

Minutes

City Council/Public Financing Authority City of Huntington Beach

Tuesday, July 2, 2024
5:00 PM – Council Chambers
6:00 PM – Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

**A video recording of the 5:00 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/**

5:00 PM — COUNCIL CHAMBERS

CALLED TO ORDER — 5:00 PM

ROLL CALL

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

CITY COUNCIL MEMBER COMMENTS (3-Minute Time Limit)

Councilmember Bolton acknowledged the upcoming Independence Day celebrations and encouraged everyone to have a voice and exercise their right to vote; Mayor Pro Tem Burns announced the July 4th block party weekend; Councilmember McKeon announced the 120th Anniversary of the Huntington Beach Independence Day Parade; and Mayor Van Der Mark recognized the Fourth of July Locals Bicycle Cruise attended by over 15,000 citizens on Saturday, June 29.

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

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

Mayor Van Der Mark announced that from this meeting forward, anyone interested in making a public comment will be required to complete their own Request to Speak form in person to ensure speakers are called in the order the forms are received.

RECESSED TO CLOSED SESSION — 5:03 PM

A motion was made by Strickland, second by Burns to recess to Closed Session Item Nos. 1 and 2.

CLOSED SESSION

1. **2023-37 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Daniels (Enda) v. City of Huntington Beach; OCSC Case No.: 30-2023-01315163.**
2. **24-477 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Daimler1 SA LLC v. Darryl L. Hann, et al.; OCSC Case No.: 30-2020-01166907.**

6:00 PM — COUNCIL CHAMBERS

RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING

ROLL CALL

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

PLEDGE OF ALLEGIANCE — Led by Huntington Beach Police Captain Ryan Riley

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.

3. **24-472 Huntington Beach Police and Fire Chaplain Roger Wing**

CLOSED SESSION REPORT BY CITY ATTORNEY — None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet which were all uploaded to the City's website and Councilmember iPads: Consent Calendar Item #7 (1 staff communication), Item #10 (1 email communication), Item #11 (2 email communications); Councilmember Items #13 (1 report, 18 email communications, 1 letter).

Mayor Van Der Mark announced that from this meeting forward anyone interested in making a public comment will be required to complete their own Request to Speak form in person to ensure speakers are called in the order the forms are received.

PUBLIC COMMENTS (2-Minute Time Limit due to volume of speakers) — 42 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>.

Sophia Beckett, Huntington Beach High School, Color Guard Team Junior Captain, was called to speak and thanked Mayor Van Der Mark for acknowledging their Gold Medal Award in competing against 60 Southern California teams in May, which provides the opportunity to compete in the World Championships in April 2025. Ms. Beckett asked for the community's support for their various upcoming fundraising activities. (00:09:43)

Butch Twining, 58-year Huntington Beach resident, was called to speak and stated support for Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:12:06)

Pat Goodman was called to speak and stated opposition to Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments, and asked that Councilmembers develop a plan to address Huntington Beach housing needs. (00:14:10)

Wendy Rincon, 50-year Huntington Beach resident, was called to speak and asked if Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments will include at least one Study Session, and encouraged Councilmembers and community members to sign the petitions to prevent privatizing of the Huntington Beach Public Library system. (00:16:01)

Carla Fuchs was called to speak and stated support for Consent Calendar Item #11 to approve renaming the Shipley Nature Center Interpretive Center as the Shirley Dettloff Interpretive Center. (00:18:06)

Jeanne Paris, long-time Huntington Beach resident, was called to speak and stated support for Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:19:24)

Amory Hanson was called to speak and stated support for Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:20:08)

Ann Palmer, 30+-year Huntington Beach resident, was called to speak and stated support for Consent Calendar Item #10 regarding positions on Legislation pending before the State and Federal Legislature, as recommended by the Intergovernmental Relations Committee (IRC). She also stated support for Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:21:11)

Unnamed Speaker was called to speak and shared her opinions regarding the Pacific Airshow, LLC v. City of Huntington Beach and Kim Carr lawsuit, and thanked City Attorney Michael Gates for preventing a more costly settlement. (00:23:19)

George G. was called to speak and shared his opinions on various topics, including the Preamble to the United States Constitution. (00:25:31)

Tim Geddes was called to speak and stated opposition to Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:28:38)

