

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, September 28, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

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

6:00 PM - COUNCIL CHAMBERS

CALLED TO ORDER — 6:00 PM

ROLL CALL

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

PLEDGE OF ALLEGIANCE — Led by Councilmember Burns

INVOCATION

1. 23-814 Huntington Beach Fire and Police Chaplain Roger Wing

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 Items #2 — 55 email communications, 3 letters; Councilmember Items #3 — 3 email communications.

PUBLIC COMMENTS (90-Second Time Limit) — 39 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/>.

Shammy Dee was called to speak and stated her opposition to proposed voting changes. (00:06:08)

Delaine Bailey was called to speak and stated her support for voter ID and surveillance of ballot drop boxes. (00:07:51)

Frank Zappia was called to speak and expressed his appreciation for the integrity of the new Council majority. (00:09:30)

Jeanne Paris, 27+ year resident, was called to speak and stated her support for all proposed Charter amendments, and appreciation for the Council majority. (00:11:10)

Ann Palmer, 30-year resident, was called to speak and suggested a Charter amendment addressing the issue of high-density housing, and asked if there is a flood mitigation plan. (00:12:39)

Dennis Pappas, a resident for over 50 years, was called to speak and stated appreciation for the Council majority and support for the proposed Charter amendments. (00:14:16)

Patricia Pappas was called to speak and stated support for the proposed Charter amendments. (00:15:23)

Don Kennedy, Candidate for City Council in 2024, was called to speak and stated support for the Councilmembers, and for the proposed Charter amendments. (00:16:08)

Unnamed Guest, a resident, was called to speak and stated opposition to requiring voter ID in Huntington Beach. (00:17:44)

Dennis, 40-year resident, was called to speak and stated support for the proposed flag amendment, handling Council vacancies, biennial budget cycle, voter ID, waiver or forgiveness regarding the collection of taxes, minimal changes to Measure "C", addressing the issue between the former Council and City Attorney; and opposition for allowing the Mayor the ability to cancel meetings, and proposed changes for City Clerk qualifications. He stated all proposed Charter amendments should stand on their own and not be bundled. (00:20:19)

Buzz McCord was called to speak and stated his opposition to any proposed Charter amendments related to voting. (00:21:55)

Mary Kyle, 25-year resident, was called to speak and stated her opposition to the proposed Charter amendments. (00:23:37)

Andrew Einhorn was called to speak and stated his opposition to all proposed Charter amendments, as well as the recent "no mask, no vaccine mandate" resolution. He thanked staff and Lt. Archer for their efforts to address e-bike issues. (00:25:09)

Linda Moon, 49-year resident, was called to speak and stated elected Councilmembers are expected to make informed decisions and shared her opinion the information received in the letter from the California Attorney General and Secretary of State regarding elections should have been thoroughly reviewed before the hasty, ill-considered decision to proceed with the amendment process. (00:26:43)

David Rynerson, 25-year resident, was called to speak and thanked the minority Councilmembers for reaching out to State officials and stated it appears that nothing has changed in spite of what most speakers are saying. (00:28:16)

Neal Kuster was called to speak and shared his opinion this process doesn't work with the time allotted for comment given the massive number of Charter proposals; shared his concerns regarding how proposed amendments may, or may not, be bundled; and urged a focus on why a Charter amendment is being used rather than an ordinance to determine flag policy. (00:29:36)

Kane Durham was called to speak and stated his support for Neal Kuster's comments regarding the flag policy and shared his opinion the proposed voting amendments will make it harder for people to vote. (00:31:08)

Connie Boardman, former Mayor and 8-year Councilmember, was called to speak and stated opposition to proposed amendments that would take City Attorney work product and budget away from the Council. (00:32:46)

Wendy Rincon was called to speak and stated her opposition to the speed which this process is being pushed through considering the many and varied proposed amendments. (00:34:16)

Tim Geddes, 40-year resident, was called to speak and stated his main concern is the tinkering with local elections and voter ID, and asked that these proposed amendments be removed from consideration. (00:36:06)

Lisa was called to speak and stated her support for the proposed Charter amendment to allow the taxpayers to determine appropriate flags to fly on City buildings and thanked Councilmember McKeon for suggesting the four additional meetings to work out the details and listen to residents. (00:37:38)

Mary Jo Baretich, 40-year resident, was called to speak and stated her opposition to proposed amendments related to the voting process and the plan to bundle unrelated items for the ballot. She also shared her opinion much more time is needed to get needed legal opinions on the proposed amendments. (00:38:58)

