

Minutes

City Council/Public Financing Authority City of Huntington Beach

Tuesday, April 16, 2024
4:30 PM – Council Chambers
6:00 PM – Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of the 4:30 PM and 6:00 PM portions of this meeting
is on file in the Office of the City Clerk, and archived at
www.surfcity-hb.org/government/agendas/

4:30 PM - COUNCIL CHAMBERS

CALLED TO ORDER — 4:30 PM

ROLL CALL

Present: Moser, Bolton (arrived at 4:43 pm), Burns, Van Der Mark, Strickland, McKeon, and
Kalmick
Absent: None

CITY COUNCIL MEMBER COMMENTS (3-Minute Time Limit)

Councilmember Moser announced the Greater Huntington Beach Interfaith Council's Community Day of Service event to be held on Saturday, April 20 from 9:00 am to Noon in Huntington Beach Central Park.

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

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

RECESSED TO CLOSED SESSION FOR ITEMS #1–9 — 4:32 PM

A motion was made by Strickland, with a second by Burns, to recess to Closed Session.

CLOSED SESSION

1. 24-237 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Van (Dinh Cong) v. Lukehart (Brendan Cameron), City of Huntington Beach, et al.; OCSC Case No.: 30-2023-01363173-CU-PA-CJC.
2. 24-238 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Pacific Airshow, LLC v. City of Huntington Beach and Kim Carr; OCSC Case No. 30-2022-01287749.

3. 24-239 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Clayton-Tarvin (Gina) v. City of Huntington Beach, Michael Gates, et al.; OCSC Case No.: 30-2023-01329927.
4. 24-240 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Frahm (Robert), et al. v. City of Huntington Beach; OCSC Case No.: 30-2023-01319592.
5. 24-241 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). City of Huntington Beach v. Newsom/HCD (RHNA); 8:23-CV-00421-FWS (ADSx).
- ~~6. 24-242 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Gapezzani (Gary) v. John Romero, City of Huntington Beach; OCSC Case No.: 30-2021-01225030.~~
- ~~7. 24-243 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Segal-Kaloski (Pamela) v. City of Huntington Beach, et al.; OCSC Case No.: 30-2021-01222791.~~
8. 24-272 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Unkovich (Laura) v. City of Huntington Beach, et al.; OCSC Case No.: 30-2022-01297077.
9. 24-273 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Gallier (Michael) v. City of Huntington Beach/Gance; OCSC Case No.: 30-2023-01359146-CU-PO-CJC.

6:00 PM - COUNCIL CHAMBERS

RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 6:00 PM

ROLL CALL

Present: Moser, Bolton, Burns, Van Der Mark, Strickland, McKeon, and Kalmick
Absent: None

PLEDGE OF ALLEGIANCE — Led by Police Captain Bo Svendsbo

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.

10. 24-267 Huntington Beach Police Chaplain Bob Ewing

CITY CLERK'S REPORT (moved forward from original Agenda order)

11. 24-265 2024 Safe and Sane Fireworks Stand Lottery

City Clerk Robin Estanislau presented a PowerPoint communication titled *2024 Non-Profit Firework Stand Lottery* with slides entitled *Public High School Winners (4), Private High School Winner, Ruby Brown-Bilyue, Miss Huntington Beach 2024, City Partnerships Lottery per Resolution 2024-08, Youth Sports (2), Civic Organizations (2), and Good Luck!*

City Partnership Winner/Order of Future Annual Awards:

2024 (Year 1): Huntington Beach Fire Outreach Foundation;

2025 (Year 2): Huntington Beach Police and Community Foundation;

2026 (Year 3): Huntington Beach Council on Aging

Youth Sports Winners:

1) H.B. Divers, DBA Coast Divers; 2) Huntington Valley Little League; 3) North OC Youth Sports Association; 4) Team 90, Inc., dba California Rush; and 5) Seaview Little League

Alternates: 1) Huntington Beach Chargers Youth Football and Cheer; 2) Culture Football Organization; 3) Beach Elite Volleyball

Civic Organization Winners: 1) Compass Bible Church Huntington Beach; 2) Lutheran Church of the Resurrection; 3) Refuge Calvary Chapel Huntington Beach; 4) HB Elks Lodge No. 1959; and 5) Therapeutic Riding Center of Huntington Beach

Alternates: 1) Orange Coast Gakuen, Inc.; 2) HB Council on Aging; 3) Las Damas

CLOSED SESSION REPORT BY CITY ATTORNEY — None

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:

Consent Calendar Item #13 (1 staff memorandum, 12 email communications), Item #14 (1 email communication), Item #15 (1 email communication), and Item #16 (1 email communication).

