

Minutes

City Council/Public Financing Authority City of Huntington Beach

Monday, November 18, 2019
3:00 PM - Council Chambers
6:00 PM - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of the 3:00 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/

3:00 PM - COUNCIL CHAMBERS

CALLED TO ORDER — 3:00 PM

ROLL CALL

Present: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy (arrived at 3:45 pm)
Absent: None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

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

Study Session

- #1. 19-998 PowerPoint communication submitted by Marie Knight, Director of Organizational Learning and Engagement entitled, *Huntington Beach Public Art Master Plan*.
- #1. 19-998 *Huntington Beach Public Art Master Plan Survey Results* submitted by Marie Knight, Director of Organizational Learning and Engagement.
- #2. 19-852 PowerPoint communication submitted by Ursula Luna-Reynosa, Community Development Director entitled, *Magnolia Tank Farm, Environmental Impact Report (EIR) No. 17-001 General Plan Amendment (GPA) No. 17-001 Zoning Map Amendment (ZMA) No. 17-001 Zoning Text Amendment (ZTA) No. 17-005 Local Coastal Program Amendment (LCPA) No. 17-001 Development Agreement (DA) No. 19-001*.
- #2. 19-998 PowerPoint communication submitted by Ricky Ramos, Senior Planner, entitled *Magnolia Tank Farm Historical Summary & Environmental Status – 21845 Magnolia Street, Huntington Beach, California*.
- #2. 19-852 Thirty (30) email communications received between October 9, 2019 and November 18, 2019.

PUBLIC COMMENTS PERTAINING TO STUDY SESSION / CLOSED SESSION ITEMS

(3 Minute Time Limit) — 7 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>.

Rob Pool, Huntington Beach resident, was called to speak and stated his opposition to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:02:04)

Cari Swan was called to speak and stated her opposition to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:05:03)

Nancy Buchoz, a 43-year resident of southeast Huntington Beach, was called to speak and stated her concerns related to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:08:02)

Adam Wood, Building Industry Association, Orange County, was called to speak and stated concerns related to Study Session Item No. 1 regarding the Public Art Master Plan. (00:11:12)

Milton B. Dardis, a resident of southeast Huntington Beach, was called to speak and stated his concerns related to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:12:15)

Robyn Sladek, a 49-year resident of Huntington Beach, was called to speak and shared her concerns and opposition to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:14:52)

Ceason Baker, a resident of southeast Huntington Beach, was called to speak and stated her concerns and opposition to Study Session Item No. 2 regarding the Magnolia Tank Farm Project. (00:17:50)

STUDY SESSION

1. 19-998 Public Art Master Plan Update

Marie Knight, Director of Organizational Learning and Engagement, and Chris Slama, Community Services Director, jointly presented a PowerPoint communication entitled *Huntington Beach Public Art Master Plan*, with slides titled: *Team, Meeting Purpose, Introduction, Public Art Definition, Introduction (3), Community Engagement (3), Community Outreach - Survey Results (4), Private Development Contribution (8), Public Art on Private Property (2), HB Mural Ordinance, Public Art on Private Property (3), Public Art Review Body (5), Council Discussion and Direction.*

Councilmember Delgleize, Director Slama and Director Knight discussed how active a Public Art Review Body could be, how current Art Center staff doesn't have the capacity to be tasked with the functions of a Public Art Review Body without giving up some current tasks, and private art donated by individuals appears to be a very minor role for the cities studied in the report.

Councilmember Posey stated his opposition to private development contributions (percentage ordinance), and noted that from the report presented it would appear that only twenty percent (20%) of California cities use a fee-based funding mechanism.

Councilmember Brenden and Community Development Director Luna-Reynosa discussed the current process that requires public art for development in certain specific plans through guidelines that encourage public art, not necessarily through mandates. There was discussion of examples of public art

that could be determined to pose health, safety or welfare issues, such as interfering with site lines at intersections.

Councilmember Brenden and Director Knight discussed lawsuits filed in other cities regarding public art where the issues generally related to the materials used, or the specific content. Councilmember Brenden expressed his opinion that concepts like "community identity and values" or "brand personalities" are subjective, and he suspects it will be difficult to determine oversight, and stated he is not in favor of a private development contribution.

Councilmember Carr shared her support for public art to beautify the City, enhance tourism, and for requiring developers to contribute to public art. She also asked for more feedback to better understand if mural working groups are suggested as being in addition to a Public Art Review Body, or are they both the same. She also suggested that there be qualifications for members of the Public Art Review Body (PARB). Director Knight stated that mural working groups could be a subcommittee of the PARB, as could art maintenance.

Mayor Pro Tem Semeta stated her support private development contributions (percentage ordinance), but had concerns about burdening small businesses with more fees, and suggested consideration of project size. She asked staff to provide choices for consideration such as "in lieu" fees. Mayor Pro Tem Semeta stated support for a process that requires less staff time, and suggested that the commission or committee be composed of some Council appointments, business owners, developers, and public-at-large members experienced in the arts and public art master planning. She also suggested creating a trust or similar mechanism that would allow individuals to donate funds for public art.

Mayor Peterson expressed support for private development contributions (percentage ordinance), and suggested looking at expanding the role of the Design Review Board (DRB) that currently considers historic, specific plan and art design background perspectives during the approval process. He also encouraged a process that allows for public input.

Councilmember Posey shared his thoughts that adding fees for businesses can be interpreted as more barriers to development, and he believes that developers already contribute to the beautification and redevelopment of tired and obsolete sites, and they generate new property and sales taxes, and new jobs. He further stated his opinion that the City can encourage art, but should not be in the business of mandating it.