Butch Twining, Planning Commissioner and Candidate for City Council in 2024, was called to speak and shared his appreciation for the Councilmembers and City officials who attended the ceremony today at the Los Alamitos Joint Forces Training Base to pay tribute to military patriots. He also thanked the Air Show producer for ensuring another event. (00:40:38)

Unnamed Guest, Huntington Beach voter and resident, was called to speak and stated her opposition to proposed voting changes that only affects 20% of 2022 voters and asked that tax dollars be spent on increased library hours, street improvements, and more meals for vulnerable seniors. She stated Measure "C" is important and deserves to be a standalone ballot issue. (00:42:17)

Steve Wells was called to speak and asked that Councilmembers focus on reaching an agreeable middle ground on issues before placing them on a ballot and encouraged people to listen to each other and taking time for proper dialogue rather than rushing through the process. (00:43:50)

Amory Hanson was called to speak and stated his support for a proposed Charter amendment regarding how to address a potential Council vacancy. (00:45:30)

Kathryn Goddard, 30-year resident, was called to speak and stated her support for Councilmember Items #3 seeking an opinion from the California Attorney General on eligibility for the Primary Election ballot for proposed Charter amendments involving elected officials. (00:46:16)

Harry McLachlan, a resident, was called to speak and shared his opposition to the revised Policy on Human Dignity and urged Council to leave the original document alone. (00:47:24)

Guest P was called to speak and shared examples to support her statement that newly elected 2022 Council candidate campaign signs clearly stated "No Changes to our City Charter". (00:48:37)

Perry Clitheroe was called to speak and stated his opposition to any proposed amendments related to the voting process, especially in light of the letter received today from the California Attorney General and Secretary of State. (00:50:23)

Joseph Shapiro, a resident for over 40 years, was called to speak and stated his opposition to the proposed Charter amendments and encouraged Councilmembers to truly listen to the public speakers rather than just voting their pre-determined decision. (00:52:28)

Irene Briggs, a resident, was called to speak and stated her opposition to banning library books. (00:53:22)

Mason Creyanfmiller was called to speak and stated his opposition to any proposed Charter amendments related to local control over the voting process. (00:55:02)

Unnamed Guest was called to speak and stated her support for taking more time to ensure any amendments related to voting issues are based on facts. (00:56:40)

Mira Dujanovic, a resident, was called to speak and stated her opposition to the salary increase for City Attorney Michael Gates, and proposed Charter amendment related to City Clerk candidate requirements. (00:58:19)

B. Channel, 35-year resident, was called to speak and shared her concerns related to the bundling of proposed Charter amendments and asked that each proposal stand on its own. (01:00:00)

Unnamed Guest was called to speak and noted the *Orange County Register* just announced that Huntington Beach is the Best Place to Live in Orange County, has the Best Downtown in O C, and the Best Beaches in O C, and tomorrow the world's pre-eminent Air Show starts in Huntington Beach. He also stated support for voter ID. (01:01:25)

Jaeden, a Huntington Beach high school student choosing to complete his education on-line, called to speak and stated his appreciation for the newly elected Councilmembers and their attempts to help Huntington Beach. He stated he looks forward to the opportunity of serving on the Youth Board. (01:03:03)

Synde, a resident, was called to speak and asked that the proposed Charter amendment regarding voter ID clarify if it really applies to all voters and suggested that rather than arbitrarily determining a specific number of added voter locations, a formula be used, or ways listed that the City could implement to increase voter access to polling locations in the years ahead. (01:04:21)

ADMINISTRATIVE ITEMS

- 2. 23-835 City Council discussed and considered potential amendments to the Charter; conducted straw votes to place certain amendments on the March 5, 2024 Statewide Primary Election ballot**

Section 702, Procedure for Holding Elections, and Section 705, Special Provisions Relating to Municipal Elections — Straw vote approved — Mayor Strickland asked City Attorney Michael Gates and Acting Chief Assistant City Attorney Paul D'Alessandro to respond to the letter received from California Attorney General Bonta and Secretary of State Webster.

City Attorney Gates noted that California Attorney General Bonta's communication stated his objections to voter ID and monitoring of ballot drop boxes. City Attorney Gates explained that the cases cited in the letter to support the objections had nothing to do with voter ID or monitoring of ballot boxes and reads largely as a "policy" concern. He explained that "matter of concern for the State" is a legal term which is identified by legislature and ratified or validated by a court.