PUBLIC COMMENTS (2-Minute Time Limit due to number of speakers) — 40 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>.

Shirley Dettloff, resident since 1964, was called to speak and shared her concerns related to City Council proposed changes regarding the Public Library system and City ballot measures in the March 5, 2024, Special Primary Election. (00:23:22)

Shammy D. was called to speak and shared her opinions regarding various actions of the Council majority and asked that they focus on implementing their campaign promises. (00:25:40)

Unnamed Speaker was called to speak and shared her opinions related to City Council proposed changes regarding the Public Library system. (00:28:07)

Stephen Quinn, Huntington Beach resident, was called to speak and shared his opinions related to City Council proposed changes regarding the Public Library system and cultural ideologies. (00:30:21)

Unnamed Speaker was called to speak and shared her opinions related to City ballot measures in the March 5, 2024, Special Primary Election, the multitude of legal cases the City is facing and asked Council to focus on issues like keeping the beach restrooms clean. (00:32:28)

Melissa Ronning, Huntington Beach Public Library Principal Librarian, was called to speak and shared her concerns related to City Council proposed changes regarding the Huntington Beach Public Library system and announced her resignation. (00:34:41)

Gary Potter, a long-time Huntington Beach resident, was called to speak and stated his support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (00:37:00)

Marissa Jackson, Huntington Beach resident, was called to speak, stated support for the comments made by Gary Potter and encouraged residents to get involved in Community Service Day on Saturday, April 20. (00:39:27)

Amory Hanson was called to speak and stated his support for Consent Calendar Item #16 regarding Ordinance No. 4319 related to activities on Huntington City Beach and in the Beach Activity Zone. (00:41:20)

Unnamed Speaker, a 35-year resident and homeowner, was called to speak and shared her opinions regarding policies and proposed changes under the current City Council. (00:42:04)

Wendy Rincon, Huntington Beach 50-year resident, was called to speak and shared her opposition to City Council proposed changes regarding the Huntington Beach Public Library system. (00:44:46)

Andrew Einhorn, Huntington Beach resident, was called to speak and shared his opposition to City Council proposed changes regarding the Huntington Beach Public Library system. (00:46:55)

Vivian Potter, Huntington Beach resident, was called to speak and stated her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (00:48:57)

Unnamed Speaker was called to speak and shared her opposition to City Council proposed changes regarding the Huntington Beach Public Library system. (00:51:17)

Unnamed Speaker was called to speak and stated her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (00:53:16)

Tisha Prieto, mother of two grown children, was called to speak and stated her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (00:55:27)

Mark Tonkovich was called to speak and shared his support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library System and stated his opposition to Public Hearing Item #20 regarding proposed water and sewer rate adjustments. (00:57:41)

Crystal Leon, Huntington Beach resident, was called to speak and stated her opposition to privatizing the Huntington Beach Public Library System. (00:59:09)

Joanne Sosa was called to speak and shared her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (01:01:06)

Unnamed Speaker was called to speak and shared his support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (01:02:49)

Chad Williams, life-long Huntington Beach resident, former U. S. Navy Seal and City Council Candidate in November 2024, was called to speak and stated his support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (01:04:51)

PT Townend, 45-year Huntington Beach resident and Huntington Beach International Surfing Museum Executive Director, was called to speak and stated support for Consent Calendar Item #13 regarding modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District. (01:07:25)

Dina Chavez was called to speak and shared her opposition to City Council proposed changes regarding the Huntington Beach Public Library system. (01:08:46)

Cathey Ryder, Huntington Beach homeowner and voter since 1985, was called to speak and shared her opposition to the City Council's process for proposed changes regarding the Huntington Beach Public Library system. (01:11:01)

Paul Maddison, Pasea Hotel and Spa, General Manager, was called to speak and stated his support for Consent Calendar Item #13 regarding modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District. (01:12:49)