Councilmember Hardy expressed her opinion that there needs to be encouragement for public art with conditions that will result in implementation, and suggested there should be a cap included in private development contribution (percentage ordinance). She also stated that performing arts should be included in public art discussions, processes, and in creating a committee or commission; and shared her vision of a team that requires very little staff support.

Councilmember Brenden stated his opposition to an additional fee or tax for developers, and expressed support for continuing to use the DRB and re-evaluating their function. He further expressed opposition to a mural ordinance because it would introduce too much discretion, interpretation, and subjectivity, and does not support forming a committee or commission. Councilmember Brenden stated that the City already has public art, and he does not support using additional staff resources, i.e., funding. He does however support a Public Art Master Plan, a plan that encourages and facilitates public art, and provides a mechanism for the collection of public art donations; however, in his opinion, the plan should not create regulation and burden.

Mayor Pro Tem Semeta suggested that staff return with specific options or choices for each of the items under consideration, and stated that allowing for public input definitely needs to be a part of the process for approving public art.

Councilmember Posey stated his opinion that much of the criteria used by other cities, in the examples provided, could become First Amendment landmines, and expressed his desire to see a Public Art Master Plan that provides incentives. He asked that staff go back to the drawing board.

Mayor Peterson shared some of his experiences from serving four years on the DRB, including some of the questions asked when considering art projects related to public safety or a maintenance plan. There were no subjective standards to meet. Mayor Peterson expressed a desire to reach out to local artists more for public art projects, and supported Mayor Pro Tem Semeta's request for a plan that provides specific options for the Council to consider.

Councilmember Carr stated that from her perspective, the DRB is more focused on signage rather than art, and stated her support for having a group of experienced in the arts and dedicated to having more art in Huntington Beach.

Mayor Pro Tem Semeta disagreed with expanding the role of the DRB and concurred with Councilmember Carr about the City needing a group dedicated to the arts.

2. 19-852 Magnolia Tank Farm Project Overview

Community Development Director Ursula Luna-Reynosa introduced Senior Planner Ricky Ramos who presented a PowerPoint communication entitled: *Project Site*, with slides titled *Request (7)*, *Planning Commission*, *Next Steps* and *End*.

Mauricio Escobar, Principal Geologist, Roux Associates, presented a PowerPoint communication entitled: *Magnolia Tank Farm Historical Summary & Environmental Status*, with slides titled: *Presentation Overview*, *Historical Use of MTF*, *Historical Uses (1927)*, *Historical Uses (1938)*, *Historical Uses (1938 & 1947)*, *Historical Uses (1953 & 1963)*, *Historical Uses (1972 & 1994)*, *Present Day Conditions*, *Historical Use of MRF - Recap*, *Presentation - Guide*, *Questions Related to MTF History*, *Presentation Guide*, *Chemicals of Potential Concern at MTF*, *Environmental Status of MTF*, *Environmental Status of MTF (8)*, *Groundwater Floor (Aug. & Sept. 2018)*, *Ascon Final Remedy*, *Conceptual Site Model*, *Presentation Guide*, and *Questions on MTF Environmental Status (9)*.

Mayor Peterson stated that this seems to be the first time that an applicant has received a favorable ruling from the Planning Commission, and then makes a presentation to address public concerns through a Study Session rather than a Public Hearing. Mayor Peterson reminded everyone that this is not a Public Hearing, which would be the appropriate place to ensure comments are documented, further explaining that Study Sessions are intended to share information.

Councilmember Hardy and Senior Planner Ramos discussed the number of units per acre for Low Density (RL): up to 7 acres/unit; and Medium Density (RM): 15 acres/unit. Senior Planner Ramos explained that if there is no hotel the density would go down as the same number of units would be on a larger piece of property. Councilmember Hardy asked that staff be prepared at the Public Hearing to answer whether the 250 units count as part of Regional Housing Needs Assessment (RHNA) requirements; to confirm that the hotel requirement for low-budget accommodations comes from the

California Coastal Commission (CCC), and to confirm what percentage of the hotel rooms must be low-budget accommodations.

Councilmember Carr and City Manager Chi discussed his decision to move on potentially controversial topics outside of the norm, including the Magnolia Tank Farm Overview, in his effort to remain transparent, especially when the matter involves such a large volume of technical information.

Councilmember Carr and Geologist Escobar discussed the upcoming ruling expected from the Department of Toxic Substance Control (DTSC) regarding suitability for development. If approved, the next step is for the City's Fire Department to request that the developer show that the site meets City specifications regarding oily soils and methane. The discussion continued regarding AES and Geologist Escobar stated that AES has no waste or contamination that is next to the Magnolia Tank Farm site.

RECESSED TO CLOSED SESSION — 5:06 PM

A motion was made by Brenden, second by Semeta to recess to Closed Session for Items 4 - 7. With no objections the motion passed.