City Attorney Gates read from a cited case between Redondo Beach and the State of California in 2020 where Redondo Beach prevailed against California Attorney General Bonta regarding election law as it relates to local municipal elections. In summary, the court ruled that a city's charter supersedes state law when the issue is a municipal affair. He noted that California Attorney General Bonta appealed the ruling, and the State Supreme Court denied Bonta's request for a review.

Mayor Strickland and Acting Chief Assistant City Attorney D'Alessandro briefly reviewed the San Francisco Charter City and County case which allowed San Francisco to run their own elections under the State Constitution.

Regarding additional polling locations, Mayor Strickland asked staff to change the wording "... the City to provide at least 20 residential voting locations which are ADA compliant for in-person voting ..." in the proposed amendment.

Councilmember McKeon suggested changing "shall" to "may" throughout Section 705. Special Provisions Relating to Municipal Elections.

Mayor Strickland confirmed for the benefit of the public that if the voters approve the proposed amendment, it does not take effect until 2026.

Councilmember Kalmick disagreed on the effective date for implementing voter ID, and Mayor Strickland asked that the phrase, "beginning in 2026" be moved to the beginning of Section 705.

Councilmember Bolton shared her concern about municipal elections being consolidated with state and federal elections, as noted in California Attorney General Bonta's letter, that consolidated elections are to be conducted in accordance with state law. She stated at this point there is still no clear direction from the Orange County Registrar of Voters, nor has a realistic cost been determined.

Councilmember Bolton, City Attorney Gates and Mayor Strickland briefly reviewed the Redondo Beach case and the opinions expressed in California Attorney General Bonta's letter.

Councilmember McKeon stated that if the amendment language is changed to "may" it will provide an option to proceed, or not, in 2026.

City Attorney Gates noted that addressing voter issues in the Charter is asserting the right to local control per the California constitution.

Councilmember Kalmick asked if it would be possible to have a general statement in the Charter that Huntington Beach City Council will create ordinances to manage their own local affairs. City Attorney Gates confirmed that could be one way to maintain local control.

Councilmember Kalmick noted his interpretation of California Attorney General Bonta's letter is Huntington Beach should expect to be in court if this item proceeds, and the assumption Huntington Beach would be hosting their own municipal elections. He added that currently there is no idea what the cost could be, and he believes just the IT costs will increase over time as security continues to get more complicated. He stated his opinion that these efforts would make voting harder, rather than safer.

Councilmember Kalmick shared previous local election statistics on number of voters to support his disagreement with the claim that the November ballot has so many items it can create voter fatigue, and therefore the attempt to place these amendments on the March ballot. He further stated his opinion it is going to be very costly to solve for a problem that he believes does not exist.

Councilmember Moser asked what problem this proposed amendment is trying to solve, and the issues she has heard discussed are access, security, and potential fraud. She stated that elections are currently run by a stellar organization with many mechanisms to manage for potential fraud. She also stated she believes there are better ways to spend money on things the City really needs. She believes it would be less expensive to utilize existing transportation options to increase voter access for in-person voting. She stated localizing election rules may not only disrupt the current robust voting system but will ultimately result in high costs which the community would bear. The prudent and fiscally responsible approach, in her opinion, would be to work within existing state law and County Registrar structure.

Mayor Strickland called for a straw vote that proposed Charter amendments, Elections, Section 702 — Procedure for Holding Elections, and Section 705 — Special Provisions Relating to Municipal Elections, be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

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

Section 309, City Attorney Powers and Duties, and Section 315, Charter Offices Budget — Straw vote failed

Councilmember Kalmick asked for clarification on why limiting changes to the City Attorney Office budget is proposed at 3%, and stated he does not support any Charter policy that ties the hands of the City Council when it comes to a department head's budget, especially if it does not also contain a relief valve.

Mayor Pro Tem Van Der Mark stated the attempt is to prevent a repeat of the situation when City Council stripped the City Treasurer responsibilities and budget, and to ensure that does not happen to any of the elected officials.

City Attorney Gates noted there is already a guardrail of 15% for infrastructure built into the Charter and stated that the combined budgets for the three elected officials does not exceed \$6M within the \$350M annual budget. He added that lawsuits do not go away because there is no money to defend the City. If the City Attorney Office budget was cut, then the lawsuits would have to go to outside legal counsel at a much higher cost.

Councilmember Burns stated he is very supportive of this item because he doesn't support City Council having control over another elected official and their departments.

Councilmember McKeon stated he can't support this amendment at this time because more clarification is needed.

Councilmember Bolton stated it hasn't even been confirmed that this type of amendment can legally appear on a Primary Election ballot because it relates to personnel or employees. City Attorney Gates stated that three attorneys have reviewed these proposed amendments and noted that a subsection of Election Code Section 1415 specifically allows this type of amendment.

