's attention for consideration as a stand-alone item at any regularly scheduled Council meeting.

Mayor Strickland stated he brought the Clerk and Treasurer election cycle item forward and is willing to drop it unless there are objections from anyone. No one had any objections.

Councilmember McKeon invited Acting Chief Assistant City Attorney D'Alessandro to weigh in on options to address malfeasance, or when someone alleges misconduct by an elected official. Acting Chief

Assistant City Attorney D'Alessandro stated this issue could be addressed either through an ordinance or through the Charter.

Councilmember Bolton stated the need for more details regarding the type of investigation such as employment discrimination, harassment, or public corruption, some of which would not be handled by the Attorney General. She suggested more time be spent on this idea, and agreed with Councilmember McKeon that an ordinance could be a proper vehicle.

Councilmember Kalmick stated support for addressing the issues of ethics and malfeasance through an ordinance process with the objective of creating a high barrier for allegations of abuse with a low barrier for complaints.

Mayor Strickland introduced the proposed amendment changes related to cancellation of City Council meetings as a simple fix to an item that is already in the Charter.

Councilmember Kalmick objected to the proposed language and suggested returning to the language presented in the 2022 Charter amendment effort. He also agreed that the Charter reference to "Monday" meetings needs to be addressed. Mayor Strickland asked Councilmember Kalmick to provide the prior language related to this item to staff for discussion at the next special meeting.

Councilmember McKeon introduced discussion on the proposed Charter amendment addressing voter approval for matters affecting the collection of property tax. He stated this is an effort to prevent a repeat of the Joint Power Authority purchase of Elan and The Breakwater properties through government bonds that circumvented determining the will of the voters. Councilmember McKeon shared his opinion that when the government gets involved in private transactions like this it creates issues like the current dispute on "possessory tax", a dispute relating to whether or not the residents become liable for the foregone property taxes, and is now working its way through the court system.

Councilmember Kalmick stated he does not see how the proposed Charter amendment solves the stated problem. He added the need to start with defining "transaction". He referenced the staff report noting the definition does not include water infrastructure (i.e. water lines, reservoirs, etc.), and the phrase "beach facilities" could be generalized to include all "recreational facilities" which are also viewed as infrastructure. Councilmember Kalmick stated he agrees a public policy discussion on this issue is needed but disagrees with the premise used for this proposed Charter amendment, and stated support for addressing the issue through the ordinance process.

Mayor Pro Tem Van Der Mark introduced the proposed Charter amendment relating to display of flags. Council consented to holding this item for the next meeting when Councilmember Burns would be available to join the discussion.

Councilmember Bolton suggested two additional items for consideration: 1) amend Section 307 (Non Interference with Administration) by adding a new paragraph which says something to the effect "The City Council and any other elective officer of the City shall not order, directly or indirectly, the review, removal, restriction of access, prohibition, acquisition, classification rating or placement of any material or content within the collection, possession, or inventory of the City libraries." This will allow the voters to determine how to handle the library issue. 2) amend Section 313 (b) (Provision on Nepotism) which basically states the City Council cannot appoint or ask the City Manager or anyone else to appoint, a relative of any City Councilmember. She proposes added language to specify Councilmembers cannot require the hiring of a relative of any City Councilmember or any other elected department head.

Acting Chief Assistant City Attorney D'Alessandro agreed to add the proper language to address these two issues for next week's discussion.

Councilmember Kalmick noted that all of Measure L from the last ballot initiative, except for #10 regarding Measure "C", was code clean-up and recommended it be included in the current plans. He also would like to see a provision to address Council's ability to hire staff, an addition to the current restriction of addressing issues only through the City Manager. Discussion ensued to confirm a whole process and procedure would be established for implementing Council staff through an ordinance, if the voters approve the amendment.

Councilmember Kalmick noted that he would like to see an amendment that addresses City Council compensation to possibly make it financially possible for better representation of all segments of the community for what is essentially a full-time volunteer job.