CLOSED SESSION ANNOUNCEMENT(S)

3. **19-1164 Mayor Peterson announced: Pursuant to Government Code § 54957.6, the City Council shall recess into Closed Session to meet with its designated labor negotiators: Oliver Chi, City Manager; also in attendance: Travis Hopkins, Acting Assistant City Manager regarding the following: Municipal Employees' Association (MEA); Management Employees' Organization (MEO); Police Officers' Association (POA), Police Management Association (PMA); Marine Safety Management Association (MSMA) Surf City Lifeguard Employees' Association (SCLEA), and Non-Associated.**

CLOSED SESSION

4. **19-1157 Pursuant to Government Code §54956.9(d)(2), the City Council recessed into Closed Session to confer with the City Attorney regarding potential litigation. Number of cases, four (4).**
5. **19-1158 Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Cruz v. City of Huntington Beach; USDC Case No.: 8:19-cv-1449-DOC (ADSx).**
6. **19-1159 Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Californians for Homeownership, Inc. v. City of Huntington Beach; OCSC Case No. 30-2019-01107760.**
7. **19-1163 Pursuant to Government Code § 54957.6, the City Council recessed into Closed Session to meet with its designated labor negotiator: Oliver Chi, City Manager; also in attendance: Travis Hopkins, Acting Assistant City Manager regarding the following: Municipal Employees Association (MEA); Management Employees' Organization (MEO); Police Officer's Association (POA); Police Management**

**Association (PMA); Marine Safety Management Association (MSMA) Surf City
Lifeguard Employees' Association (SCLEA) and Non-Associated.**

6:00 PM - COUNCIL CHAMBERS

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

ROLL CALL

Present: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy

Absent: None

PLEDGE OF ALLEGIANCE — Led by City Manager Oliver Chi

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.

**8. 19-1088 Kelly Frankiewicz of the Leisure World Community Church and member of the
Greater Huntington Beach Interfaith Council**

CLOSED SESSION REPORT BY CITY ATTORNEY — None.

Mayor Peterson announced that the Council would recess to Closed Session at the meeting's conclusion to discuss Item No. 7 – labor negotiations.

AWARDS AND PRESENTATIONS

**9. 19-1153 Mayor Peterson called on Victoria Alberty who presented the "Adoptable Pet of the
Month"**

Ms. Alberty, of Waggin' Trails Rescue Foundation, introduced Karen of Top Dog Barkery and Oliver, a Poodle mix who is probably 1 or 2 years old. More details are available at www.waggintrails.org, or visit Top Dog Barkery in Pacific City.

**10. 19-1084 Mayor Peterson presented commendations to the newly crowned Miss Huntington
Beach 2020 Mara James and her court**

Miss Huntington Beach 2020 Mara James introduced Princesses Natalie Peart and Gianna DiLiberto, and thanked City Council for recognizing them, and Sand Dollars, the non-profit organization that hosts the Miss Huntington Beach Scholarship competition.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

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

Consent Calendar

#12. 19-1160 Communication submitted by Robin Estanislau, City Clerk, advising of a correction to the November 4, 2019 Minutes.

#14. 19-967 Letter submitted by Carol Hansen, Ed.D., Superintendent, Ocean View School

Administrative Items

#22. 19-1145 PowerPoint communication submitted by Ursula Luna-Reynosa, Community Development Director entitled, *6th Cycle RHNA Update*.

#23. 19-1167 Communication submitted by Dahle Bulosan, Acting Chief Financial Officer, providing final copies of Resolution No. 2019-89 and Trust Agreement by and between the City of Huntington Beach and U.S. Bank National Association.

#23. 19-1167 PowerPoint communication submitted by Oliver Chi, City Manager entitled, *Refinancing Our Pension Debt – Addressing HBs Greatest Fiscal Threat*.

Ordinances for Introduction

#25. 19-1130 PowerPoint communication submitted by Ursula Luna-Reynosa, Community Development Director, entitled, *City of Huntington Beach Municipal Code 8.48 Inoperable and Abandoned Vehicles*. **The Item was been withdrawn.**

PUBLIC COMMENTS (3 Minute Time Limit) — 31 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>.

Claudia Perez, Senior Field Representative for Assemblywoman Cottie Petrie Norris, was called to speak and announced two public events sponsored by Assemblywoman Petrie Norris: Tuesday, November 14, Coast Community College District Board Room, Oversight Hearing on Veterans' Homelessness in Orange County, 11 a.m. - 2 p.m., and a Holiday Party and Open House, Wednesday, December 4, 4 - 6 p.m., at their District Office in Irvine. (02:16:49)

Maureen was called to speak and shared her opinions related to "pay to play" by politicians. (02:18:02)

Bob Harrison, retired professional engineer with a strong environmental background, Former Amigos de Bolsa Chica and Bolsa Chica Conservancy Board Member, and 50+ year resident of Huntington Beach, was called to speak and shared his opinions and experiences regarding remediation and control systems for development projects. (02:19:39)

Marian Johnson, owner of Let's Go Fishing, was called to speak and stated her rebuttal to comments made at the November 4th, 2020, City Council meeting, specifically Agenda Item No. 17, regarding Let's Go Fishing and *Surf City Snack Bar, LLC* lease at the Huntington Beach Pier. (02:22:51)

Mariya Sheldon was called to speak and stated her opinions and personal experiences related to the "toxic" Magnolia Tank Farm development plan. (02:26:09)

Joyce Bizzaro, local Real Estate Agent and Member of the Huntington Beach International Surfing Museum, was called to speak and stated her support for a transparent Request for Proposal (RFP) process regarding future Museum plans. (02:29:39)

Diana Dehm was called to speak and stated her support for a transparent Request for Proposal (RFP) process regarding future plans for the Huntington Beach International Surfing Museum lease. (02:31:40)

Dale Smith, former professional skateboarder and Skateboard Hall of Fame Curator, was called to speak and shared his concerns regarding proper procedures and processes by the current 501(c)3 non-profit operating the Huntington Beach International Surfing Museum. (02:34:57)

Jericho Poppler was called to speak and shared her opinions regarding the future of the Huntington Beach International Surfing Museum. (02:36:38)