David Rynerson was called to speak and shared his thoughts comparing how Redondo Beach and Huntington Beach address voter issues, and encouraged Huntington Beach Councilmembers to govern in a responsible and cooperative manner. (00:30:49)

Unnamed Speaker was called to speak and thanked the veterans who have sacrificed their lives so that he has the freedom to publicly share his opinions regarding the voting process. (00:31:58)

Ryan Messick was called to speak and stated his opposition to the Tank Farm development, a non-agendized item. (00:34:22)

Charles Jackson, 23-year Huntington Beach resident, was called to speak and shared his concerns related to the Builder's Remedy Act, which he believes only the City Council can stop. (00:36:31)

Christopher Rini, Huntington Beach native, was called to speak and stated opposition to Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (00:36:53)

Russ Neal was called to speak and read his poem addressing current societal issues which closed with asking God to Bless America. (00:38:55)

Mary Ann, a resident of Cerritos, was called to speak and thanked Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmembers Strickland and McKeon for being examples on how to maintain and regain local control from county and state legislators, specifically referencing election reform. (00:40:46)

Jo Ito, 20-year Huntington Beach resident, representing Concerned Women for America, was called to speak and thanked Councilmembers for continuing to fight for election integrity in Huntington Beach. (00:41:53)

Unnamed Speaker was called to speak and shared his opposition to the State's Regional Housing Needs Assessment (RHNA) numbers for Huntington Beach and the Builder's Remedy Act. He stated support for November 2024 Council Candidates Chad Williams, Don Kennedy and Butch Twining. (00:42:40)

John Scandura, Friends of Shipley Nature Center President, was called to speak and stated support for Consent Calendar Item #11 to rename the Shipley Nature Center Interpretive Center as the Shirley Dettloff Interpretive Center. (00:45:15)

Ken Smith, 8-year Huntington Beach resident, was called to speak and thanked the Public Works Department for excellent service, especially related to water and wastewater treatment as noted by a recent Orange County Grand Jury report. Mr. Smith also stated his support for local rather than state control in relation to election reform. (00:47:18)

Mary, an Orange County resident for over 50 years, United Sovereign Americans volunteer, was called to speak and shared information related to the state's voter base. (00:49:29)

George A was called to speak and shared his opinions related to state voter data for 2022 elections and asked that Councilmembers ensure voter concerns are taken seriously. Mayor Van Der Mark asked him to complete a blue card for follow-up. (00:50:29)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:52:10)

Nancy was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:53:08)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:54:38)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:55:51)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:57:12)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:58:20)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (00:59:44)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (01:01:15)

Unnamed Speaker was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (01:02:27)

Lynne, a resident of Orange County for more than 70 years, was called to speak and asked for Councilmember support by reading a portion of the United Sovereign Americans resolution for a legally valid 2024 general election. (01:03:52)

Unnamed Speaker was called to speak and asked for Councilmember support for the United Sovereign Americans resolution for a legally valid 2024 general election. (01:04:52)

Adam Wood, 40+-year Huntington Beach resident, and Building Industry Association – Orange County representative, was called to speak and asked that at there be a Study Session regarding Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (01:06:17)

Perry Clitheroe was called to speak and stated opposition to Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments. (01:07:56)

Unnamed Speaker was called to speak and stated her support for an approved Housing Element which she believes will also increase revenue for Huntington Beach. (01:10:05)

Brian Vea, Huntington Beach resident, was called to speak and thanked Councilmembers for fighting against government overreach. (01:12:19)

Unnamed Speaker was called to speak and shared his opinions on various issues. (01:13:53)

Pablo Aspas, Huntington Beach resident, was called to speak and stated opposition to Councilmember Items #13 submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Councilmember McKeon

regarding Proposed Charter Amendment — Environmental Protections for General Plan Amendments.
(01:16:09)

Chris Waring, Huntington Beach resident of nearly 71 years living in Surf City Beach Cottages, was called to speak and stated he just received an outrageous rent increase notice of 10.7% or \$257 per month. (01:18:49)

COUNCIL COMMITTEE APPOINTMENT ANNOUNCEMENTS — None

AB 1234 REPORTING — None

OPENNESS IN NEGOTIATION DISCLOSURES — None

CITY MANAGER'S REPORT

4. 24-480 Huntington Beach Fire Department, in Collaboration with the Police Department and Public Works Department, Announces Class 1 Reaccreditation

Fire Deputy Chief Eric McCoy presented a PowerPoint communication titled *Huntington Beach Fire Department 2024 ISO Class 1 Rating*, with slide entitled *ISO Class 1 Rating (2)*, and *Questions*.

