

# PALMIERI TYLER

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Refer To File No. 22222-820  
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April 18, 2019

## VIA E-MAIL

Honorable Mayor and City Councilmembers of the City of Huntington Beach  
c/o Robin Estanislau, City Clerk  
2000 Main Street  
Huntington Beach, CA 92648

Re: Objection to City Council Action Relating to 15311 Pipeline Lane,  
Huntington Beach, CA

Dear Honorable Mayor and City Councilmembers:

On behalf of our client, End the Pipeline, an unincorporated association of residents and property/business owners in the City of Huntington Beach, we submit this objection.

The City's attempt to proceed with taking action concerning the 15311 Pipeline Lane property via a special meeting just a few days after the City Council "work session" appears to be a designed attempt to avoid having a properly noticed and agendized meeting with public comment, objection and input.

The City has not provided the public adequate or accurate information needed to consider the uncertain action. On or around April 6th, the City first informed the public about the potential new site for the "Navigation Center" at 15311 Pipeline Lane. On Monday, April 15th, there was what the City referred to as a City Council work session concerning that site. After the work session, the City of Huntington Beach's Public Information Office notified the public on the Facebook page that action would not be taken until "probably May 6 or May 20"--i.e., the next regularly scheduled City Council meetings. (See Attachment 2A.)

There is insufficient justification for the City's rush to special meeting. The City's Staff Report recognizes that an issue has existed since at least January 2017. Lawsuits, filed in federal court, not against the City of Huntington Beach, were filed last year. Further, from the information available in the press and elsewhere, the Federal Court approved additional time for the City to search, consider and take action. This attempt to proceed via special meeting is a **violation of due process relating to the public and various stakeholders and the Brown Act.**

At the Monday, April 15th Work Session, Mayor Peterson and other City Councilmembers asked a number of questions of Staff. They requested further information from Staff. They, and the public, sought clarification on a number of issues. Those questions have not been answered. The issues and answers are not addressed in the Staff Report.

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Members of the public have likewise asked for further information from the City. For example, without limitation, members of the public have asked for information and identification of the supposed 30 sites reviewed by the City. As to the detail of the "30-site" review, the Staff Report is silent. What analysis, if any, was conducted? Has there been any analysis of use of property already owned by the City of Huntington Beach or other public agency in the City's jurisdiction? The City's attempt to publicly approve this matter less than two weeks after the identification of the Pipeline site to the public demonstrates a designed and coordinated effort to prevent the public from being fully informed so that objections can be raised. Such efforts are improper. (See *Woodward Park Homeowners Assn. v. City of Fresno* (2007) 150 Cal.App.4th 683, 720.)

An appropriate concern and objection is that this meeting is to rubberstamp a decision that was already made prior to public hearing. The facts and circumstances that are known to date demonstrate that the Special Meeting is simply to formalize the already-made and already-committed to decision. The City's discretion has been exercised before any public meeting and hearing. The public is not going to obtain a fair and impartial hearing on this decision. Again, that is a **violation of due process and the Brown Act**.

The City's Staff Report was uploaded just a few moments before the 24-hour mark for this special meeting. The Staff Report appears incomplete and fails to provide the public with adequate notice of the actions to be taken and the documentation of such actions. If complete, it is inadequate. The only draft resolution included with the Staff Report was relating to the "Shelter Crisis" declaration. The Staff Report indicates that the other action to be taken by the City includes to "Declare the City's Intent to Proceed with Establishing a Homeless Navigation Center, Authorize Execution of a Purchase and Sale Agreement for 15311 Pipeline Lane, and Amend the FY 2018/19 Revised Budget by \$2,850,000." How does the City Council propose to so act? No draft resolutions or "declarations" were provided with the Staff Report. What findings is the City Council going to make in support of such actions? Again, the lack of information and transparency is improper and **violates due process and the Brown Act**.

With little to no discussion, the City Staff Report urges the City Council to declare a "shelter crisis pursuant to SB 850." The Staff Report does not identify for the City Council or the public what impact such a declaration may have. The Staff Report reduces its discussion of the SB 850 "declaration" to a single sentence regarding the "Financial Impact." Does the City Council even understand what such an SB 850 declaration means? What is the impact of such a declaration? Why does the City and City Council have to make such a declaration now?

