

## **Minutes**

### **City Council/Public Financing Authority City of Huntington Beach**

Tuesday, May 16, 2023  
3:00 PM – Council Chambers  
6:00 PM – Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

**A video recording of the Study Session and 6:00 PM portions of this meeting are on file in the Office of the City Clerk, and archived at [www.surfcity-hb.org/government/agendas/](http://www.surfcity-hb.org/government/agendas/)**

#### **3:00 PM — COUNCIL CHAMBERS**

#### **CALLED TO ORDER — 3:00 PM**

#### **ROLL CALL**

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

#### **CITY COUNCILMEMBER COMMENTS (3-Minute Time Limit)**

Councilmember Moser reported attending the City-sponsored Customer Service — Business Community Reception and Seminar, Greater Huntington Beach Interfaith Council Community Prayer Breakfast, HB Council on Aging meeting, and Cinco de Mayo lunch at the Civic Center; was emcee for the Central Park Public Art *See Ourselves in Nature* Ribbon Cutting, toured permanent supportive housing, attended an Oak View Community Meeting regarding street scape design and progress, a Housing Town Hall, and the Sunset Beach Art Walk.

#### **ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS PERTAINING TO STUDY AND/OR CLOSED SESSION ITEMS (Received After Agenda Distribution) — None**

#### **PUBLIC COMMENTS PERTAINING TO STUDY AND/OR CLOSED SESSION ITEMS (3-Minute Time Limit) - None**

Mayor Pro Tem Van Der Mark publicly announced Closed Session items related to labor negotiations.

A motion was made by McKeon, second Burns, to recess to Closed Session for Items 1 –7.

#### **RECESSED TO CLOSED SESSION — 3:04 PM**

#### **CLOSED SESSION**

- 1. 23-423 CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code section 54957.6.) Agency designated representatives: Al Zelinka, City Manager, and Peter Brown, Chief**

Negotiator; also in attendance: Jose Rodriguez, Human Resources Manager; Theresa St. Peter, Interim Director of Human Resources; Travis Hopkins, Assistant City Manager; Michael E. Gates, City Attorney; Eric Parra, Chief of Police; and Sunny Han, Interim Chief Financial Officer. Employee Organization: Police Officers' Association (POA), represented by Melanie Cheney.

2. 23-430 CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code section 54957.6.) Agency designated representatives: Al Zelinka, City Manager, and Peter Brown, Chief Negotiator; also in attendance: Jose Rodriguez, Human Resources Manager; Theresa St Peter, Interim Director of Human Resources; Travis Hopkins, Assistant City Manager; Michael E. Gates, City Attorney; Eric Parra, Chief of Police; and Sunny Han, Interim Chief Financial Officer. Employee Organization: Police Management Association (PMA) represented by Melanie Cheney.
3. 23-420 PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Pursuant to Government Code §54957 for performance evaluation of the City Manager
- ~~4. 23-427 CONFERENCE WITH LEGAL COUNSEL-LITIGATION (Gov. Code section 54956.9(d)(4).): Number of matters: One (1).~~
5. 23-421 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Name of case: Nemelka (Anthony L.) v. City of Huntington Beach; OCSC Case No.: 30-2023-01313377.
6. 23-422 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Name of case: Stanley (Jean) v. City of Huntington Beach; OCSC Case No.: 30-2021-01215676.
- ~~7. 23-428 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Name of case: Tater/Stankis v. City of Huntington Beach, et al.; USDC Case No. 8:20-cv-01772-MEMF (JDEx).~~

#### RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 4:17 PM

#### STUDY SESSION

#### 8. 23-419 Proposed FY 2023/24 Budget Review

Sunny Han, Acting Chief Financial Officer, and Tom Herbel, City Engineer, presented a PowerPoint communication titled *City of Huntington Beach Proposed FY 2023/24 Budget Review* with slides entitled: *Presentation Overview; Economic Overview & Local Budgetary Impacts; FY 2023/24 General Fund Proposed Budget Review; FY 2023/24 General Fund Proposed Revenues - \$280.4M (2); FY 2023/24 General Fund Proposed Expenditures - \$285.6M (2); Recommended FY 2023/24 Authorized Positions (2); FY 2023/24 Full Time Equivalent - General Fund; General Fund Long-Term Financial Plan; Pension Update; CalPERS UAL Payment Projection; Fund Balance Policy; FY 2023/2024 Capital Improvement Program (CIP); FY 2022/23 Accomplishments; Drainage \$1.8M; Facilities \$4M; Neighborhood \$7.4M (2); Parks and Beaches \$2.8M; Sewer Improvements \$8.3M; Streets & Transportation \$11.8M; Water Improvements \$5M; Key Budget Considerations for FY 2023/24; City Council Direction and Feedback Requested; FY 2023/24 Budget - Next Steps, and Questions.*

City Engineer Herbel and Councilmember McKeon discussed the four (4) water improvement projects; Councilmember Kalmick confirmed with City Engineer Herbel that development along Edinger required Developers to pay Impact Fees, and Engineer Herbel committed to report back whether the amount of those Developer Impact Fees through the years matched sewer upgrade costs.

Councilmember McKeon discussed with City Attorney Michael Gates the proposed four positions for the City Attorney's Office; discussed with City Manager Al Zelinka the proposed two positions for the City Manager's Office; and discussed the proposed added Inspector and Plan Check Engineer positions for the Community Development Department with Director Ursula Luna-Reynosa. It was noted these added positions will enhance Customer Service, increase efficiencies, and reduce total project costs by eliminating some consultants.

Mayor Pro Tem Van Der Mark and Engineer Herbel discussed details regarding bridge maintenance costs.

Councilmember Kalmick and Engineer Herbel discussed factors related to the street repair cycle; discussed with Acting Chief Financial Officer Han the CalPERS UAL Payment Projections and Pension Obligation Bonds; discussed with City Clerk Estanislau the proposed Municipal Records Manager position; and discussed with City Attorney Michael Gates the cyclical nature of the workload for the City Attorney's Office.

***Mayor Strickland arrived at 4:56 PM.***

Councilmember McKeon asked City Attorney Gates to provide a cost analysis to compare hiring staff vs using contractors related to the cyclical workload.

Councilmember Kalmick stated support for efforts to improve community communication, and discussed insurance premium increases with Acting Chief Financial Officer Han.

Councilmember Moser confirmed with Acting Chief Financial Officer Han that the \$1.2M allocated for the Oak View streetscape will receive matching funds. She stated support for the HR Analyst position, as well as Communication positions for the City Manager's Office, and efforts to strengthen Reserves.

Councilmember Bolton requested that the Budget Review show the actual cost difference between using a contractor vs hiring for specified positions, and reiterated that AES funds are reserved for capital projects in Southeast Huntington Beach.

Interim Chief Financial Officer Han noted that the June 6 Budget Review will include details on Full Time Employee (FTE) positions.

**RECESS TO CLOSED SESSION – 5:10 PM**

Council returned into Closed Session for discussion on Item No. 3: Performance evaluation of the City Manager.

**6:00 PM — COUNCIL CHAMBERS**

**RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 6:19 PM**

## ROLL CALL

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

**PLEDGE OF ALLEGIANCE** — Led by Councilmember McKeon

## 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.

### 9. 23-414 Huntington Beach Police Chaplain Bob Ewing

**CLOSED SESSION REPORT BY CITY ATTORNEY** — None

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS** (Received After Agenda Distribution)

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

City Manager's Report Agenda #10 (1 letter); Consent Calendar Item #13 (1 email); #18 (2 emails); Councilmember Items #22 (2 emails); #23 (1 email), and #24 (72 emails).