John Villa, Huntington Beach Wetlands Conservancy Executive Director, was called to speak and stated his support for Consent Calendar Item #13 regarding modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District. (01:14:21)

Kelly Miller, Visit Huntington Beach, CEO and President, was called to speak and stated support for Consent Calendar Item #13 regarding modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District. (01:15:42)

Dean Torrence, International Surfing Museum member since 1978, was called to speak and stated support for Consent Calendar Item #13 regarding modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District. (01:17:54)

Gretchen Erickson, 22-year Huntington Beach resident, 16-year City of Huntington Beach employee and Huntington Beach Municipal Teamsters (HBMT) Shop Steward, was called to speak and shared her appreciation for support from various groups and quoted from Administrative Regulation 924, A Respectful Workplace Policy, as found on the City's website. (01:18:25)

Russ Neal, Huntington Beach resident, was called to speak and shared his support for the Council Majority's efforts to uphold the rule of law. (01:20:37)

Tim Geddes was called to speak and stated his opposition to the City Council's proposed privatization of the Huntington Beach Public Library system. (01:23:05)

Paula Schaefer, longtime Huntington Beach resident, Library Volunteer and patron, was called to speak and stated opposition to the City Council's proposed privatization of the Huntington Beach Public Library system. (01:24:53)

Patty C. was called to speak and stated her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system. (01:26:50)

Barbie Arnold, 42-year Huntington Beach resident, was called to speak and stated her support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system and her opposition to Public Hearing Item #20 regarding proposed water and sewer rate adjustments. Mayor Van Der Mark invited Ms. Arnold to complete a blue card for follow-up. (01:29:03)

Dom McGee was called to speak and stated support for ensuring inappropriate sexual material is kept away from young children in the Huntington Beach Public Library system and thanked City Attorney Michael Gates for standing up for Voter ID in Huntington Beach. (01:31:20)

Perry Clitheroe was called to speak and stated his support for ensuring that Huntington Beach meets the State's Regional Housing Needs Assessment (RHNA) numbers and suggested the resulting increased property taxes would be more than adequate to meet anticipated budget shortcomings. (01:33:12)

Pablo Aspas, 16-year Huntington Beach resident, was called to speak and stated opposition to the City Council's proposed privatization of the Huntington Beach Public Library system. (01:35:22)

Unnamed Speaker was called to speak, and shared various opinions related to the City Council's proposed privatization of the Huntington Beach Public Library system. (01:37:37)

Jeanine Studer, 26-year Huntington Beach homeowner, was called to speak and stated her opposition to the City Council's proposed privatization of the Huntington Beach Public Library system and opposition to Public Hearing Item #20 regarding proposed water and sewer rate adjustments. (01:39:53)

Unnamed Speaker was called to speak and shared his opinions related to his experience with the Huntington Beach Police Department. (01:40:33)

COUNCIL COMMITTEE APPOINTMENT ANNOUNCEMENTS — None

AB 1234 REPORTING

Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember Strickland reported attending an Association of California Cities – Orange County (ACC–OC) Advocacy meeting in Sacramento, April 8 – 9, 2024.

OPENNESS IN NEGOTIATION DISCLOSURES — None

CITY MANAGER'S REPORT — Interim City Manager Parra recognized the work of City staff and Visit Huntington Beach (VHB) to bring forward a modified Management District Plan for the Huntington Beach Tourism Business Improvement District.

CONSENT CALENDAR (Items 12-19)

Councilmember Bolton pulled Items #13 and #16 and Councilmember McKeon pulled Items #18 and #19 for further discussion.

City Clerk

12. 24-266 Approved and Adopted Minutes

A motion was made by Strickland, second Burns to approve and adopt the City Council/Public Financing Authority regular meeting minutes of April 2, 2024.

The motion carried by the following roll call vote:

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

Community Development

13. 23-1042 Adopted Resolution No. 2024-13 declaring the City's Intention to Modify the Management District Plan for the Huntington Beach Tourism Business Improvement District, conduct a Public Meeting on May 7, 2024, and set a Public Hearing date of June 4, 2024

Councilmember Bolton pulled this item to confirm with Jennifer Villasenor, Director of Community Development, that modifying the Management District Plan for the Huntington Beach Tourism Business Improvement District could impact the City's ability to raise the Transient Occupancy Tax (TOT) in the future. Director Villasenor noted that at this time it is not possible to know how much the impact could be.