Specific to the "proposal" to purchase the 15311 Pipeline Lane property for the Navigation Center, the City is not being transparent and forthright with information concerning that purchase. Members of the public contacted the realtor for the property **who informed that**

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**the City had already put a "sizable" deposit down on the property and that the property was already under contract with the City.** (See Attachment 2B.)

The "proposed" Purchase and Sale Agreement for the property attached to the Staff Report is in the form of a Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate. The document is dated April 4th. So, two days before the City notified the public of this new site. The terms of the "Standard Offer" states that the City would provide a deposit in the amount of \$100,000 within two business days after the parties execute the agreement. (See Offer, ¶ 4.1.) The "Standard Offer" form only requires execution by the Seller to accept the agreement. Paragraph 20 of the "Standard Offer" also provides that the duration is only until April 16th: "If this offer is not accepted by Seller on or before 5:00 PM ... on the date of April 16, 2019, it shall be deemed automatically revoked." The terms of the "agreement" attached to the staff report support the statement from the realtor (who, by the way is a dual agent representing the seller and the City) that the property is already under contract and the City has placed a "sizable" deposit.

It appears that the City has in fact entered into the contract and placed a deposit on the property. If so, such action is not valid. If it was authorized by the City Council and/or City Staff, it is a violation of due process and the Brown Act. It is a violation of the City Charter and Municipal Code. The City's rush to "approve" the invalid action at this Special Meeting does not ratify the prior invalid action. If the action was not authorized, it is also invalid. In either situation, the City Council's special meeting is not a fair and impartial hearing on the decision but rather is an improper rubberstamping of a decision already made. If the City has not entered into the contract, then the offer has expired.

The City's proposed use of the 15311 Pipeline property will violate the City's Municipal Code. The Staff Report identifies that the property is within the IL zone "which is the City's designated 'SB 2 Zone.'" **The proposed use does not comply with the "Emergency Shelter" requirements in the Municipal Code.** (See HBMC § 230.52.)

- According to the publicly disseminated "Fact Sheet" the Pipeline property will be a "75 to 90 bed shelter." (Attachment 1.) At the Monday City Council work session, information was provided that it could be 100 beds or more as homeless numbers increase. Section 230.52 of the Municipal Code limits emergency shelters to "50 occupants." (HBMC § 230.52, subd. (A).)
- The City "Fact Sheet" states the length of stay will be "up to 90 days." (Attachment 1.) The Municipal Code provides that "Clients must vacate the facility by 8:00 a.m. each day and have no guaranteed bed for the next night." (HBMC § 230.52, subd. (B).)

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- The Pipeline property will also not comply with the parking requirements established in Municipal Code Section 230.52 subdivision I.

In addition to the above, **the proposed use of the Pipeline property is not compatible with the surrounding land uses.** The community has identified a number of concerns on the close distance of the Pipeline property to facilities used by children, schools and security and other concerns by those businesses and property owners in the area. This neighborhood is being disproportionately burdened with a City-wide problem.

**The City has also not been transparent about the proposed purchase of the Pipeline property and the associated cost.** The Pipeline property will have to be converted to a shelter. The City is proposing to move forward with the purchase without a knowledge of what is actually needed. These issues include, but are not limited to, where is the proposed floor plan for the site? What improvements will be needed to convert an industrial building to a livable space?

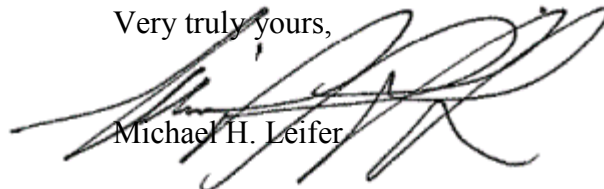
Where is the appraisal to justify the purchase price? As discussed, the realtor representing the City is a dual agent. To the extent the purchase price exceeds the market, it is an improper and illegal gift of public funds.

In addition the above, the City's proposed action, purchase and use is in violation of CEQA.

We incorporate by reference all oral and written objections submitted on this matter. We request that comments by members of the public made on the City of Huntington Beach's Facebook pages also are included in consideration of this matter. We also request that the City include in the record of this matter all oral and written objections submitted in relation to the City's consideration of the 5770 Research Drive, Huntington Beach site. The same objections to that site apply here. The City has simply moved the proposed location one street over.

On behalf of our clients, this site should be rejected, factually and as a matter of law. At a minimum, the hearing and decision on this matter should be continued to properly analyze the proposal.