**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>.*

Unidentified Guest was called to speak and shared his opinions related to Councilmember Items #24 regarding the Invocation Policy Update, and shared his personal invocation for this meeting. (01:33:42)

Andrew Einhorn, local business owner with 20 employees, was called to speak and shared his opinions related to racist comments made by a Councilmember as documented on social media, and for the fourth time asked that City Council establish an external Ethics Committee to investigate previously reported allegations of racist comments made by a Councilmember. (01:36:29)

Brandi Desso Wertheimer was called to speak and stated her support for continued invocations for City Council meetings. (01:39:02)

Richard Worley, a resident of Huntington Beach since 1971, was called to speak and shared his support for continued City Council meeting invocations. (01:39:18)

Steven Barnes, a Huntington Beach resident, was called to speak and shared his opposition to Councilmember Items #24 regarding the Invocation Policy Update, and suggested rotating Huntington Beach Police and Fire Department chaplains for continued invocations. (01:41:10)

Diane Bentley was called to speak and shared her perspective of the recent Housing Town Hall meeting, specifically her disappointment on apparent lack of plans to improve the housing situation in Huntington Beach. (01:43:09)

Cathey Ryder, long-time resident of Huntington Beach and ordained Elder in her Huntington Beach church, was called to speak and shared her opinions related to Councilmember Items #24 regarding the Invocation Policy Update, specifically, support for a policy of providing a moment of silence (in lieu of an invocation). (01:45:09)

Amory Hanson was called to speak and stated his support for Consent Calendar Item #15 regarding the conceptual design for the Michael E. Rodgers memorial wall at the Senior Center in Central Park. (01:47:51)

John Etheridge, Police and Community Foundation Vice President, was called to speak and announced this week is Police Week, a time to reflect on those officers who lost their lives in the line of duty. He also announced the Officer Poker Tournament Fundraiser on June 3 at the Senior Center and encouraged the community to come out and support law enforcement. (01:49:04)

C.J. Ray, Huntington Beach Surfing Walk of Fame Board Member, was called to speak and introduced President John Etheridge. Several Surfing Walk of Fame Board Members presented each Councilmember and City Attorney Michael Gates with an official HB Surfing Walk of Fame Hawaiian shirt to show appreciation for the City's support throughout the year. (01:51:21)

Gloria Denise Franklin, a 31-year resident of Huntington Beach, was called to speak and shared her opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (01:54:06)

Doris Hill, a 45-year resident of Huntington Beach, was called to speak and shared her opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (01:54:36)

Brett Bush, a Huntington Beach property owner since 1994, was called to speak and stated his support for continued invocations, in lieu of providing a moment of silence. (01:55:11)

Ken Inouye, a 50-year resident of Huntington Beach, was called to speak and as a taxpayer asked for a copy of the \$7M settlement agreement between the City of Huntington Beach vs Organizers of the Pacific Air Show. Mr. Inouye also stated that the Appeals Court of the State of California requires the City to pay \$3.5M to a State housing group because the City is fighting the State Housing Mandate. Thirdly, Mr. Inouye asked that Council resume the prior policy of having the Greater Huntington Beach Interfaith Council choose clergy for invocations as a way of celebrating the various worship groups in Huntington Beach. (01:58:26)

Joanne Abugartouny, proud daughter of a WWII Veteran, and resident of Huntington Beach, was called to speak and stated her support for continued invocations, in lieu of providing a moment of silence. (02:01:13)

R. Allen Baylis, a resident of Huntington Beach since 1964, practicing attorney, and Naturists in the OC Club President, was called to speak and stated his opposition to Ordinances for Introduction #21 to approve the introduction of Ordinance No. 4282 amending Huntington Beach Municipal Code Chapter 9.20 relating to public nudity. (02:02:16)

Connie Boardman, former Huntington Beach Councilmember, was called to speak and shared her opinions on the Pacific Air Show settlement agreement, and asked City Attorney Michael Gates why he refuses to provide Councilmember Kalmick a copy of that agreement. (02:05:25)