5. 24-482 Huntington Beach Fire Department Provides Fireworks Safety Information for the Upcoming Independence Day Holiday

Police Deputy Chief Martin Ortiz presented a PowerPoint communication titled *Fireworks Safety*, with slides entitled: *Firework Booths*, *Firework Safety Tips*, *Prohibited Areas*, *Proper Disposal*, *Illegal Fireworks*, and *Questions*.

CONSENT CALENDAR (Items 6-12)

Councilmember Kalmick pulled Items #9 and #10 for further discussion.

City Clerk

6. 24-463 Approved and Adopted Minutes

A motion was made by Strickland, second Kalmick to approve and adopt the City Council/Public Financing Authority regular meeting minutes of June 18, 2024.

The motion carried by the following roll call vote:

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

7. 24-464 Received and Filed Monthly Update of Activities for Citizen Boards, Commissions, Committees (BCCs) and Regional Agencies – June 2024

A motion was made by Strickland, second Kalmick to receive and file the monthly update of activities for Citizen Boards, Commissions, Committees (BCCs) and Regional Agencies – June 2024.

The motion carried by the following roll call vote:

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

- 8. 24-457 Adopted Resolution Nos. 2024-34 and 2024-35 that call for and consolidate with the County of Orange to conduct the General Municipal Election for City Officers (three members of the City Council, a City Clerk, and a City Treasurer) to be held on Tuesday, November 5, 2024**

A motion was made by Strickland, second Kalmick to adopt Resolution No. 2024-34, "A Resolution of the City Council of the City of Huntington Beach, California, calling for the holding of a General Municipal Election to be held on Tuesday, November 5, 2024, for the election of certain officers as required by the provisions of the Laws of the State of California Relating to Charter Cities;" and, adopt Resolution No. 2024-35, "A Resolution of the City Council of the City of Huntington Beach, California, requesting the Board of Supervisors of the County of Orange, California, to consolidate a General Municipal Election to be held on Tuesday, November 5, 2024, with the Statewide General Election to be held on the date pursuant to § 10403 of the Elections Code."

The motion carried by the following roll call vote:

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

City Manager

- 9. 24-473 Approved the appointment of Jeanne Paris to the City Celebration Committee as recommended by City Council Liaisons McKeon and Strickland**

Councilmember Kalmick pulled this item to abstain from the vote for reasons noted at the last meeting.

A motion was made by Strickland, second Burns to approve the appointment of Jeanne Paris to the City Celebration Committee as recommended by City Council Liaisons McKeon and Strickland.

The motion carried by the following roll call vote:

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

- 10. 24-443 Took Positions on Legislation Pending Before the State and Federal Legislature, as Recommended by the Intergovernmental Relations Committee (IRC)**

Councilmember Kalmick pulled this item to request that each recommended action item be considered separately.

Councilmember Strickland invited Shannon Levin, Council Policy Analyst, to briefly describe each item before voting.

A) Assembly Concurrent Resolution 182 (Dixon), the Great Pacific Garbage Patch

A motion was made by Strickland, second Kalmick to **support** Assembly Concurrent Resolution 182 (Dixon) The Great Pacific Garbage Patch.

The motion carried by the following roll call vote:

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

B) Senate 3830 (Padilla) to Authorize the Low-Income Household Water Assistance Program

A motion was made by Strickland, second Kalmick to **support** Senate 3830 (Padilla) to authorize the Low-Income Household Water Assistance Program.

The motion carried by the following roll call vote:

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

C) AB 2485 (Carillo) Regional housing need determination

Councilmember Kalmick noted that since this bill was introduced in May there has been no organizational opposition. He sees this as an opportunity to acquire more information on the housing process and to provide transparency at all levels.

Councilmember Bolton asked if there has been any amendment to address panel composition concerns. Analyst Levin replied there had been amendments to this item, but to the best of her knowledge none of them addressed panel composition.

A motion was made by Strickland, second Van Der Mark to **oppose** AB 2485 (Carillo) Regional housing need: determination.