Very truly yours,



Michael H. Leifer

MHL:ebn

Enclosures - Attachment 1 - City's Fact Sheet; Attachment 2 - Some Pertinent Facebook Posts

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cc: Fred A. Wilson, City Manager

## **ATTACHMENT 1**

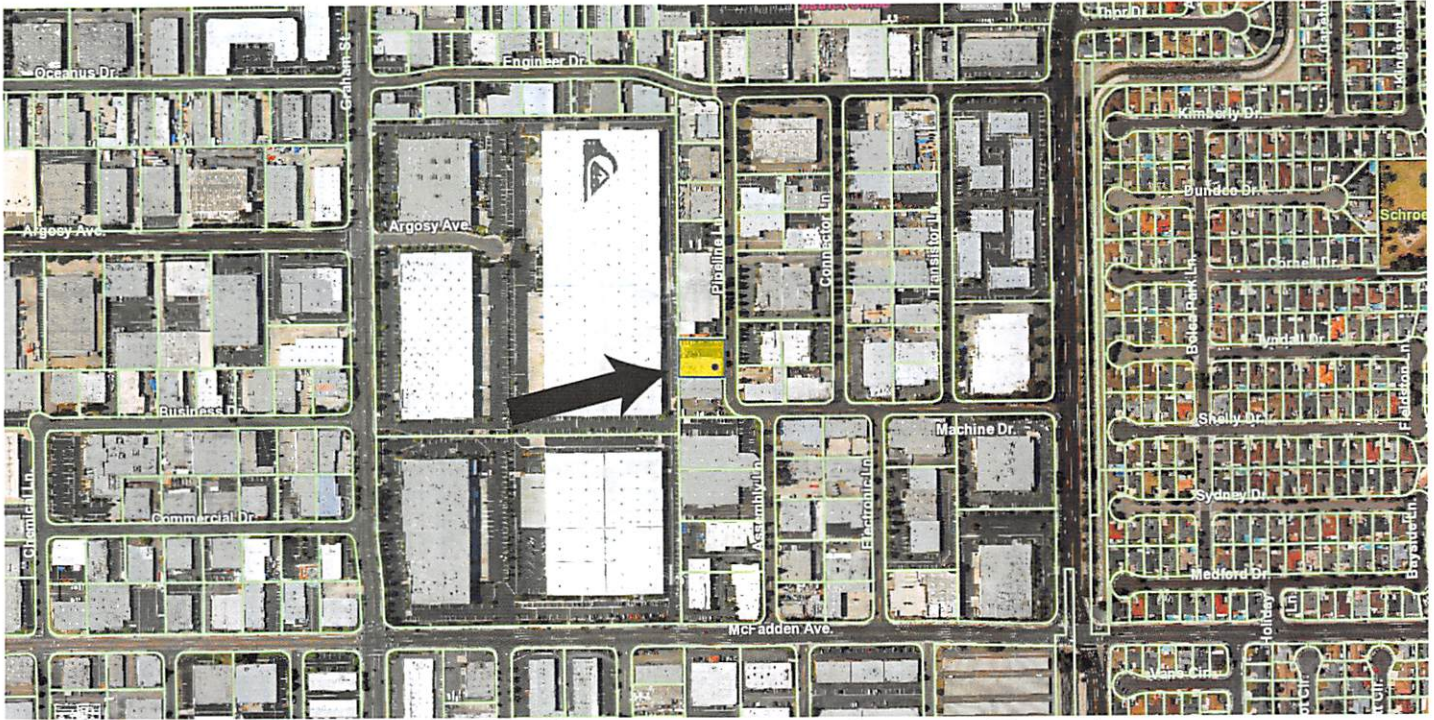


# Addressing **HOMELESSNESS**



*in Huntington Beach*

## **FACT SHEET**



### **15311 Pipeline Lane, Huntington Beach**

#### **Specifics**

- 75 to 90 bed shelter/11,200 sq. feet
- Nearest residential - 1,380 ft.; nearest school - 2,819 ft.; nearest park - 2,300 ft.
- City to hire security for 24/7 coverage on-site, as well as a 24-hour hotline to report concerns
- No "walk ins" or "walk outs"
- Clients must be screened and go through an approval process prior to being accepted to the Center
- Clients will only be driven to the site and/or away from the site. No loitering on or near the site
- Site will be fenced around the property
- Enhanced Huntington Beach Police Department service
- Length of stay — up to 90 days
- No clients with open felony warrants or registered offenders
- Serve adult men, women and couples
- Pets allowed - muzzled