Councilmember Kalmick suggested to consider adding a Legislative Counsel position, possibly under the City Manager's office, to help Councilmembers understand legislative duties and possibly alleviate some of the recent tensions. He also suggested setting up an Ethics Committee through the ordinance procedure. He also suggested addressing political endorsements and contributions for elected city positions, using Oakland as an example, and ways other cities allow for a bit of wiggle room in certain situations without requiring a vote of the people.

Councilmember Kalmick also stated his support, from a good government standpoint, for appointed positions to remove the possibility of politicization for the currently elected positions of City Attorney, City Clerk and City Treasurer.

Councilmember Bolton suggested including the same term limits for all elected positions, including Councilmembers, Clerk, Treasurer and Attorney.

A motion was made by Strickland, second McKeon to discuss potential Charter amendments proposed by the Ad Hoc Committee and City staff; propose and discuss additional amendment as needed; and receive and file this report.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Bolton
NOES: None
ABSENT: Burns

PUBLIC COMMENTS (90-Second Time Limit) – 17 Speakers

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>.

Neal Kuster was called to speak and stated his support for cooperative discussions among Councilmembers; setting up another Charter Review Commission to properly review the Charter; asked Councilmembers what they want to hear that would change their vote on the issues being considered; and encouraged more discussion on housing and development. (04:49:01)

Tim Geddes was called to speak and stated his support for allowing the Orange County Registrar of Voters (OCROV) to completely handle the voter process as the professionals they are. (04:50:39)

Wendy Rincon was called to speak and stated her opposition to any local changes in the voting process, encouraged Councilmembers to help educate concerned residents about the safety of the current voting process, and opposition to rushing through the proposed Charter amendment process which precludes a thorough legal analysis. (04:51:38)

Bethany Webb, a resident, was called to speak and shared her opinion there has been no voter fraud in Huntington Beach, and encouraged Councilmembers to focus on cooperative discussions as they did during the later part of this meeting. (04:53:13)

Unnamed Guest was called to speak and stated her dismay at learning of the disrespectful manner in which Councilmember Moser was treated; opposition to any local changes in the voting process; support for cooperative discussions among Councilmembers; and opposition to rushing through the proposed Charter amendment process. (04:54:13)

Unnamed Guest was called to speak and said she wants her tax dollars to pay for City services such as increased hours at libraries or more meals delivered to vulnerable residents; noted election costs being discussed are in today's dollars with no consideration of actual costs in future years; and stated if Measure "C" changes really are so important, it should stand alone on the ballot rather than being bundled. (04:55:55)

Unnamed Guest was called to speak and shared his support for stopping the proposed Charter amendment process since the legality of some of the proposed amendments is not clear, and full costs are not yet known. He stated everyone should be offended at the way an elected official reportedly addressed Councilmember Moser, and suggested if the proposed Charter amendment process proceeds, the items be placed on the General election ballot. (04:57:22)

At 10:58 PM, by consensus, Councilmembers agreed to continue the meeting past 11:00 PM.

Unnamed Guest was called to speak and stated support for using the ordinance process, rather than Charter amendment process, to address these issues. (04:58:45)

Mary Kyle was called to speak and stated support for presenting each proposed Charter amendment as a stand-alone item and encouraged Councilmembers to help educate concerned residents about the safety of the current voting process. (04:59:50)

Unnamed Guest was called to speak and shared his opinion that using the Primary election and requiring voter ID will statistically reduce voter participation; encouraged Councilmembers to help educate concerned residents about the safety of the current voting process; consider that an existing Charter amendment did not stop a rogue Council from breaking the law; and encouraged Councilmembers to focus on cooperative discussions as they did at the end of this meeting. (05:01:23)

Synde Manion, a resident, was called to speak and stated that only 14% of Huntington Beach voters actually voted in the last election and asked for clarification on a number of election-related questions, including processes and costs. (05:03:09)

Unnamed Guest was called to speak and encouraged Councilmembers to focus on cooperative discussions as they did at the end of this meeting, and stated opposition for special budget considerations for the City Attorney's office. (05:04:46)

ADJOURNMENT — at 11:07 PM Van Der Mark made a motion, second by McKeon, to adjourn to a special meeting of the Huntington Beach City Council on Thursday, September 28, 2023, at 6:00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

The next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority is Tuesday, October 3, 2023, 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