Councilmember Kalmick asked staff to play a video clip of then State Senator Padilla bringing to the floor a concurrent vote on SB311 stating which type of issues can be brought forth in General elections v. Primary elections.

City Attorney Gates and Acting Chief Assistant Attorney D'Alessandro stated this clip supports the City Attorney Office conclusion that issues related to employees with collective bargaining rights can only be placed on a General Election ballot. They noted that elected officials are not part of collective bargaining units, and therefore are exempt from that restriction. The fact that retirees and bargaining units were listed specifically, but not elected officials, lends support to the City Attorney Office decision this proposed amendment is allowed on a Primary Election ballot.

Councilmember Moser shared her concerns about the fact that the Ad Hoc Committee originally presented a proposed amendment addressing only the City Attorney Office, but through the course of discussions added the history of how a former City Council miss-handled the Treasurer position, and now the discussion is including the City Clerk as well. She stated the importance of allowing future City Councils to make budgetary decisions based upon the circumstances they find themselves in.

Mayor Strickland called for a straw vote on proposed Charter amendments, Section 309 — City Attorney Powers and Duties, and Section 315 — Charter Offices Budget to be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Section 310. City Clerk Powers and Duties — Straw vote failed — Mayor Pro Tem Van Der Mark stated this is an effort to clean up the language and make it accurate, and clarified the proposed change in wording does not reduce or downgrade the requirements for the City Clerk position.

Councilmember McKeon stated he supports removing the ambiguity, but the whole issue has been tainted and therefore he cannot support it.

Mayor Strickland stated he will continue to push this in the future because of the ambiguity that should be cleared up.

Councilmember Burns stated he supports removing the ambiguity, and now is as good a time as any.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 310, City Clerk Powers and Duties be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Section 314. Investigation of Malfeasance — Withdrawn — Councilmember McKeon stated that this issue can be addressed through a resolution and withdrew the item.

Section 806. Display of Flags — Straw vote approved — Councilmember Burns stated he doesn't like identity politics and would like to lock into the Charter that Huntington Beach is one community under government flags. He added this also confirms that there is no need to identify any particular group to stand out, or potentially be discriminated against.

Councilmember Kalmick stated there is nothing else in the Charter that requires a unanimous vote, and setting the bar this high for flags is peculiar and is not good public policy in his opinion.

Councilmembers Bolton and Moser stated their support for Councilmember Kalmick's comments, and noted this is not something that should go into the Charter. It is already law through an ordinance. Councilmember Moser asked if City libraries could continue to display other flags to commemorate cultural heritages or Pride month. Councilmember Burns responded no, they would not, and added residents could read about any flag of their choice in the books at the library. Councilmember Moser stated this amendment should not be bundled with any other proposed Charter amendment. Mayor Strickland responded that is the discussion for next week's meeting.

Mayor Strickland stated that if the people do not want this issue addressed in the Charter, they will have the opportunity to vote it down, but it is really up to the people and not the Council to decide.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 806, Display of Flags, to be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

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

Sections 401, 601, 602, 603, 604 and 605, Biennial Budget — Straw vote approved — Mayor Strickland stated this effort is to make the budget process easier for staff, build in more predictability, provide better planning for future expenses and identifying revenue streams. He noted this item is supported by Chief Financial Officer Han and is not adding anything new to the Charter.

Councilmember Bolton clarified for the record that if she supports an item through a straw vote, it means she is agreeing to further discussion on the item.

Mayor Strickland called for a straw vote on proposed Charter amendment Sections 401, 601, 602, 603, 604 and 605, Biennial Budget be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

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

Section 300, City Council, Attorney, Clerk and Treasurer Election Cycle — Withdrawn — Mayor Strickland pulled this item from further consideration.

Section 618, Voter Approval Required for Matters Affecting the Collection of Property Tax — Withdrawn — Councilmember McKeon stated he brought this item forward to prevent another situation like Elan and Breakwater purchases which created the foregoing of property taxes without voter approval. Upon review, he believes that because of the details required this would be best handled through an Ordinance, and withdrew the item.

Section 612. Measure "C" Public Utilities, Parks and Beaches Update — Straw vote approved — Councilmember McKeon stated that in conversations with Community and Library Services Director Ashley Wysocki this item needs more work and suggested postponing further discussion until next week to allow staff additional time on this proposal.