#### **Potential Partnerships**

- City will issue a Request For Proposals for a highly qualified Shelter Operator
- Operator will need to provide shuttle services and case management

#### **Community Outreach**

- An Open House is scheduled for businesses/employers near the site on Tuesday, April 9 from 4 to 6 p.m.
- A Community Open House for residents will be held Saturday, April 13 from 10 a.m. to noon at the Central Library

## **ATTACHMENT 2**





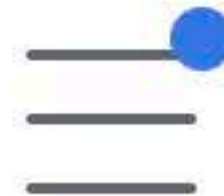
## City of Huntington Beach Public Information Office

Thursday at 10:05 AM •

Navigation Center UPDATE: Thank you to those who attended Tuesday's Navigation Center Open House. We will host another Open House this weekend, Sat., 4/13 at the **Huntington Beach Central Library** from 10am to noon. In addition, the Navigation Center will NOT be on the 6pm Council agenda on Monday. However, it WILL be discussed on Monday, 4/15 at the Study Session. Since we anticipate a large crowd, we will begin the meeting at 3:30pm. Staff will give a presentation, and there will be an opportunity for public comment. Questions? Call 714.536.5577



Write a comment...







## City of Huntington Beach Public Information Office



Thursday at 10:05 AM ·

5 shares

Most Relevant ▾



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**Craig Frampton...**will keep you all posted on the vote.

4d Like Reply



**Craig Frampton**  
thank you,i always watch the meetings,

4d Like Reply



Write a reply...



**Amber Raemer**

This is near Scats, hockey rink, Grace Lutheran preschool, Elementary school and middle school. Please find a appropriate location!

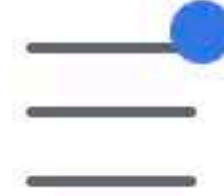
5d Like Reply



**Roger Cowan**

Has the city looked into the neighboring businesses to see how this may affect there operations?

Write a comment...







City of Huntington Beach Public Information Office



Thursday at 10:05 AM · 🌐



Chris Young Replied · 13 Replies



Roger Cowan  
What are the rights of neighboring businesses in the conditional use permitting process?

5d Like Reply



Stacy L. Massey  
Thanks Julie Manuel Toledo for posting.

4d Like Reply



Stacy L. Massey  
F

4d Like Reply



Craig Frampton  
When will they vote on this?

6d Like Reply




City of Huntington Beach Public Information Office  
Probably May 6 or May 20

6d Like Reply



Write a reply...

Write a comment... 







## City of Huntington Beach Public Information Office



Yesterday at 3:41 PM ·



**Rebecca Weinberg**

Why was a deposit put down on the proposed Pipeline location before an actual vote and thorough due diligence?

12h

Like

Reply



**Roger Cowan**

Rebecca Weinberg another huge mistake! now need an architect, engineer the wall removals, soil should be tested as the old lock company next door had hazardous waste. This will be a mess

1h

Like

Reply



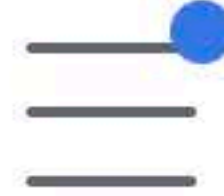
**Rebecca Weinberg**

Roger Cowan A few of us met with Mike Gates and Kim Karr today to confirm.

Q: "Does the city have a deposit on the property?" – Mike Gates: "I am not aware"; Kim Carr: "No"

Not only did the relator say the city put a deposit already but when asked if it was 5% he responded it was a sizable

Write a comment...







## City of Huntington Beach Public Information Office



Yesterday at 3:41 PM ·

Like Reply



**Rebecca Weinberg**

Roger Cowan A few of us met with Mike Gates and Kim Karr today to confirm.

Q: "Does the city have a deposit on the property?" – Mike Gates: "I am not aware"; Kim Carr: "No"

Not only did the relator say the city put a deposit already but when asked if it was 5% he responded it was a sizable deposit. Someone's not being forthcoming here.

1h Like Reply



Write a reply...



**Lisa Marie**

Please Go To the meeting and tell them you do not want the shelter near Marina HS. It's too. Close, and a few other schools within a 10 minute walk.

20h Like Reply



**Alexis Longo**

Write a comment...