Unnamed Guest was called to speak and stated her support for Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation), and shared her own Buddhist invocation for this meeting. (02:08:21)

Unnamed Guest was called to speak and shared his opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:10:08)

Cari Swan was called to speak and noted her opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation); support for Councilmember Items #22 regarding Board, Commission, Committee Status and Organizational Review, and #23 regarding Fiscal and Operations Update on the City's Middle Income Housing Program. (02:14:13)

Pat Goodman was called to speak and stated she attended the recent Mayor's Housing Town Hall meeting, which was advertised as a way to learn about the City's housing plans, but noted there was no housing plans presentation. Ms. Goodman also shared her dismay at learning Pacific Air Show, LLC has been awarded the sole marketing promoter for the next Pacific Air Show after agreeing to pay, or gift them \$7M in taxpayer dollars. (02:17:08)

Cheri Atkinson, a long-time resident of Huntington Beach, was called to speak and shared her opinions related to the need for affordable housing in Huntington Beach at all levels, and asked that Councilmembers focus on getting an approved Housing Element. (02:20:14)

Jeanne Goodin, a 25-year resident of Huntington Beach, was called to speak and stated her support for Mayor Pro Tem Van Der Mark. Ms. Goodin also stated her opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:22:50)

Pano Frousiakis, Public Works Commissioner and 2024 Councilmember Candidate, was called to speak and stated his opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:24:53)

Bethany Webb, 40-year resident of Huntington Beach, was called to speak and announced that the first week of June is Gun Violence Awareness Week, and Moms Demand Action is requesting lighting at city halls, and the Pier in Huntington Beach, to honor those who have lost their lives to gun violence. Ms. Webb also stated her support for Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:28:00)

Kimberley Austin, a 31-year resident and 26-year business owner in Huntington Beach, was called to speak and stated her opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:29:32)

Kane Durham was called to speak and stated his support for Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). Mr.

Durham also requested full transparency regarding the recent Pacific Air Show settlement, and announced a Pride event at the Pier on Sunday, May 21 at 11 AM. (02:31:48)

Randell James Costello was called to speak and asked if each Councilmember could answer his questions and was informed dialogue is not allowed during this meeting. (02:34:20)

Unnamed Guest, a 40-year resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Items #24 regarding the Invocation Policy Update, and a policy of providing a moment of silence (in lieu of an invocation). (02:37:33)

Roger Noor was called to speak and shared his negative experiences with the Huntington Beach Police Department related to the towing of his vehicle, and asked for a meeting with the City Attorney to discuss his situation. (02:39:37)

Unnamed Guest was called to speak and shared his opinions related to lying, negative thoughts, and behaviors not aligned with God's truth. (02:42:48)

#### **COUNCIL COMMITTEE APPOINTMENT ANNOUNCEMENTS — None**

#### **AB 1234 REPORTING**

Councilmembers Kalmick and Burns reported attending the Southern California Association of Governments (SCAG) Regional Conference and General Assembly.

#### **OPENNESS IN NEGOTIATION DISCLOSURES — None**

#### **CITY MANAGER'S REPORT**

##### **10. 23-418 E-Bike Safety Presentation**

Mike Thomas, Huntington Beach Police Sergeant, presented a PowerPoint communication titled *Huntington Beach Police Department E-Bike Overview* with slides entitled: *Table of Contents; Recent Statistics; E-Bike Collisions 2022-YTD; Top 3 Primary Collision Factors (2022-Present); Total Collisions 2022-YTD; Recent Statistics (2022-YTD); Three E's of Traffic Safety; Enforcement (3); Education (4); and Engineering (2)*.

Mayor Pro Tem Van Der Mark and Councilmember McKeon stated their support for educating students and further discussed school outreach efforts with Sgt. Thomas. It was noted that only the school districts can require training for all students, and in the meantime the Police Department can enforce rules of the road and offer educational outreach. There was also discussion on modified, or illegal, e-bikes which currently have to be controlled through local ordinances as there are no State regulations.