City Attorney Gates stated for the benefit of the public that Measure "C" was a community-driven initiative which was championed by certain Councilmembers at the time, noted the wording is a little difficult and there was not much legislative consideration. He noted that staff may bring back some tweaks to the current version, or another version through repeal and replace while maintaining the original intent for further Council discussion, as it has been difficult to interpret and enforce.

Councilmember Moser made a motion to move forward on this item with a Measure "C" Charter Review Committee since it was originally a community-driven initiative, to ensure proper community input, as well as review by staff to be prepared for the General Election ballot in November 2024 as a stand-alone amendment. After hearing Councilmember McKeon's suggestion to wait another week to actually see what staff is able to provide, Councilmember Moser agreed to withdraw her motion.

Councilmember Kalmick stated he would be reticent to completely replace what the voters originally approved, and suggested an appropriate action might be to consider stopping the rushed effort now.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 612, Measure "C" to continue discussion to October 5, 2023, and to consider whether or not it should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

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

Section 300, City Council, Attorney, Clerk and Treasurer Terms, and Section 303, Meetings and Location — Straw vote approved — Mayor Strickland stated this is basically clerical clean-up, and he is trying to move forward what the 2022 Council presented.

Councilmember Kalmick asked that language be somewhere in the Charter that stipulates at least one regular City Council meeting each month, referencing previous Measure L language.

Mayor Strickland called for a straw vote on proposed Charter amendments, Sections 300 (reference to "Monday" meetings) and 303, Meetings and Location to continue discussion to October 5, 2023, and consider whether or not it should be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

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

ACTION TAKEN ON NEW PROPOSALS:

Considered and Failed Section 307, Non-Interference with Administration — Councilmember Bolton introduced her item by stating that Governor Newsome just signed AB 1078 to ban book bans and textbook censorship in California schools. She stated her interest is to keep politicians out of the business of libraries and not allow politicians to make choices about what can be in a library and where it can be placed. She supports letting parents decide what books their children can read with the assistance of professionals who are trained to help them.

Mayor Pro Tem Van Der Mark clarified her efforts have never been about banning any books, but rather to protect kids from books with certain sexually explicit language and empowering parents to have control over when that type of material is available to their child through book placement in libraries.

Assistant City Manager Travis stated that the City Manager's Office and Community and Library Services staff have been working with Library staff to develop policies and procedures which will be available for City Council review on October 17th.

Mayor Pro Tem Van Der Mark stated the proposed Charter amendment is premature and reiterated that not a single book will be banned by the policies and procedures being developed.

Councilmember McKeon stated that he agrees the proposed Charter amendment is premature until the work in process is completed and everyone has the opportunity to review the proposed policies and procedures.

Councilmember Burns stated individual Councilmembers have no authority to direct any staff unless it is through inquiry or request to the City Manager.

Councilmember Kalmick stated he sees this proposed amendment as not just about City Council making changes, but rather City Council or other elected officials making determinations on collections in the libraries. He believes if City Council has an issue with how librarians manage, they can bring the issue up to the City Manager and direct his actions.

Mayor Strickland stated his support for allowing the current effort to be completed and reviewed before proceeding with the proposed amendment.

Councilmember Kalmick requested a straw vote on proposed Charter amendment Section 307, Non-Interference with Administration, regarding the business of City libraries and to consider further discussion at the October 5, 2023, meeting and whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Approved Section 313, Conflict of Interest, Nepotism — Councilmember Bolton introduced her item by stating she is addressing concerns from some people that some of the proposed Charter amendments are motivated by a desire to have this City Council appoint Attorney Gate's wife to

the role of City Clerk. She noted there currently is a loophole in Section 313 which could allow that to happen and this is her attempt to close that loophole. She requested that if this proposed Charter amendment change is approved by Council, staff find a suitable way to avoid having any appearance of an ethical conflict and allow another law firm to draft the appropriate language.

Councilmember Burns stated he has never heard this concern expressed before and asked Councilmember Bolton where she heard it. She responded this has been expressed by several public speakers, but believes it is a rumor.

Mayor Strickland shared he heard the City Attorney's wife was considering running for the City Clerk position, and noted this proposed amendment would not preclude the decision of the voters.

Councilmember Bolton stated this proposed change only relates to appointment. Mayor Strickland stated his opinion that any appointment should not be determined by who a person is married to but rather should be based on their qualifications. He does agree that the City Manager should not be coerced or forced to hire anyone.