Gary Sahagen, former Treasurer, Director, and Trustee for the Huntington Beach International Surfing Museum, was called to speak and shared his concerns regarding whether proper procedures and processes are being used by the current 501(c)3 non-profit operating the Surfing Museum, and stated support for transparency in moving forward. (02:39:12)

Tim Geddes, a 35+ year resident of southeast Huntington Beach, was called to speak and stated his opposition to the Magnolia Tank Farm project. (02:41:48)

Leanne Mulford, 20-year resident of south Huntington Beach, was called to speak and stated her opposition to the Magnolia Tank Farm project. (02:44:26)

Nancy Buchoz was called to speak and stated her concerns about and opposition to the Magnolia Tank Farm project. (02:47:39)

Starla Rodenbeck, a lifetime resident of Huntington Beach, was called to speak and shared personal family experiences in support of her opposition to the Magnolia Tank Farm project. (02:49:39)

Robyn Sladek, a life-long resident of Huntington Beach, was called to speak and stated her opposition to the Magnolia Tank Farm project. (02:51:23)

Ceason Baker, a resident of southeast Huntington Beach, was called to speak and stated her opinions and opposition to the Magnolia Tank Farm project. (02:54:00)

Cari Swan was called to speak and shared her observations and opinions regarding the November 4, 2020, Agenda Item No. 19 during which the Beach/Edinger Specific Plan design standards were being discussed. Ms. Swan also questioned whether proper public notice was utilized for the recent Urban Land Institute Workshop. (02:56:04)

Stella May, representing Concerned Citizens of California, was called to speak and thanked City Council for supporting the no-sanctuary issues as well as filing litigation against Sacramento to protect the citizens of Huntington Beach. (02:59:16)

Darrell Robinson was called to speak and stated his support for City Attorney Michael Gates and the City's efforts to fight against SB 54. (03:00:58)

Rob Pool, resident of Huntington Beach, was called to speak and shared his opinions and opposition to the November 4, 2020, Agenda Item No. 19, regarding the effort to obtain Housing and Community Development (HCD) certification for the purpose of being eligible to apply for SB 2 Funds. (03:03:33)

Larry McNeely, a life-long Huntington Beach resident, was called to speak and stated his opposition to any increased housing density in Huntington Beach. (03:05:44)

Susie, a 40+ year resident of Huntington Beach, was called to speak and shared her opinions in opposition to high density development. (03:06:43)

Ann Palmer, 29-year resident of Huntington Beach, was called to speak and stated her opposition to high-density development. (03:08:35)

Mike McCoy, We the People Rising - Southern California, was called to speak and stated his opinions regarding immigration and encouraged City cooperation with Immigration and Customs Enforcement (I.C.E.). (03:11:55)

Janet West was called to speak and thanked City Attorney Michael Gates for opposing SB 54, and stated her opposition to high-density development. (03:13:25)

Raul Rodriguez, Jr., America First Latinos, California Coordinator, was called to speak and stated opposition to SB 54. (03:16:14)

David Miller, a 50-year resident of Huntington Beach, was called to speak and shared his interest in keeping the Huntington Beach International Surf Museum a local entity. (03:19:27)

Bob Pace, life-long surfer, former Lifeguard and Former Board Member of the Huntington Beach International Surfing Museum, was called to speak and shared his support for a transparent Request for Proposal (RFP) process regarding future Museum plans. (03:20:56)

Duke Aipa was called to speak and shared personal experiences and support for ensuring a continued local vibe for the Huntington Beach International Surf Museum. (03:24:11)

Rich Fancher was called to speak and shared his support for transitioning to Elections by District so that each area of the City is fairly represented. (03:25:23)

Robin Hvidston, Remembrance Project, was called to speak and shared her opinions and opposition to SB 54. (03:28:06)

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

Mayor Pro Tem Semeta, as Southern California Association of Government (SCAG) Representative for Huntington Beach, reported details outlining the Regional Housing Needs Assessment (RHNA) determination process and last-minute actions in response to the State's latest projection for 1.3M affordable units. Her report highlighted monthly meetings by RHNA and other housing subcommittees to parse through complicated formulas; public meetings held throughout the region to solicit public input on methodology; jurisdictional tools used to ascertain formula impacts on individual cities; jurisdictional recommendations to change the proposed formula(s); and a November 7 vote on final methodology by the Regional Council.

Mayor Pro Tem Semeta explained how Orange County cities were prepared to support a fair and equitable formula for distribution, but last minute actions of representatives from the cities of Riverside and Los Angeles to create a new methodology forced a large portion of the affordable housing distribution onto Orange County. She further described how Orange County was unprepared to respond before the final vote that included participation by representatives from larger cities in Riverside, Los Angeles and San Bernardino counties, resulting in the unfair expectation for Huntington Beach.

Mayor Pro Tem Semeta expressed disappointment with SCAG's apparent support of the last minute actions she considers were unfair (limited public participation; insufficient notice; new methodology not fully analyzed for impacts; and, new method's absence of local input and growth forecast data.) She concluded her report by recognizing coastal cities constraints, encouraged the public to stay engaged, and displayed an informative slide that outlined the public input process on the Draft Connect SoCal Regional Transportation Plan/Sustainable Communities Strategy.

Councilmember Posey displayed slides that provided information on the Orange County Parks Commission discussion on the use of Measure 2 funds to restore Harriet Weider Park, and his visit to the White House where he participated in a Roundtable Discussion with Dr. Ben Carson on Affordable Housing.

Councilmember Brenden reported attending meetings with the HB Police Officers' Association (HBPOA), attending a Human Relations Task Force meeting, and Orange County Senior Citizens Advisory Council and Legislative Committee meetings.