Councilmember Moser and Sgt. Thomas discussed the two-hour bike safety class held at City Hall on the second Saturday of every other month, 8 – 10 AM. This safety class is required for cited students and anyone is welcome to attend. Discussion continued on options for in-person and on-line training or certification which parents could require before allowing their child(ren) to own or ride e-bikes.

##### **11. 23-429 Food Allergy Awareness Week**

Jeff Lopez, Huntington Beach Fire Department Operations Division Chief, presented a PowerPoint communication titled *Food Allergy Awareness* with slides entitled: *Food Allergy Awareness (3)*.

Councilmember Bolton noted this effort was inspired by the recent death of Allie West due to a food allergy, and urged people to learn more about the issue.

***Mayor Strickland announced that the Special Meeting scheduled for 8 PM would take place after the adjournment of the current meeting.***

## **CITY TREASURER'S REPORT**

### **12. 23-409 Received and Filed the City Treasurer's March 2023 Quarterly Investment Summary Report**

Alisa Backstrom, City Treasurer, presented a PowerPoint communication titled *Quarterly Investment Report, Quarter Ended: March 31, 2023* with slides entitled: *Economic Update; Interest Rates — US Treasury Yield Curve April 1, 2022 — March 31, 2023; Investment Portfolio — Summary Quarter End 03/31/23; Investment Portfolio — Investments by Type Quarter End 03/31/23; Investment Portfolio — Selected Activity Quarter End 03/31/23; Investment Portfolio — Earnings; Selected Investment Policy Compliance Requirements Quarter End 03/31/23; and Summary.*

A motion was made by McKeon, second Kalmick to receive and file the City Treasurer's Quarterly Investment Report for March 2023, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

The motion carried by the following roll call vote:

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

## **CONSENT CALENDAR**

## **CITY MANAGER'S OFFICE**

### **13. 23-406 Oak View Pilot Parking Program Update and Recommendation to Conclude the Year-Long Program When It Sunsets on June 30, 2023**

A motion was made by Van Der Mark, second Burns to receive and file the Oak View Pilot Parking Program Update; and conclude the Program when the pilot year sunsets on June 30, 2023.

The motion carried by the following roll call vote:

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

## **COMMUNITY DEVELOPMENT DEPARTMENT**

### **14. 23-377 Adopted Resolution No. 2023-20 authorizing submittal of an application for a California Coastal Commission Local Coastal Program Planning Grant; and,**



**approved and authorized execution of an amendment to a Professional Services Contract between the City and Michael Baker International, Inc. for a Comprehensive Local Coastal Program update**

A motion was made by Van Der Mark, second Burns to adopt Resolution No. 2023-20, "A Resolution of the City Council of the City of Huntington Beach Authorizing Submittal of an Application for a California Coastal Commission LCP Planning Grant" (Attachment No. 1); and, approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Agreement between the City of Huntington Beach and Michael Baker International, Inc. for a Comprehensive Local Coastal Program Update" as prepared by the City Attorney (Attachment No. 2).

The motion carried by the following roll call vote:

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

**COMMUNITY AND LIBRARY SERVICES**

**15. 23-404 Approved the conceptual design for the Michael E. Rodgers memorial wall at the Senior Center in Central Park as recommended by the Community & Library Services Commission**

A motion was made by Van Der Mark, second Burns to approve the recommendation by the Community & Library Services Commission to approve the conceptual design for the Michael E. Rodgers memorial wall located in the central hallway at the Senior Center in Central Park.