Councilmember Bolton stated support for the proposed public meeting and hearing on this item to fully address resident concerns.

Councilmember McKeon noted that the current Tourism Business Improvement District (TBID) contract runs through 2028 when another review opportunity will be provided.

Councilmember Kalmick invited staff to present details for the benefit of the public.

Kriss Casanova, Economic Development Manager, presented a PowerPoint communication titled *Request to Modify the Management District Plan for the Huntington Beach Tourism Business Improvement District*, with slides entitled *Background; HBTBID; Visit Huntington Beach (VHB); HBTBID Modification Request; OC Product Additions/Enhancements; Proposed Modified Budget (2); HBTBID Modification Schedule; Management Agreement Amendment; Recommendation; and Questions?*

Councilmember Kalmick, Manager Casanova and staff discussed the change from "monthly" to "quarterly" assessments, audit schedule, confirming the Plan would include any lodging facilities developed in the future and future Short Term Rental permits, changes to the budget pie chart allocations, review process in 2028, possible option to not maintain TBID as a City service, as well as review of the process and scheduled meeting dates. It was noted if this item passes, the rate may not be changed but wording may be changed as the process moves forward.

Councilmember Moser echoed Councilmember Bolton's concern regarding the City's ability to raise the TOT in the future and noted it is imperative to remain competitive with surrounding cities. She stated an interest in hearing more at the proposed meetings about the tourism enhancement programs provided by

the TBID and how there can be more transparency on the effect of these enhancements by regular updates throughout the next four years of the Plan.

A motion was made by Strickland, second Burns to Adopt Resolution No. 2024-13, "A Resolution of the City Council of the City of Huntington Beach Declaring its Intention to Modify the Management District Plan of the Huntington Beach Tourism Business Improvement District (HBTBID)", which sets a public meeting date for May 7, 2024, and a public hearing date for June 4, 2024, **as amended by Supplemental Communication.**

The motion carried by the following roll call vote:

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

Police

14. 24-245 Approved Annual Military Equipment Use Report (AB 481)

A motion was made by Strickland, second Burns to approve report and renew Ordinance No. 4255, authorizing the continued use of the listed military equipment by the Police Department; and, find that each type of military equipment identified in that report attached hereto as Attachment 1 complies with the following standards for approval: 1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. 2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties. 3. Any future purchased equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety. 4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

The motion carried by the following roll call vote:

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

**15. 24-264 Adopted Ordinance No. 4317 Amending Chapter 8.42 of the Huntington Beach Municipal Code relating to the use of police services at loud parties or other activities
(Approved for Introduction on 4-02-2024 by a vote of 7-0)**

A motion was made by Strickland, second Burns to adopt Ordinance No. 4317, "An Ordinance of the City Council of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Amending Chapter 8.42 Use of Police Services at Loud Parties or Other Activities."

The motion carried by the following roll call vote:

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

16. 24-263 Adopted Ordinance No. 4319 amending Huntington Beach Municipal Code (HBMC) Chapter 13.08 related to activities on Huntington City Beach and in the Beach

**Activity Zone, and making a finding of exemption under CEQA
(Approved for Introduction on 4-02-2024 by a vote of 7-0)**

Councilmember Bolton pulled this item to ask staff for clarification regarding the intent to use a radius of fifty feet (50 ft.) from an amplification device. She noted some reports that show the lowest setting on some amplification devices actually project out two hundred (200 ft.) minimum and this ordinance would be banning those devices.

Police Lieutenant Smith responded the ordinance uses the "plainly audible" rather than "audible" standard and noted that the devices described by the ACLU letter she referred to, such as 15w personal amplified speakers and 35w megaphones is not comparing "apple to apple" devices.

Councilmember Bolton stated her intent is to minimize an opportunity for a challenge, and she wants to ensure an appropriate factual record for the basis of the ordinance, that it will not ban the ability to use amplification devices, before moving forward.