Councilmember Delgleize reported attending meetings of the Orange County Transit Authority (OCTA), and California Association of Councils of Government CALCOG in Sacramento.

Councilmember Carr reported receiving communications from the HB Police Officers' Association (HBPOA).

Mayor Peterson reported attending a 5G Conference in Washington, D.C. on the deployment of 5G technology to stay informed, and to express the need to address safety concerns. He also discussed his attendance at other various meetings relating to jet noise, sober living, and maintaining local control.

CITY MANAGER'S REPORT

City Manager Oliver Chi addressed frustrations shared by the public and expressed his commitment to support their right for information and participation in their local government. He further stated that staff is paying close attention to consider all available information associated with development issues, and also stated support for staff's hard work to do what is right by the City.

City Manager Chi referred to Interim Assistant City Manager Travis Hopkins, who provided an update on the Ascon Landfill Project.

CITY ATTORNEY'S REPORT

- 11. 19-1160 City Attorney Gates reported on status of certain lawsuits including, among possibly others, City's SB 54 challenge, and the AB 101 and SB 1333 challenges**

City Attorney Gates provided a brief history of the City's challenge of SB 54 (Sanctuary State Law), including the City's court victory in 2018 and declaration that SB 54 is an unconstitutional violation of the City's Charter City rights; soon thereafter an appeal filed by the State; and, arguments recently provided in court by City and State attorneys before a 3-judge panel on October 23, 2019. The City currently awaits a written decision on the appeal.

In reference to suits filed to challenge SB 35 and SB 166 related to housing and local zoning control, cases are pending.

In reference to AB 101 and SB 1333 - housing laws that seek to take away local control, the Council authorized action to file legal challenges. Cases have been consolidated through the Los Angeles Superior Court, but can be reviewed by researching Orange County Court Case No. 30-2019-0144945.

CONSENT CALENDAR

Councilmember Brenden pulled Item No. 14 regarding the street sweeping contract for further discussion.

12. 19-1139 Approved and Adopted Minutes

A motion was made by Posey, second Carr to approve and adopt the City Council/Public Financing Authority regular, and Housing Authority special meeting minutes dated November 4, 2019, as written and on file in the office of the City Clerk, **and as amended by supplemental communication.**

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

13. 19-1096 Approved additional appropriation of \$150,000 for professional Fire Prevention inspection, plan check, and environmental engineering services, and increased professional services authority accordingly

A motion was made by Posey, second Carr to approve an additional appropriation of \$150,000 for Fire Prevention inspection, plan check and environmental engineering services as these expenditures are primarily cost-neutral and generally offset by reimbursements from developers and revenues generated from inspection and plan review services; and, increase the Fire Department's professional services authority by \$150,000 to ensure compliance with Administration Regulation No. 228.

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

14. 19-967 Approved contract for street sweeping enforcement with Universal Protection Services, LP, DBA Allied Universal Security Services

Councilmember Brenden pulled this item to discuss with Police Chief Handy the full implications for staff who are currently pulled away from issues related to meter enforcement, abandoned vehicle

enforcement, traffic control at accidents and special events for street sweeping enforcement. Chief Handy explained that the goal of this contract is to provide undivided attention to street sweeping enforcement without pulling staff who are focused on the other equally important issues.

Councilmember Brenden amended the action to document the defunded positions, which are currently vacant, and asked for a Department report in six (6) months documenting any changes in the level of citations under the new system.

A motion was made by Brenden, second Posey to approve and authorize the Mayor and City Clerk to execute "Service Agreement Between the City of Huntington Beach and Universal Protection Services, LP DBA Allied Universal Security (UASS) for Street Sweeping Enforcement Services" in an amount not to exceed \$1,119,000 over a three-year term; and authorize the City Manager to execute the attached contract, **as amended to document defunding of five (5) parking enforcement officer positions; and return to Council in six months with an update on enforcement.**

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

15. 19-1038 Approved First Amendment to Lease between the City and Kokomo's Surfside Grill, Inc., for a Beach Food Concession at the Marine Safety Education Center and approved Consent to Assignment and Assumption of Lease for Kokomo's Concession

A motion was made by Posey, second Carr to approve and authorize the City Manager to execute the Consent to Assignment and Assumption of Lease Agreement for Kokomo's Concession; and approve and authorize the City Manager to execute the First Amendment to Lease dated September 5, 2017 between the City of Huntington Beach and Kokomo's Surfside Grill, a California Corporation for a Beach Food Concession on the first floor level of the Marine Safety Education Center.

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

16. 19-1129 Adopted Resolution 2019-11 approving a summary vacation of an easement over a portion of 13th Street and Crest Avenue; adopted Resolution 2019-77 declaring a strip of City-owned property as surplus property; approved Quitclaim Deed for ownership of easement and the agreement for sale of surplus real property between the City and Dawn and Naomi Shimoda; and, authorized recordation of resolutions and exhibits with the Orange County Recorder

A motion was made by Posey, second Carr to adopt Resolution No. 2019-11, "A Resolution of the City Council of the City of Huntington Beach ordering the summary vacation of an easement over a portion of 13th Street and Crest Avenue in the City of Huntington Beach" (Attachment 1); and, adopt Resolution No. 2019-77, "A resolution of the City Council of the City of Huntington Beach declaring that a strip of City owned property adjacent to 743 13th Street, Huntington Beach, is surplus property" (Attachment 7); and, instruct the City Clerk to record Resolutions No. 2019-11 and 2019-77 and the attached exhibits

with the Orange County Recorder; and, approve the "Agreement for Sale of Surplus Real Property and Escrow Instructions by and between the City of Huntington Beach and Dawn Michiko Shimoda and Naomi Shimoda," (Attachment 5); and approve the Quitclaim Deed transferring ownership of easement to Dawn Michiko Shimoda and Naomi Shimoda, as well as any other escrow documents necessary for this transfer (Attachment 6).