The motion carried by the following roll call vote:

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

**FINANCE DEPARTMENT**

**16. 23-413 Adopted Ordinance No. 4292 amending Huntington Beach Municipal Code Chapter 10.60 relating to On-Street Parking Meter Zones  
Approved for Introduction 5/02/2023 — Vote 5 – 2 (Strickland, Bolton-No)**

A motion was made by Van Der Mark, second Burns to adopt Ordinance No. 4292, "An Ordinance of the City of Huntington Beach Amending Chapter 10.60 of the Huntington Beach Municipal Code Relating to On-Street Parking Meter Zones"

The motion carried by the following roll call vote:

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

**OFFICE OF THE CITY CLERK**

**17. 23-412 Approved and Adopted Minutes**

A motion was made by Van Der Mark, second Burns to approve and adopt the City Council/Public Financing Authority regular meeting minutes of May 2, 2023.

The motion carried by the following roll call vote:

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

NOES: None

## **PUBLIC WORKS DEPARTMENT**

### **18. 23-394 Approved appropriation of funds for electrical system repairs at the Central Library**

A motion was made by Van Der Mark, second Burns to authorize the appropriation of \$585,805 in HB Recovery Funds to Infrastructure Fund Account 31440006.82800.

The motion carried by the following roll call vote:

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

NOES: None

### **19. 23-395 Rejected bids for the Traffic Signal Improvements at the intersection of Warner Avenue and Ash Lane (CC-1670) and at the intersection of Main Street and Delaware Street (CC-1671)**

A motion was made by Van Der Mark, second Burns to reject all bids for the Traffic Signal Improvements at the intersection of Warner Avenue and Ash Lane (CC-1670) and at the intersection of Main Street and Delaware Street (CC-1671).

The motion carried by the following roll call vote:

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

NOES: None

## **POLICE DEPARTMENT**

### **20. 23-407 Approved sole source purchase of three Shotover Augmented Reality Mapping Systems from Hangar One Avionics for the Huntington Beach Police Department Air Support Unit recently purchased helicopters**

A motion was made by Van Der Mark, second Burns to approve Sole Source purchase of the Shotover Augmented Reality Mapping System from Hangar One Avionics; and, appropriate \$433,000 in the Supplemental Law Enforcement Service Fund.

The motion carried by the following roll call vote:

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

NOES: None

## **ORDINANCES FOR INTRODUCTION**

### **21. 23-403 TABLED request to approve for introduction Ordinance No. 4282 amending Huntington Beach Municipal Code Chapter 9.20 relating to Public Nudity**

Ashley Wysocki, Acting Community & Library Services Director, presented a PowerPoint communication titled *Introduction of Ordinance No. 4282 Amending HBMC Chapter 9.20, Public Peace, Morals, and Welfare: Public Nudity* with slides entitled: *Proposed Ordinance No. 4282* and *Recommendation*.

A motion was made by Burns, second McKeon, to approve for introduction Ordinance No. 4282, "An Ordinance of the City of Huntington Beach amending Chapter 9.20 of the Huntington Beach Municipal Code relating to Public Nudity."

Councilmember Kalmick stated he planned to Abstain as he doesn't understand the impetus for this change.

City Attorney Gates clarified for Councilmember Moser this item is to address issues that Community Services staff are dealing with in the community, and in his opinion has nothing to do with the issues raised by the public, i.e., would this ordinance make nude showering or wearing of a thong swimsuit illegal. City Attorney Gates added these issues are judgement calls made out in the field by Code Enforcement staff determined by how much exposure there is on a case-by-case basis.

Councilmember Bolton stated she was not aware this was an issue, and asked for time for further discussion before taking a vote.

A substitute motion was made by Bolton, second Strickland, to **TABLE** request to approve for introduction Ordinance No.4282, "An Ordinance of the City of Huntington Beach amending Chapter 9.20 of the Huntington Beach Municipal Code relating to Public Nudity".

Acting Community & Library Services Director Wysocki explained that this item was the result of a routine staff review of all Department administrative regulations which includes review by the City Attorney's Office.

City Attorney Gates provided a historical perspective from 2014 and noted this item is intended to protect staff.