City Attorney Michael Gates stated the ACLU letter was reviewed and noted there was a deep dive into case law by his office when the ordinance was drafted, and he believes it is fine as written.

Councilmember Kalmick suggested just striking Section 6, amendments to Section 13.08.270 of the Huntington Beach Municipal Code, and stated he would like to work with the ACLU for a month to determine if there is language that would be more agreeable and thereby potentially avoid a lawsuit.

City Attorney Gates noted that change would require a return of the item for a new introduction and read.

Councilmember Moser confirmed with Police Lieutenant Smith that the purpose of this ordinance is for public safety by ensuring that announcements by Marine Safety Staff, Calls for Service or Distress on the public address system are clearly heard. She stated she cannot support proceeding with this item without making an effort to prevent potential litigation.

Councilmember Strickland asked City Attorney Gates, for the benefit of the public, if this ordinance were to pass as written, would it be out of compliance. City Attorney Gates reiterated that two attorneys from his office took a long look at this and stated that as written the ordinance is legally sound and defensible. He added that the assumptions of facts presented by the ACLU are wrong.

Councilmember Burns confirmed with Police Lieutenant Smith that this ordinance is another tool for controlling activities on the public beach and sets a defined standard that is easily explainable and will allow officers to use their common sense.

A motion was made by Bolton, second Moser to table this item for modifications before bringing back to adopt Ordinance No. 4319, "An Ordinance of the City Council of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Amending Chapter 13.08 Beach Regulations."

The motion as presented failed by the following roll call vote:

AYES: Moser, Bolton, and Kalmick
NOES: Burns, Van Der Mark, Strickland, and McKeon

A motion was made by Strickland, second McKeon to adopt Ordinance No. 4319 "An Ordinance of the City Council of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Amending Chapter 13.08 Beach Regulations."

The motion carried by the following roll call vote:

AYES: Burns, Van Der Mark, Strickland, and McKeon
NOES: Moser, Bolton, and Kalmick

Public Works

17. 24-231 Adopted Resolution No. 2024-16 Authorizing an Application for Funds for the Environmental Cleanup, Tier 1 Grant Program Under the Orange County Transportation Authority Environmental Cleanup Program

A motion was made by Strickland, second Burns to adopt Resolution No. 2024-16, "A Resolution of the City Council of the City of Huntington Beach Authorizing an Application for Funds for the Environmental Cleanup, Tier 1 Grant Program Under Orange County Local Transportation Ordinance No. 3 for the Huntington Beach Trash Removal Project, Phase III - V2."

The motion carried by the following roll call vote:

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

18. 24-082 Rejected all bids for the Atlanta Pump Station Trash Removal Project, CC-1737; re-scope and re-submit project for OCTA funding

Councilmember McKeon asked Chau Vu, Director of Public Works, to provide more details on this item for the benefit of the public and as a basis for a better understanding of Public Hearing Item #20 regarding revising the City's water commodity rates; Sewer Service User Charges; and water meter rates.

Director Vu explained that the City had applied for an Orange County Transit Authority (OCTA) cleanup grant of \$500,000 with a twenty percent (20%) City match and added that the lowest bid received for the Atlanta Pump Station Trash Removal Project was \$1.6M which is significantly above the project budget of \$884,000. Additional work is required to de-water the site which sits in a high groundwater area and adds considerable cost to the project. She noted that this project is needed to meet State trash regulations, and to appropriately address the issue staff recommended a re-scope and re-submittal of the project for OCTA funding.

A motion was made by McKeon, second Burns to reject all bids for the Atlanta Pump Station Trash Removal Project, CC-1737.

The motion carried by the following roll call vote:

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

19. 24-212 Accepted the lowest responsive and responsible bid and authorized execution of a construction contract with Palp, Inc. DBA Excel Paving Company in the amount of \$1,398,435 for the Water Main Replacement Project in the alley East of Alabama Street Between Lincoln Avenue and Knoxville Avenue (CC-1716) and the alley East of Alabama Street Between Lincoln Avenue and Memphis Avenue (CC-1717)

Councilmember McKeon asked Chau Vu, Director of Public Works, to provide more details on this item for the benefit of the public and as a basis for a better understanding of Public Hearing Item #20 regarding revising the City's water commodity rates; Sewer Service User Charges; and water meter rates.