The motion carried by the following roll call vote:

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

D) AB2553 (Friedman) Housing development, major transit stops, vehicular impact fees

A motion was made by Van Der Mark, second Strickland to **oppose** AB 2553 (Friedman) Housing development: major transit stops: vehicular impact fees.

The motion carried by the following roll call vote:

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

E) AB2597 (Ward) Planning and zoning revision of housing element, regional housing need allocation appeals, Southern California Association of Governments

A motion was made by Strickland, second McKeon to **oppose** AB 2597 (Ward) Planning and zoning: revision of housing element: regional housing need allocation appeals: Southern California Association of Governments.

The motion carried by the following roll call vote:

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

F) AB3093 (Ward) Land use housing element, streamlined multifamily housing

A motion was made by Strickland, second McKeon **oppose** AB 3093 (Ward) Land use: housing element: streamlined multifamily housing.

The motion carried by the following roll call vote:

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

G) SB 7 (Blakespear) Regional housing need determination

Mayor Van Der Mark, with support from Councilmember Strickland, asked that this item be withdrawn from consideration and referred back to the Intergovernmental Relations Committee (IRC) since the item was recently amended. There were no objections.

H) AB 2574 (Valencia) Alcoholism or drug abuse recovery or treatment programs and facilities disclosures

A motion was made by Strickland, second Bolton to **support** AB 2574 (Valencia) Alcoholism or drug abuse recovery or treatment programs and facilities: disclosures.

The motion carried by the following roll call vote:

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

Community and Library Services

11. 24-468 Approved the naming of the Shipley Nature Center Interpretive Center located at 17851 Goldenwest Street as the "Shirley Dettloff Interpretive Center," as recommended by the Community & Library Services Commission

A motion was made by Strickland, second Kalmick to approve the naming of the Shipley Nature Center Interpretive Center located at 17851 Goldenwest Street, "Shirley Dettloff Interpretive Center," in honor of Shirley Dettloff, as recommended by the Community & Library Services Commission.

The motion carried by the following roll call vote:

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

Public Works

12. 24-440 Approved and authorized execution of the Agreement for Acquisition and Escrow Instructions for the purchase of two Encyclopedia Lots (APNs 110-152-23 and 110-182-11), and appropriation of funds

A motion was made by Strickland, second Kalmick to approve the Agreement for Acquisition and Escrow Instructions; and authorize the Mayor and City Clerk to execute the agreement and other related documents; and authorize the City Manager to execute any other related escrow documents; and authorize the appropriation of up to \$72,000 from the Preliminary Park Development Impact – Non-Residential Fund Account 23545001.81100.

The motion carried by the following roll call vote:

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

COUNCIL MEMBER ITEMS

13. 24-479 Approved Item Submitted by Mayor Van Der Mark, Mayor Pro Tem Burns and Council Member McKeon — Proposed Charter Amendment – Environmental Protections for General Plan Amendments

Councilmember McKeon introduced this item by describing the nearly year-long process which started with Councilmember discussion on the 13,368 state-mandated Regional Housing Needs Assessment (RHNA) which required Councilmembers to sign a Statement of Overriding Consideration confirming that the 13,368 housing units were more important than the significant and unavoidable, and in some cases permanent, negative impacts to the environment. He added that twenty percent (20%) of any development would have to be designated as affordable housing. Negative impacts could include air quality, noise, infrastructure, traffic, circulation, utilities, finite amount of water, and public safety resources. The decision to impact the environment permanently and negatively is too important to be left up to a majority of four Councilmembers, and the voters should make that decision.

Councilmember McKeon stated that many California cities have adopted a voter approval process for planning and zoning General Plan changes, and noted that the state always uses the rationale that the environment is a matter of statewide concern. He added that this proposed amendment will remove any grey area and ambiguity from Measure C.

Councilmember McKeon described the three high levels of threshold that must be met before an item would be submitted to the voters: 1) A city-initiated General Plan update or zoning change. This item will not affect any private-sector project that pursues a zone change or General Plan update; 2) There must be an accompanying Environmental Impact Report (EIR); and, 3) The EIR has to conclude that the proposed General Plan update or zoning change presents significant and unavoidable negative impacts to the environment. He explained that if all three of these thresholds are met, then any city-initiated General Plan update or zoning change would go to a vote of the people. He noted that while he did campaign against the previously proposed Charter amendments, this proposed amendment is needed

now in order to deal with the recent State SB 9 ruling which allows sub-dividing a single-family lot into four units, and that SB 9 is unconstitutional as it pertains to charter cities like Huntington Beach.