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

17. 19-1141 Adopted Resolution No. 2019-88 establishing City policy on termination of residential water service; adopted Resolution No. 2019-87 amending the Consolidated Comprehensive Citywide Master Fee and Charges Schedule to allow reduced water service reconnection fees for households earning less than 200% of the Federal poverty line, and establish a deposit schedule for new water service customers; and, increased appropriations and professional services authority by \$60,000 to fund utility billing software updates and part time contract staffing and other related costs for implementation and administration of Senate Bill No. 998

A motion was made by Posey, second Carr to adopt Resolution No. 2019-88, "A Resolution of the City Council of the City of Huntington Beach Establishing City Policy on Termination of Residential Water Service," and adopt Resolution No. 2019-87, "A Resolution of the City Council of the City of Huntington Beach Amending the Consolidated Comprehensive Citywide Master Fee and Charges Schedule to Allow Reduced Water Service Reconnection Fees for Households Earning Less Than 200% of the Federal Poverty Line, and to Establish a Deposit Schedule for New Water Service Customers, All As Established Pursuant to Resolutions Nos. 2016-59, 2017-46, 2018-01, 2018-29, 2018-48, 2018-55, 2019-07, and 2019-19 (Supplemental Fee Resolution No. 10)," and increase Appropriations and Professional Services Authority by \$60,000 in the Water Fund (Fund 506).

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

18. 19-1110 Adopted Resolution No. 2019-76 approving the annual Measure M2 Expenditure Report for the City of Huntington Beach

A motion was made by Posey, second Carr to adopt Resolution No. 2019-76, "A Resolution of the City Council of the City of Huntington Beach Concerning the M2 Expenditure Report for the City of Huntington Beach."

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

19. 19-1140 Adopted Ordinance No. 4200 amending Huntington Beach Municipal Code Section 2.76.010 to add the Classification of Director of Organizational Learning &

Engagement

Approved for introduction 11-04-2019 - Vote: 6-0-1 (Peterson absent)

A motion was made by Posey, second Carr to adopt Ordinance No. 4200," An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Amending Section 2.76.010 Thereof Related to Exclusions From the Competitive Service" by adding the Director of Organization Learning & Engagement.

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy

NOES: None

PUBLIC HEARING

20. 19-1086 Adopted Ordinance No. 4189 amending Municipal Code Chapter 17.56 adopting the California Fire Code, 2019 Editions

Approved for introduction 10-21-2019 - Vote: 7-0

City Manager Chi introduced both Public Hearing items, reminding Council that relative Ordinance Nos. 4189 and 4190 approved for introduction on October 21, 2019 now require formal adoption.

Mayor Peterson opened Public Hearings simultaneously for Item Nos. 20 and 21.

City Clerk Robin Estanislau announced no one had signed up to speak for either item.

With no one signed up to speak, Mayor Peterson closed both Public Hearings.

A motion was made by Posey, second Delgleize to adopt Ordinance No. 4189, "An Ordinance of the City of Huntington Beach Amending Chapter 17.56 of the Huntington Beach Municipal Code Adopting the California Fire Code," 2019 edition.

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy

NOES: None

21. 19-1085 Adopted Ordinance No. 4190 adopting the 2019 Model California Construction Codes

Approved for introduction October 21, 2019 - Vote: 7-0

A motion was made by Posey, second Delgleize to adopt Ordinance No. 4190, "An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code, Title 17 - Building and Construction Chapters 17.04, 17.07, 17.40, 17.44, and 17.48 to Adopt by Reference the Current California Code of Regulations Title 24 Parts 1-12 with Regard to the 2019 Edition of the California Building Code, 2019 Edition of the California Residential Code, 2019 Edition of the California Mechanical Code, 2019 Edition of the California Plumbing Code, and 2019 Edition of the California Electrical Code; to Adopt the 2019 Edition of the California Administration Code, 2019 Edition of the California Energy Code, 2019 Edition of the California Historical Building Code, 2019 Edition of the Reference Standards

Code, and the 2019 Edition of the Green Building Standards Code; Chapter 17.46 Amending to Reference the 2018 Uniform Swimming Pool, Spa and Hothtub Code; Chapter 17.60 Amending to Reference the 2018 Uniform Solar, Energy and Hydronic and Geothermal Code;" (Attachment No. 1).

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy

NOES: None

ADMINISTRATIVE ITEMS

22. 19-1145 Received and filed the monthly status update on the 6th Cycle Regional Housing Needs Assessment (RHNA) process

Community Development Director Ursula Luna-Reynosa presented a PowerPoint communication entitled: *6th Cycle RHNA Update* with slides titled: *RHNA Methodology*, *RHNA Next Steps*, and *RHNA Appeals*.

Councilmember Posey and Director Luna-Reynosa discussed expectations of the California Department of Housing and Community Development (HCD) to accept or reject the last-minute substitute motion by Southern California Association of Government (SCAG) because it does not meet SCAG objectives.

Councilmember Hardy discussed an article from the *LA Times* where comparisons were made between Huntington Beach and the City of Coachella, and described the actual similarities and discrepancies in this comparison to support her position that Huntington Beach is being asked to carry an unfair burden in this matter. She described situations that apply only to a coastal community that must deal with California Coastal Commission regulations, and other misconceptions that distort the Huntington Beach reality. Councilmember Hardy thanked Mayor Pro Tem Semeta for her previous report on the situation, and encouraged the City's residents to stay engaged and to use logic, with numbers and facts, to speak loudly about this issue.