Director Vu explained this project is to replace old four-inch pipelines constructed in 1967 with six-inch PVC pipeline for larger capacity. This project will make the water system more dependable, improve the water system infrastructure, provide greater fire protection capabilities, as well as include the re-grading and re-pavement of the alley. She noted the lowest bid received is well within the engineer estimate. This project is funded from the Capital Water Master Plan, and the project is expected to take approximately six months to complete.

Councilmember McKeon noted this project is a good example of what it takes to maintain, repair and replace the City's critical water and sewer infrastructure systems.

A motion was made by McKeon, second Van Der Mark to accept the lowest responsive and responsible bid submitted by Palp, Inc. DBA Excel Paving Company in the amount of \$1,398,435; and authorize the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney.

The motion carried by the following roll call vote:

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

PUBLIC HEARING

20. 24-217 Public Hearing held to Consider Water and Sewer Rate Adjustments; Adopted Resolution No. 2024-18 revising the City's Water Commodity Rates; Resolution No. 2024-19 Adopting Sewer Service User Charges; and Resolution No. 2024-20 adopting water meter rates including capital surcharge and private fire line services

Alvin Papa, Deputy Director of Public Works and Manager of the Utilities Division, presented a PowerPoint communication titled *Water & Sewer Rate Adjustment* with slides entitled *Purpose and Need; Water Master Plan and CIP; Sewer Master Plan and CIP; Water & Sewer Rate Studies; Reserve Targets for FY 2024; Sample Well Failure Impacts; How did we get here?; Factors Driving Adjustments; Community Benefits; Legal Framework for Setting Rates; Public Outreach and Process; Water Rate Components; 5-Year Water Meter Fee; 5-Year Water Capital Charge; 5-Year Commodity Rate; 5-Year Private Fire Service Charge -5-Year Water Rate Impact (\$); Status Quo vs. Proposed: Water; SFR Water Rate Comparison; 5-Year Sewer Rate; 5-Year Sewer Rate Impact (\$); Status Quo vs. Proposed: Sewer; SFR Wastewater Rate Comparison; Sample Average SFR Bill (2); Recommended Action; and Questions?*

Deputy Director Pappas introduced City Consultants Steve Gagnon from Raftelis Consulting and Anthony Elowsky from Robert D. Neihaus Consulting (RDN) who were available to answer questions.

Mayor Van Der Mark opened the Public Hearing and asked if there were any protests to the proposed increases.

City Clerk Robin Estanislau announced that at this time the City Council would hear and consider all protests against the proposed increases and adjustments to the City's water and wastewater (sewer)

rates. All written protests must have been received by the start of this public hearing and may be withdrawn in writing at any time before the conclusion of this public hearing. A new protest may be made orally at this public hearing. If a property owner is making an oral protest, and has not already filed a written protest, they were asked to please state clearly their name and address.

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office for this Public Hearing following distribution of the Council Agenda packet which were all uploaded to the City's website and Councilmember iPads: (10 e-mail communications; and 146 protest letters) (03:03:30)

City Clerk Estanislau announced that if less than a majority of property owners file a protest, the City Council can approve the proposed water and sewer rate adjustments. If a majority of affected property owners, 50% plus 1, protest the increase before the conclusion of the required Public Hearing, the City is not allowed to approve the proposed water and wastewater (sewer) rate adjustments.

City Clerk Estanislau announced a total of 727 written protests were received, which is 1.4%, of the 52,027 affected property owners.

City Attorney Michael Gates reminded everyone that during a public hearing on a specific topic, public comments must be topic specific.