Councilmember Kalmick stated that this item would appear to be about housing, but in his opinion, it is Council absconding its policy-making authority to the voters. He continued that he could not find a single city council that has placed such an overly broad charter amendment on their ballot, or voter initiative for any non-charter city. He added this is politics at its worst and compared it to the proposed library privatization effort which doesn't try to change procedures and policies. He stated that the current Council majority is trying to get something unpopular on the ballot to negatively impact the efforts of Councilmembers Bolton, Kalmick and Moser as they run for re-election in November.

Councilmember Kalmick stated this effort is not environmental stewardship and noted the Environmental Board no longer exists, the Sustainability Master Plan has not been completed, a Climate Action Plan has not been passed, there is no Mobility Master Plan, and discussions on bike lanes and walking paths are just dismissed by the current Council majority. He added that the narrative associated with this item is a rehash of the lawsuit recently lost in San Diego.

Councilmember Kalmick and Community Development Director Villasenor discussed the Housing Element capacity of around 19,000 to 20,000 units, and noted the EIR evaluated a lesser number because it also considered the General Plan buildout. Councilmember Kalmick noted that the California Environmental Quality Act (CEQA) rubric has changed dramatically in the last five years, and added there doesn't appear to be any sort of savings clause in the proposed amendment which in his opinion is just set up for disaster as there is no provision provided for CEQA changes.

Councilmember Kalmick stated that councilmembers are elected to perform highly technical work, with planning and executive staff, to make the best decisions possible, which includes reading the EIR General Plan amendments. He asked how many voters would read the volumes of information required in order to make an informed decision. He noted that the current council has not certified a single Housing Element, and asked how they could ask the voters to do something they are obviously unwilling to do themselves.

Councilmember Kalmick confirmed with Director Villasenor that Huntington Beach has not received any SB 9 applications. He referenced SB 1333, passed in 2017/2018, which included language to ensure location, development, approval and access to housing for all income levels in California is a statewide concern, and not exclusively a municipal affair. He further referred to specific language used in the referenced Redondo Beach action.

Councilmember Kalmick stated he believes this proposed action will remove the ability to be nimble and meet the needs of the community without spending more money and time and burdening the voters with a job that Councilmembers should be doing. He referenced two current state legislative bills addressing Huntington Beach issues specifically: AB 1825 California Freedom to Read Act, and SB 1174 Elections and Voter Identification, as examples of how the state will probably respond if this item is approved.

Councilmember Kalmick noted that the current Council majority voted to repeal the EIR for the Beach-Edinger Corridor Specific Plan and described the process required to proceed, noting that thankfully the process was eventually abandoned. He noted the concern of the Auto Dealers Association, and stated this is not a business-friendly amendment but rather would create a costly process that creates red tape. He added that in addition to the environment and conservation element, each project must also be evaluated for circulation, natural and environmental hazards, noise, public services, infrastructure, historic and cultural resources and coastal elements. It just doesn't make any sense to ask the voters to

review a 10,000–page document for each proposed development project. Economic benefits need to be weighed against environmental impacts according to CEQA criteria. CEQA criteria has expanded well beyond oiled birds and pollution from smokestacks and now includes view shed corridors, tribal consultations, bisecting distant communities, short-term noise, air quality issues and greenhouse gas emissions. It is the responsibility of councilmembers to study all the documents, ask the hard questions and in consultation with staff, to reach a conclusion.

Councilmember Kalmick stated on the surface this item appears to assert local control over the General Plan and zoning, however it does just the opposite. Councilmembers need to pass a Housing Element. He played a video of Yorba Linda's City Council discussion on the process, time and cost required to implement their voter approval process and which also described the state's resources to ensure a city's compliance with state development regulations. Councilmember Kalmick noted that not passing a Housing Element will open Huntington Beach to state fines and the Builder's Remedy Act where a developer is allowed to ignore the local building code and build what they want. He added this proposed process is being rushed, will not allow time for proper public input, and in the end if California can just exempt themselves from having to go through the CEQA process, it would just moot this proposed charter amendment. The unintended consequences could break the rest of the things Huntington Beach needs to do and hurt Huntington Beach businesses.