Councilmember Brenden stated his opinion that the last-minute change to RHNA numbers by SCAG has resulted in unifying the people of Huntington Beach on this issue.

Mayor Pro Tem Semeta shared that the rhetoric at the SCAG meeting from the cities favoring the 11th hour methodology change ignored the reality of available land, and that any and all avenues will be used to object to that change.

Mayor Peterson announced that with no objections the monthly status update on the 6th Cycle Regional Housing Needs Assessment process was received and filed.

23. 19-1167 Adopted City Council Resolution No. 2019-89 Providing for the Possible Issuance of One or More Series of City of Huntington Beach Taxable Pension Obligation Bonds and Authorizing a Trust Agreement, A Validation Action and Other Matters Relating Thereto

City Manager Oliver Chi presented a PowerPoint communication entitled: *Refinancing Our Pension Debt, Addressing HBs Greatest Fiscal Threat* with slides titled: *CalPERS Pension Cost Increases*, *Refinancing Our Pension Debt*, *Pension Cost Background*, *How Do Pension Costs Work?* *Three Different Pension*

Cost Areas, City of Huntington Beach Pension Cost Areas FY 2018/19 Actuals, UAL Payments Driving Pension Cost Increases, UAL Structure Similar To A Mortgage, UAL Cost Increase Impact on HB, UAL Payment Amounts, \$21.09/Million / Year, CalPERS Overview, Has CalPERS Always Been Underfunded? CalPERS Historical Funded Status, So What Happened?, CalPERS Investment Returns Tanked, CalPERS Cost Increases Enacted, Additional Increases Enacted In 2016, So...What Do We Do Now?, HB's UAL Cost Increase Scale, UAL Payment Amounts, Scale of Pending Budget Problem, What Are Our Options?, Refinancing Seems Like A Good Idea, CalPERS UAL vs. POB Refinance, Why Is Refinancing Cheaper?, Why Shouldn't We Refinance?, Reasons Why Refinancing Could Be A Bad Idea(2), Reasons Why Refinancing Makes Sense(3), Additional Refinance Consideration, Savings From Refinancing UAL Debt Should Be conservatively Managed, Development of a CalPERS UAL Policy, Requested City Council Action, and Questions?

Councilmember Posey shared his reasons for not supporting issuing bonds, especially with the Dow Jones Industrial Average at an all-time high. He also expressed his opinion that by releasing California Public Employees' Retirement System (CalPERS) of their obligation, the City will lose negotiation leverage for any changes. In summary, Councilmember Posey stated his opinions that CalPERS cannot be allowed to continue to deliver poor returns at the expense of the members' and municipalities' futures, the plan presented is not a solution, unfunded actuarial liability (UAL) can continue to increase, and to indebt future taxpayers for \$476 million dollars and give that money to CalPERS' "black hole" is irresponsible.

Councilmember Brenden and City Manager Chi discussed refinancing at different funding levels, i.e. 70% or 80% vs. 100%. City Manager Chi explained that the UAL payment issue can be addressed through budget cuts, increased taxes, or refinancing.

Councilmember Carr explained her reasons for supporting the refinancing the UAL debt since CalPERS will not negotiate the 7% rate, and feels the time to act is now. She further stated her opinion that this action will not affect the City's strategies to try to change CalPERS policies and investment strategies.

Mayor Pro Tem Semeta stated her support for Councilmember Carr's comments. Mayor Pro Tem Semeta and City Manager Chi discussed the possibility of pulling out of the process of issuing bonds if the market changes and the new reality is different at the end of the 90-day process timeline.

Councilmember Posey stated his opposition to rushing this item through with the stock market at a peak, the presidential election in 2020, and the potential for CalPERS to make money. He added that the Finance Commission received direction by a majority of Council to investigate the nexus between environmental, social, and governance (ESG) investing and employer contributions, which could potentially lead to legal action from the City Attorney's office. Councilmember Posey asked why not wait for the Finance Commission report, the results of the presidential election, and knowing if there may be some recourse in the courts before re-mortgaging our future for \$476M.

Councilmember Delgleize and City Manager Chi discussed Council's ability to proceed if warranted when interest rates are locked in (March or April of 2020), and Councilmember Delgleize stated her opinion that neither increasing taxes, nor removing budget items, will solve the problem.

Councilmember Hardy stated she does not have Councilmember Posey's optimism that the stock market is going to continue to grow, or that the City has enough influence to change CalPERS investment policies, and supports pursuing this refinancing option knowing that there will be opportunities through the process to proceed or stop.

Mayor Peterson explained that the Sanitation District, through the County's pension investments, have tracked pretty close to CalPERS rates for the last ten (10) years, and the County has no funds invested in social justice. Mayor Peterson stated he expects to see a policy of locking up all savings in the first year or two, using a 3-year average, but he cannot support even considering a 10-year or 20-year payout. With his stipulations, he supports proceeding with the refinance option.

Councilmember Posey responded to Councilmember Hardy by clarifying his statement that the stock market is at a peak, never suggesting it would continue to grow, and shared his belief that the time to refinance through bonds is when the stock market is at or near the bottom. He further stated his belief that CalPERS cannot claim poor returns because of the recession, but they are performing poorly because they are performing poorly, and this action will just let them off the hook.