Public Hearing Public Speakers (3-minute Time Limit) — 7 Speakers

Roger Noor, 16592 Bordeaux Lane, Huntington Beach, CA 92649, was called to speak and stated his request to delay this item to allow for further consideration on how the City's sludge water is used to create an "eco-friendly" product, which contains all of the sewage pollutants, which is then sold for people to spread on their soil. (03:05:13)

Jeanine Studer, 4151 Brantford Drive, Huntington Beach, CA 92649, was called to speak and stated her opposition to the proposed increase in water and sewer rates. (03:07:23)

Denah Hoard, a 25+-year Huntington Beach resident, was called to speak and stated her opposition to the proposed rates, because no one has clearly defined whether these rates are a fee or a tax, the Fee Study did not clearly identify the capital improvement projects to be included in the next five years, and her confusion over what the line item "General Fund Transfer" amount will be used for. (03:07:43)

Cathey Ryder was called to speak and stated her support for the proposed rate increases as she believes it is necessary to ensure safe water and good sewage systems. (03:11:14)

Greg Wood, a life-long resident, was called to speak and suggested the variable rate should be applied to the amount of water actually used rather than to the basic flat-rate fee. (03:12:38)

Mark Tonkovich was called to speak and stated his opposition to the proposed rates, especially considering that in five years the sewage rate will be doubled. He stated he understands the work has to be done and suggested projects be scaled back. (03:15:13)

Bethany Webb, 45-year Huntington Beach resident and homeowner, was called to speak and stated her support for the proposed rate increases as there is nothing more important than clean and safe water. (03:16:17)

Richard Baily, 20-year Huntington Beach resident and Infrastructure Score Card Community Communications Team Volunteer, was called to speak and stated his support for the proposed rate increases. He stated if the infrastructure issues are not addressed through preventive measure, it will cost more in the long run to repair broken systems. He asked that Councilmembers ensure that 1) Public Works has the funding to execute these two projects efficiently and effectively, and 2) that the approved Master Plans be readily available to the public. (03:17:29)

Mayor Van Der Mark stated this was the time for any businesses or residents who would like to revoke a protest to do so. No one stepped forward.

Mayor Van Der Mark closed the Public Hearing and called for Council discussion.

Mayor Van Der Mark and Deputy Director Papa discussed the protester concerns regarding the financial burden this action will create and potential options for reducing the financial impact. Deputy Director Papa presented a slide to demonstrate a reduced Capital Improvement Project (CIP) scenario and described the flexibility of certain CIP project costs. He also noted cost increases that the City has no control over such as purchase of water, as well as natural gas and electricity needed to operate the pump stations. Another staff analysis of the planned CIPs resulted in about a one-quarter (25%) reduction in projects over the next five years, which reduces the projected cost of \$40 to \$30. Deputy Director Papa explained while this option comes with risks, staff will be diligent to monitor conditions and are prepared to make adjustments and repairs to extend equipment life.

Councilmember Burns and Deputy Director Papa discussed how this proposed reduction would impact reserves and noted that if equipment suddenly failed reserves would be needed for the repair.

Councilmember Moser and Deputy Director Papa discussed the process that would be followed if there was unexpected equipment failure which depleted reserves.

Councilmember McKeon and Deputy Director Papa discussed how to ensure that General Fund monies are not used for water and sewer costs and noted that the yearly budget, which is available for public review, shows funding sources for every project. In addition, the financial impact section for proposed projects always shows where funding comes from.

Discussion continued to address the fact that water costs are increasing, despite reduced water use and conservation, due to water supply resource costs from the Metropolitan Water District, Municipal Water District, and Orange County Water District.

Councilmember McKeon asked to see a list of the CIPs from 2019 with indication of whether or not they had been completed and Deputy Director Papa did not have that information readily available. There was discussion of the reduced list of CIPs for the current five-year cycle. Assistant City Manager Travis Hopkins noted that the money allocated for CIPs that are not actually completed stays within a separate water revenue fund. He also confirmed that all water and sewer projects are separate categories which are shown in the annual budget under Capital Improvement Projects category, and the Master Plans will be posted online with the water and sewer rate studies. (03:28:54)

Discussion continued regarding the typical life span for a water well and sewer lift station is 50 years, and it is the mechanical parts that usually begin to fail. Deputy Director Papa stated that sewer lift station design requirements can change which could require modifications or upgrades during a 50-year cycle. Deputy Director Papa confirmed there are daily inspections as well as weekly, monthly, and annual maintenance procedures for sewer and water systems equipment. Currently, a sewer lift station needs to be replaced every couple of years.

Councilmember McKeon and Deputy Director Papa discussed options and challenges for potential increased water pumping from the aquifer under Huntington Beach.