City Attorney Gates clarified for the record that when it was made known a few months ago that it is likely to be City Clerk Robin Estanislau's last term, his wife was asked by several people to consider running for the position. After thinking about it his wife agreed to consider running. When Councilmember McKeon shared his concerns about the relationship between a potential Charter change for City Clerk qualifications and his wife running for the position, she made it very clear publicly she wanted no part of that or to cloud the decision making.

City Attorney Gates stated he thinks it is peculiar that proposals are being advanced that have no basis in reality, but rather appear to be aimed at corruption seen in prior Councils when a pass was taken in those situations. He added he had never heard of a current plan to appoint a replacement for the City Clerk, and suggested that Council's discussion be based on fact, not hearsay or rumor.

Councilmember Kalmick shared his opinion that the current Charter allows for the appointment of the spouse of a deceased councilmember if the spouse is truly qualified. He added he doesn't understand from a policy standpoint why there is resistance to preclude appointing a qualified City Council spouse to a vacated City Attorney, City Clerk or City Treasurer elected position.

Councilmember Moser stated it really is about the appearance of impropriety, and Section 313 should be clear and strong, and she supports this amendment change without any concern for rumors that may be going around.

Councilmember McKeon stated he believes the wording may need to be tweaked a bit, and suggested bringing it back next week to allow for language clean-up.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 313, Conflict of Interest, Nepotism, to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

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

Considered and Approved Measure L (2022), minus Measure "C" — Councilmember Kalmick stated the proposed changes are non-substantive in that they clarify or update language in the Charter regarding outdated phrases, syntax, dates, pronouns and titles. He noted that any reference to Measure "C" would be pulled from Measure L as that is being addressed as a separate amendment. Regarding Section 804, he clarified his intent is to only require that City Council address the issue every ten years of whether or not a Charter Review is necessary, not to stipulate a Charter Review is required every ten years.

Councilmembers McKeon and Kalmick agreed these changes would be bundled with Section 303, Meetings and Locations.

Councilmember Kalmick called for a straw vote on proposed Charter changes (previously Measure L, 2022) to continue to October 5, 2023, for further discussion and whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

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

Considered and Failed Section 401, Powers Related to Councilmember-directed Staffing — Councilmember Kalmick introduced his item by noting that Irvine and Anaheim have paid staff positions that directly report to individual City Councilmembers and provide policy, administrative and field support. He explained the process that Santa Ana uses which is to provide a budget amount for councilmembers to use for hiring independent contractors. He suggested more of an Administration position as opposed to a Technical Analyst. He sees this item as allowing future City Councils to budget for such positions if they choose to.

Councilmember McKeon stated his opinion there is not enough clarity to move forward on this item.

Councilmember Moser stated appreciation for flexibility, noted her support for Councilmember McKeon's clarity concerns, and her support for putting this topic in the Charter.

Councilmember Kalmick called for a straw vote on proposed Charter amendment Section 401, Powers related to Councilmember-directed Staffing to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Failed Section 302, Council Compensation — Councilmember Kalmick introduced his item by describing the types of people who usually have the time and finances to serve on City Council which precludes individuals with full-time jobs, and noted current City Council compensation is not enough to allow someone to quit their job in order to serve the community. He stated his intent is to allow the possibility for more Council diversity. He noted there hasn't been enough time to allow for complete wording but is seeking approval to allow staff to move ahead on the concept. Councilmember Kalmick added this would not go into effect until well into the future, such as after the terms of currently sitting Councilmembers.

Councilmember Burns stated he cannot support this item.

Councilmember Moser stated her support for a more diverse City Council, and clarified if the intent was to immediately implement this policy, she would not support it.

Councilmember McKeon, as an individual with a full-time business and baby at home, stated he is philosophically against this item because he believes in serving the community, and noted he did not seek the position for the pay it provides.

Councilmember Kalmick called for a straw vote on proposed Charter amendment Section 302, Compensation, to continue to October 5, 2023, for further discussion and consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Ethics Commission Section 406 Withdrawn (Kalmick) – to be handled by Ordinance.

Considered and Failed Sections 300, 401, 406, 407, and 408 Appointed versus Elected Charter Officers - City Attorney, City Clerk and City Treasurer — Councilmember Kalmick introduced his item by stating the polarizing nature of elected positions has potentially broken the government for Huntington Beach, and he understands why there are very few cities that have these elected positions. He suggested that the City Clerk and City Treasurer be appointed by the City Manager, and City Attorney by the City Council.

Mayor Pro Tem Van Der Mark stated she would rather continue to let the voters decide who fills these positions.