A motion was made by Peterson, second Delgleize to adopt Resolution 2019-89, "A Resolution of the City Council of the City of Huntington Beach Providing for the Issuance of One or More Series of City of Huntington Beach Taxable Pension Obligation Bonds and Authorizing a Trust Agreement, A Validation Action and Other Matters Relating Thereto" and, authorize the City Manager and City Clerk to take all administrative and budgetary actions necessary to perform the bond issuance, including the negotiation and execution of agreements with Orrick Herrington and Sutcliffe LLP for judicial validation proceedings, bond counsel, and disclosure counsel services; KNN Public Finance to act as municipal advisor; and US Bank to act as trustee.

The motion carried by the following vote:

AYES:	Peterson, Semeta, Brenden, Carr, Delgleize, and Hardy
NOES:	Posey

ORDINANCES FOR INTRODUCTION

- 24. 19-1128 Approved for introduction Ordinance No. 4192, which establishes Municipal Code Section 10.40.265 prohibiting misuse of disabled person placards or license plates, and adopted Resolution No. 2019-75, which establishes a bail amount for the new Municipal Code section and adds it to the Uniform Bail Schedule for Parking Violations**

Police Chief Robert Handy introduced Police Lieutenant David Deresynski who presented a PowerPoint communication entitled: *Disabled Parking Issues* with slides titled: *Options and Authority*, *Ordinance and Resolution Will Help Provide*, and *Resolution 2019-75 & Ordinance No. 4192*.

Councilmember Delgleize and Lt. Deresynski discussed the process for implementation and enforcement.

Councilmember Carr stated her support for being sensitive to the situations disabled people may be in, and appreciates a policy of discretion and compassion. Lt. Deresynski explained that towing is a last resort and officers are able to verify facts with DMV records. Police Chief Handy clarified the intent of this resolution is to eliminate fraud and abuse.

Councilmember Brenden and Lt. Deresynski discussed the range allowed for fines as listed in the State's Vehicle Code.

Councilmember Posey stated his support for trying to free up capacity for truly disabled persons, and his opinion that an \$880 fine for abusing the system is appropriate.

Mayor Pro Tem Semeta provided support for the fee resolution, and would support a higher fine for those who abuse disabled parking placards.

A motion was made by Peterson, second Posey to, after the City Clerk reads by title, approve for Introduction Ordinance No. 4192, "An Ordinance of the City of Huntington Beach adding Section 10.40.265 to Chapter 10.60 of the Huntington Beach Municipal Code Relating to Disabled Parking Placards and License Plates;" and, adopt Resolution No. 2019-75, "A Resolution of the City Council of the City of Huntington Beach Adopting an Amended Uniform Bail Schedule for Parking Violations."

The motion carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, and Hardy
NOES: None

25. ~~19-1130 Approve for Introduction Ordinance 4201 Amending Chapter 8.48 of the Huntington Beach Municipal Code Relating to Public Nuisance Abatement of Abandoned, Wrecked, Dismantled or Inoperative Vehicles.~~
ITEM WITHDRAWN FROM CONSIDERATION.

COUNCILMEMBER COMMENTS (Not Agendized)

Councilmember Delgleize expressed her appreciation for Mayor Peterson attending the City Selection Committee Meeting, reported attending the ACC-OC Annual Business Meeting and Thank-You Reception, the HB Chamber - Chevron 100 Year Celebration, and announced her second term appointment to the OCTA 2nd District Board. She also thanked the sponsors of the Meet on Beach! event.

Councilmember Hardy expressed appreciation to American Legion Post 133 for participating in the Veterans Day ceremony at the Pier, thanked Mayor Peterson for his speech as a veteran, and stated appreciation for the opportunity to provide a City Hall tour for the Boy Scouts visit.

Councilmember Brenden reported attending the Scout Conservation Project for Gyan Shrivastava, Troop 36 at Huntington Wetlands Conservancy, the Veterans Day Ceremony at the Pier, HB Listens, a Human Relations Task Force event, Goldenwest College Patrons Luncheon with City Manager Chi, Pancake Breakfast to raise funds for Miss Fountain Valley pageant, HB Police and Community Foundation Texas Hold'm Poker Tournament, and Meet on Beach! event.

Councilmember Carr reported attending the Veterans Day Ceremony at the Pier and participating in the Urban Planning Institute workshop.

Mayor Pro Tem Semeta reported attending the Veterans Day Ceremony at the Pier, presenting the State of the City Update and Year in Review by the HB Chamber of Commerce, and joined HB Public Information Officer Julie Toledo to present a City update for the Huntington Harbour Yacht Club Sea Belles. She announced the Mayor's Ball to be held on Saturday, November 23 to benefit the American Legion Post 133 and Sand Dollars, who sponsor the Miss Huntington Beach Scholarship Competition.

Mayor Peterson reported attending the Veterans Day Ceremony at the Pier and thanked American Post 133 for their participation, the HB Chamber Chevron 100 Year Celebration, congratulated Councilmember Delgleize for her appointment to the 2nd District Board of Directors, Orange County Transit Authority (OCTA), HB Police & Community Foundation Texas Hold'em Poker Tournament, and Meet on Beach! event. Mayor Peterson also explained that during a trip to Washington, D.C., he was able to take City Attorney Gate's daughter, who is attending the University of Maryland with the goal of becoming an FBI agent, on a private tour of FBI Headquarters.

RECESS TO CLOSED SESSION – At 9:30 PM, the Council recessed to Closed Session for discussion on Item No. 7 regarding Labor Negotiations.

ADJOURNMENT — at 10:37 PM — No Closed Session report provided by the City Attorney.

The next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority is Monday, December 2, 2019, at 4:00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

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

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

ATTEST:

City Clerk-Secretary

Mayor-Chair