Councilmember McKeon confirmed with Assistant City Manager Hopkins that if the water and sewer reserve fund increased to the ideal level during the five-year cycle, a lower rate adjustment could be approved by Council before the end of the five-year cycle.

Councilmember McKeon noted that fixing a water or sewer system failure costs three times as much as routine repair, maintenance, and replacement costs. Deputy Director Papa explained the procedure of preventive or proactive maintenance is being used to mitigate the potential for failure. He added the future will most likely use artificial intelligence for predictive maintenance and it will take money to implement that option.

Councilmember Bolton and Deputy Director Papa discussed various resources and options for citizens who may be on a fixed income or find themselves unable to pay a utility bill.

Councilmember Kalmick confirmed with Deputy Director Papa the voters approved a five percent (5%) utility tax which applies to the water bill, but not the sewer bill. Councilmember Kalmick also noted that the property tax line items for Orange County Water District (OCWD) and Orange County Sanitation District (OC San) are retained by them for their own capital infrastructure systems; that planned utility increases during COVID-19 were suspended; the City's electric costs will increase by three percent (3%) when the Orange County Power Authority (OCPA) is no longer the supplier; if reserve funds become depleted the only option would be to use General Fund monies; general services required by the water and sewer division which are provided by the City such as accounting, human resources, risk management or personnel; and the potential for possibly considering a bond.

Councilmember McKeon confirmed with Deputy Director Papa that approximately forty percent (40%) of the proposed cost increases are straight pass-throughs related to the wholesale costs from the Orange County and Metropolitan Water Districts.

Councilmember Moser and Deputy Director Papa discussed the lengthy and involved Infrastructure Report Card process, including the financial impacts, review by appropriate consultants, and expectation of a report this summer. Deputy Director Papa confirmed that any future artificial intelligence software considerations would include other City departments that may be able to also benefit from and share in the implementation costs. They continued the discussion on steps necessary to increase the allowed percentage of groundwater pumping, such as new wells; CIP projects to be deferred if the "reduced" option was implemented; potential impacts of deferring projects; and ultimate objective to ensure sustainability and stability for these public health and safety systems through innovative solutions.

Councilmember Burns stated he would rather be proactive than reactive and spending now will prevent a lot of costly problems in the future. He noted that if the City is forced to build a lot of new housing, it's likely the current water and sewer issues will increase. He acknowledged there are fixed costs regardless of reduced consumption which affects the City as well as the wholesale service providers, and stated he supports providing a secure service future rather than reducing current costs in the hope nothing catastrophic will result.

Councilmember Strickland stated his support for the twenty-five percent (25%) reduced proposal considering the inflated costs for all of the other basic services people require.

Mayor Van Der Mark stated her support for the twenty-five percent (25%) reduced proposal and commended staff for listening and responding to residents' concerns.

Assistant City Manager Hopkins confirmed that the Master Plans will be available on the website for public access.

Councilmember Bolton stated that without including a more definitive plan for protecting low-income residents on a fixed budget, she cannot support even the reduced cost proposal.

Councilmember Kalmick confirmed with Deputy Director Papa that Council's decision tonight is not set in stone for the next five years, but Council could come back in three years and initiate the process to make cost adjustments if necessary.

City Clerk Robin Estanislau announced, as advised by City Attorney Michael Gates, that including a rate adjustment will require a super majority (5 affirmative votes) to pass.

A motion was made by Van Der Mark, second McKeon to adopt Resolution No. 2024-18 "A Resolution of the City Council of the City of Huntington Beach Readopting and Revising the City's Water Commodity Rates"; adopt Resolution No. 2024-20 "A Resolution of the City Council of the City of Huntington Beach Adopting Water Meter Rates, Including a Capital Surcharge, and Private Fire Line Service pursuant to Section 14.12.040 of the Huntington Beach Municipal Code"; and, adopt Resolution No. 2024-19 "A Resolution of the City Council of the City of Huntington Beach Adopting Sewer Service User Charges, Pursuant to Section 14.54.040 of the Huntington Beach Municipal Code" **as amended to use Reduced CIP Scope of 25%**.

The motion as amended carried by the following roll call vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, and Kalmick
NOES: Bolton, and Burns

ADJOURNMENT — At 10:26 PM a motion by Burns with a second by Strickland to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, May 7, 2024, 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