Councilmember Kalmick called for a straw vote on proposed Charter amendment to appoint rather than elect City Attorney, City Clerk and City Treasurer to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Failed Section 309, City Attorney Political Participation — Councilmember Kalmick introduced his item by stating he found it odd that the City Attorney campaigned in 2018 and 2022 with a client. Councilmember Kalmick used as an example the City of Oakland (which has an elected City Attorney) text: “During the City Attorney's tenure, the City Attorney shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Attorney, or of a City ballot measure, or be an officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.” He offered this text to de-politicize the system in Huntington Beach.

City Attorney Gates stated this is a free speech issue that has yet to be challenged in court, and confirmed with Mayor Strickland that this has nothing to do with his compensation.

Councilmember Kalmick objected to the response of City Attorney Gates because the item under consideration is directly related to his position.

Mayor Pro Tem Van Der Mark stated that no candidate or elected official gives up their right to free speech.

Councilmember Bolton stated her support for the effort to de-politicize a lot of what goes on in Huntington Beach and supports maintaining a strict ethical policy of not allowing campaigning against your client.

City Attorney Gates stated for the benefit of disclosing all the information that the client he represents is the City of Huntington Beach, and the City's "Board of Directors" are the Councilmembers. He added if there was any concern about an attorney involved in nefarious or wrong-doing against the client, it could easily be reported to the California State Bar.

Councilmember Moser shared her opinion it was the appearance of impropriety.

Councilmember Kalmick called for a straw vote on proposed Section 309, City Attorney Political Participation to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Failed New Section 408, Office of Legislative Counsel — Councilmember Kalmick introduced his item by stating he sees this proposal as potentially resolving some of the conflict experienced by the previous City Council by allowing the City Attorney to do City Attorney business, and allowing City Council to appoint a legal resource for discussing regulation policy, and things of that nature.

Councilmember Bolton stated her support for this proposal.

Councilmember McKeon stated at this point this proposal is too muddled to ask the voters to make a decision on it.

Councilmember Moser stated she would appreciate having such a resource when deciding whether or not to move forward on certain items.

Councilmember Kalmick called for a straw vote on proposed new Section 408 related to providing for an office of legislative counsel to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Failed Section 300, City Council, Attorney, Clerk and Treasurer, Term Limits — Councilmember Bolton introduced her item by stating she used to be opposed to term limits to prevent

only staff from having expertise and control; however, times have changed and there is now a lot of movement in states to adopt term limits. She added that having term limits tends to address legitimate concerns about corruption, cronyism, and concentrating too much power in the hands of one person. She believes it is more difficult to attract candidates when it appears the position can last for a lifetime.

Councilmember McKeon noted that the Attorney, Clerk and Treasurer are paid career positions, whereas Councilmembers do not get paid enough to eliminate another job.

Councilmember Burns stated his opinion that term limits already exist in that these office holders are routinely up for election and the people determine whether or not they continue to hold the position.

Mayor Strickland related his experience that in Sacramento, before term limits, there was more congeniality, institutional knowledge among the members, a lot more give-and-take, and state government functioned better. He stated his support for the comment made by Councilmember Burns.

Councilmember Moser stated she has heard time and again that the people do not want career politicians.

Mayor Pro Tem Van Der Mark stated her support for the comment made by Councilmember Burns.

Councilmember Bolton called for a straw vote on Section 300, City Council, Attorney, Clerk and Treasurer, Term Limits to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal failed by the following straw vote:

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

Considered and Approved Section 312, Council Vacancies, Forfeitures and Replacement — Mayor Strickland noted this item was recently recommended by Mr. Amory Hanson. He stated that for good governance, Councilmember vacancy appointments should last until the next election, not for a full term.

Councilman Kalmick clarified this is the same language that was presented in the last proposed Charter amendments, and stated this action would prevent the need for a Primary Election.

Councilmember Moser thanked Mr. Hanson for ensuring this issue was re-considered, and stated her support.

Mayor Strickland called for a straw vote on Section 312, Council Vacancies, Forfeitures and Replacements continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

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

COUNCILMEMBER ITEMS

3. 23-837 Failed — Item Submitted by Councilmembers Kalmick and Moser — Seek an opinion from the California Attorney General on eligibility for the primary ballot for Charter amendments involving City Clerk, City Attorney, and investigations of elected officials

Councilmember Kalmick stated this item is a result of the earlier conversation at this meeting regarding the murky legislative record. Explaining that while some points are now moot as Council has already polled the item calling for voter ID, he noted if it had been approved it would substantially alter the duties of the City Clerk and therefore should not be placed on a Primary election ballot. He continued that this effort is to ask the California Attorney General for a legal opinion on interpretation of Election Code Section 1415 that was amended by SB311 in 2011.