Mayor Strickland stated he respects the intent, but believes that it is also necessary to provide clarity and remove any grey areas for the benefit of the public.

Councilmember Bolton asked for further information regarding employee waivers for nude events held at City-owned facilities as mentioned by a public speaker.

The substitute motion to **table** the item carried by the following roll call vote:

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

## **COUNCILMEMBER ITEMS**

### **22. 23-431 Approved Item Submitted by Councilmember Burns — Board, Commission, Committee Status and Organizational Review**

Councilmember Burns stated he is just calling for a review on the value of all the boards, committees and commissions. He noted there are even a couple of Ad Hoc committees with no appointments.

Mayor Strickland and Councilmember McKeon stated their support for this item.

Councilmember Kalmick stated his support and volunteered to serve on the Ad Hoc committee.

A motion was made by Burns, second Strickland to request the City Council form an Ad Hoc Committee to review the purpose and structure of Citizen and Council Boards, Commissions, and Committees; recommend that the Mayor select three Council Members and the City Manager select two staff members for the Ad Hoc Council Committee to review the need and pertinence of standing boards, commissions, and committees; and recommend that the Ad Hoc Committee return to Council in 90 days with a report on the status and recommendation to the City Council.

The motion carried by the following roll call vote:

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

**23. 23-432 Approved Amended Item Submitted by Councilmember McKeon — Fiscal and Operations Update on the City's Middle Income Housing Program**

Councilmember McKeon noted he is bringing this item forward in response to a previous City Council action on July 20, 2021, to enter a Joint Power Authority agreement to acquire and convert two market-rate apartment complexes into workforce housing (Middle Income Housing). Those properties are the Elan Building at Beach and Ellis, and the Breakwater Community behind Olive Garden on Beach Boulevard. He further noted the 2021 agreement included acknowledging the City would not receive property taxes totaling approximately \$500,000 annually for upwards of 30 years, or a total of \$15M in lost property tax revenue. He asked for a comprehensive and detailed report from the sponsor, Catalyst, on the status of these projects, including answers to these questions: 1) how many of the 649 units are occupied; 2) how many have been remodeled and at what cost; 3) how many units are leased to persons earning 80 – 20% of the area median income; 4) average monthly rents; 5) how much property tax revenue did the City forego in 2022; 6) what is the estimated amount of lost property tax revenue for 2023, and remaining years; 7) what are property management fees paid each year, and to whom are they paid; 8) annual maintenance and repair fees; and 9) how many of the retail shops on the first level of the Elan Building are leased, or in lease negotiations. Councilmember McKeon stated the taxpayers are entitled to know what they are getting for their investment.

Councilmember Burns stated he would also like to know how many of the units are occupied by people who work in Huntington Beach.

Councilmember Kalmick stated that CMFA is one of the largest bond issuers in California, and noted that these bonds are not on the City's books. He explained that the Joint Powers Authority (JPA) agreement with Catalyst is just like the JPAs the City has signed with the Sanitation District, Orange County Transportation Authority (OCTA), and West Orange County Water Board. He also noted the amount of foregone property tax is \$370,000 per year as presented in the staff report, or about \$6.4M over 15 years, when a sale could be forced. Councilmember Kalmick added that in 30 years the City would own property worth nearly half a billion dollars, and the annual rate of return in the lease account vs annual rate of return on property in California is much greater. He also noted that Catalyst is a private entity and they may not answer every single question asked. He stated his support for an update on this program.

Councilmember Kalmick and Councilmember McKeon discussed whether these projects were identified as "middle income housing" vs "workforce housing" as the classification could determine the level of available details. Councilmember McKeon stated that the July 20, 2021 City Council Minutes should answer that concern.