Councilmember Moser stated her interest in getting the highest-level input possible before making a decision that will cost more money if it is placed on the ballot when it should not have been.

Mayor Strickland noted that the California Attorney General represents the State of California and Huntington Beach already has an attorney that represents it, and case law already exists where the California Attorney General lost in court two times with two different cities. Mayor Strickland stated his opposition to this item.

City Attorney Michael Gates noted for the record that California Attorney General Bonta is presently suing the City of Huntington Beach in a housing case, and several times has targeted Huntington Beach with his rhetoric. City Attorney Gates stated if the concern is conflict of interest, it seems exceedingly unwise to pursue an opinion from our adversary.

Councilmember Moser asked who could provide an opinion who is above the City Attorney, and City Attorney Gates responded that information from the City Attorney's Office has been incredibly clear, and it appears that some Councilmembers just do not like the answer.

Councilmember Bolton stated part of the concern is because for the Charter review process in 2022 Council was told they could not put on the Primary Election ballot anything that has to do with employment issues. But now, Council is being advised they can place employment related matters on the Primary Election ballot.

City Attorney Gates clarified that the previous process was shepherded by an outside consultant, not by the Office of the City Attorney.

Councilmember Kalmick noted that not receiving a written decision or any information to review, analyze or try to understand from the Office of the City Attorney, is what is driving his current concern. In his opinion there has been a lot of "tell", but no "show", regarding this topic.

City Attorney Gates stated that the statutes in Election Code Section 1415 were specifically cited and read two meetings prior to this. He added if a Council majority would like to see a confidential written opinion, he would do that, but he will not issue legal essays publicly.

A motion was made by Kalmick, second Moser to direct the City Manager to work with the City Attorney to seek an opinion from the California Attorney General on the question of SB311 (2013 Padilla), portions of which were chaptered as Election Code Section 1415, applying to the proposed charter amendments making changes to the roles of the City Clerk, City Attorney, City Council and City Manager, HR Department Head and/or Police Chief.

The proposal failed by the following roll call vote:

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

PUBLIC COMMENTS (90-Second Time Limit) — 13 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>.

David Rynerson was called to speak and stated appreciation for at least some amicable discussion this evening, and his opposition to any proposed Charter amendments regarding any non-existent voting issues, and suggested the money would be better spent on voter education. (03:58:38)

Tim Geddes was called to speak and shared his opinions on the process and stated his opinion the Council majority's credibility is in tatters regarding the election issue, and it is time to punt on this until the November election, if at all. (04:00:17)

Mary Kyle was called to speak and shared her opinion that some comments made by Mayor Pro Tem Van Der Mark and Councilmember Burns demonstrate lack of congeniality, and it appears to her this is not a team effort. She asked the Council to do better. (04:01:32)

Wendy Rincon was called to speak and thanked Councilmember McKeon for his independent thinking, and shared her opinions on the performance of various Councilmembers. (04:02:26)

Unnamed Guest was called to speak and stated support for Section 302, Councilmember Compensation, and opposition to Section 313, Conflict of Interest, Nepotism as proposed Charter amendments. (04:04:01)

Unnamed Guest was called to speak and shared his opinions related to the definition of book bans, agreed that Charter amendments are more permanent and harder to change, shared his perspective on nepotism and on Councilmember compensation. (04:05:37)

Unnamed Guest was called to speak and stated there is no place for hate speech in Huntington Beach referring to comments by Councilmember Burns at the September 5th meeting. (04:07:03)

Zachary Stevens was called to speak and stated his support for proposed Charter amendments related to voter ID, which flags to allow on government property, and term limits. (04:08:35)

Unnamed Guest was called to speak and stated opposition to voter changes and requested that all proposed Charter amendments be listed separately on the ballot. (04:10:10)

Unnamed Guest, a 35-year resident, was called to speak and thanked Councilmember McKeon for standing up for what is right, and shared some issues and costs that she believes Redondo Beach faced when they took over their election process. (04:11:16)

Harry McLachlan, a resident, was called to speak and stated his opposition to any proposed voting changes. (04:12:49)

Unnamed Guest was called to speak and shared her opinions regarding voting and nepotism. (04:13:57)

Synde, a resident, was called to speak and shared her concerns related to proper procedures for this meeting, opposition to changing "shall" to "may", and opposition to term limits. (04:15:37)

ADJOURNMENT — at 10:16 PM, a motion was made by Burns, second by Kalmick, to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on 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