A motion was made by Burns, second McKeon to direct the City Manager and the Community Development Department to coordinate with Catalyst and CMFA to present a comprehensive report at a City Council Meeting in July or sooner of the Financial Impact section mentioned in the July 2021 City Council Action. The report should include, but not be limited to, the following important details, **as amended:**

- \* How many of the 649 housing units are occupied?
- \* How many have been remodeled as planned and at what cost?
- \* How many of the units are leased to persons earning 80%-120% of the Area Median Income, as required?
- \* What are the average monthly rents?
- \* To fund the Middle Income Housing Program, the City has to forgo future property tax revenues for up to a 30 year period. How much in property tax did the City forego in 2022 and what is the estimated amount for 2023 and over the next 30 years?
- \* What are the property management fees paid every year and to whom are they paid?
- \* What are the annual maintenance and repair fees?
- \* How many of the retail shops on the first level of Elan are leased?
- \* ***How many of the units are occupied by persons working in, versus outside of, Huntington Beach?***

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

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

**24. 23-433 Approved Substitute Motion for Item Submitted by Councilmember Moser — Invocation Policy Update**

Councilmember Moser acknowledged speakers that shared support for the Greater Huntington Beach Interfaith Council's continued service to provide the Invocation, and expressed her surprise that an Invocation Policy has not been brought back to Council as requested months ago by Mayor Strickland and Mayor Pro Tem Van Der Mark. She stated she brought this item forward as the community and Council have a right to be updated and to have transparency. Councilmember Moser stated her personal support for invocations of interfaith prayers which display the City's rich diversity and inclusion, and to ensure a constitutionally sound policy is created. The moment of silence, in her opinion, would be the last option for consideration.

Councilmember Moser asked if there was an Invocation Policy update from either City Manager Zelinka or City Attorney Gates.

City Manager Zelinka responded that there is currently not a cohesive update, but staff is prepared to return with a recommendation at the next Council meeting. He also noted this is a learning situation, and there should be regular progress reports on Councilmember "H" Items.

City Attorney Gates stated the research has been started, and since there was no due date stated for a report, it was pushed back due to other priority items.

A motion was made by Moser to request that the City Manager and City Attorney return with a constitutionally sound invocation policy sometime in June.

A substitute motion was made by Strickland, second Van Der Mark, to continue the practice of allowing the Mayor to choose who provides invocations at City Council meetings, and withdraw the Councilmember Item of February 21, 2023, requesting staff preparation of an invocation policy

Mayor Strickland stated that his research showed there was no City policy, and based upon his experience in higher government, the assembly speaker or pro tem selects the invocation speaker, even at the federal level. He added that many government bodies would not use this policy if there was opportunity for a constitutional issue.

Councilmember Bolton shared her opinion that the invocation selector should not always choose presenters from the same faith.

Chief Assistant City Attorney Mike Vigliotta confirmed that as long as the selector is not telling the selected what to say, the substitute motion as presented is fine.

Councilmember Moser confirmed with Mayor Strickland that this policy is expected to carry forward and be the responsibility of the position of Mayor, regardless of who is holding that position.

Councilmember Bolton stated her understanding that some research has been done on invocation policy, and she thought that information should be made available so people would understand how a policy was determined.

Councilmember Moser stated she wants to ensure any action does not lead to constitutional exposure for the City, and discussed with Mayor Strickland what had changed since his original request in February for an Invocation Policy Update. Mayor Strickland reiterated research and the non-existence of a policy, and Councilmember Moser shared doubts that people of faith, and those with no faith, will both be fairly represented through the Mayor's proposed process.

The substitute motion carried by the following roll call vote:

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

**ADJOURNMENT** — 8:41 PM to the immediately following Special Meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, May 16, 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>

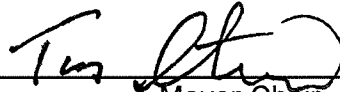


City Clerk and ex-officio Clerk of the City Council  
of the City of Huntington Beach and Secretary of  
the Public Financing Authority of the City of  
Huntington Beach, California

**ATTEST:**



City Clerk-Secretary



Mayor-Chair