Councilmember Bolton questioned the validity of a statement made in supporting documents indicating that city planning and zoning is a local municipal affair beyond the reach of state control. She noted the courts have upheld the state's actions to regulate housing, such as requiring Housing Elements, time and time again by ruling that state housing law pre-empts conflicting charter city ordinances despite the home rule doctrine.

Councilmember Bolton stated she believes the reference to the state constitution in supporting documentation is also misleading for the same reasons she already referenced. She added that Yorba Linda and Costa Mesa's "Ballot Box Zoning" efforts have failed, and as shown in the previous video clip shared by Councilmember Kalmick, Yorba Linda City Council is now desperately begging the residents to do the opposite, i.e., pass a Housing Element, in order to maintain local control. She added that Costa Mesa rolled back their "Ballot Box Zoning" measure shortly after it was passed because it stifled residential and commercial development. Councilmember Bolton asked why Huntington Beach would go down the same path when there is evidence of where it leads. She asked how this proposed amendment differs from the ones implemented by Yorba Linda and Costa Mesa.

City Attorney Michael Gates responded that he had not seen either Yorba Linda or Costa Mesa's amendments. He added that everything that Yorba Linda Councilmember Huang stated in the video clip is accurate for a General Law City, which is a political subdivision of the state. He continued by explaining a Charter City is different and clearly does have home rule authority. He also referenced the last part of the SB 9 ruling which Councilmember Kalmick read parts of during his comments earlier: "Accordingly, the court finds that SB 9 is neither reasonably related to ensuring access to affordable housing nor narrowly tailored to avoid unnecessary interference into local governance. SB 9 is therefore unconstitutional as violative of the home rule doctrine."

City Attorney Gates added that if there is a conflict between a home rule authority, which the Redondo Beach court cited for a Charter City, that for a pre-emption to occur over a Charter City's home authority, the state law has to be narrowly tailored in the least intrusive means in order to accomplish the goal. He explained that is why SB 9 will stand upon appeal, and Huntington Beach has historically been able to invoke its home rule authority even when it is contrary to state law. He continued by stating that if you look at the federal case, the RHNA laws will or should fail because they've been on the books for

decades for General Law cities, and are not narrowly tailored to accomplish the state's goal of advancing affordable housing.

City Attorney Gates added that the perfect example is the twenty percent (20%) inclusionary rate mentioned earlier. With a RHNA number of 13,368 units, the first problem is that only about 8,100 of those are for affordable housing. The next issue is that now developers have to honor the state law of 20% inclusionary rate which means they cannot come in and build 100% affordable housing because the state wants to ensure a developer can afford to build. He added that the 8,100 divided by 20% determines that nearly 41,000 high-density housing units must be built. This is a very intrusive, not least intrusive, means and shows that the RHNA laws will fail against Charter cities when tested in court.

City Attorney Gates explained that the Huntington Beach federal case is ongoing, and the state case is of a different nature. City Attorney Gates and Councilmember Bolton discussed several cases and he noted that to date no case has been lost because the appeal court only issued an alternative writ, not binding law. It was an advisory to the lower court and Huntington Beach is still in the middle of the case.

Councilmember Bolton continued by asking staff if the issue of the Housing Element goes away after the voters reject it. Staff responded it is not likely that a failed vote would eliminate the Housing Element issue. Councilmember Bolton stated that in her opinion this item really appears to be an illusion, and in the end will result in state fines and the state taking over the Huntington Beach Building Department as described by Yorba Linda Councilmember Huang. Councilmember Bolton stated this item is not being honest and forthright with the residents, and it will not sidestep RHNA requirements.

Councilmember Strickland and Director Villasenor discussed the definition of "significant and unavoidable environmental impact" thresholds which CEQA often changes through the years, and confirmed the Housing Element is the only city-initiated significant environmental impact project in Huntington Beach in the last few years.

Councilmember Strickland and City Attorney Gates discussed whether the proposed amendment is "tightly" defined as stated by Councilmember McKeon or is "broadly" defined as stated by Councilmember Kalmick. City Attorney Gates noted that city charter language is generally basic to invoke certain powers and authorities, and noted this specific amendment proposes giving the decision authority to the voters if a city-initiated development plan results in significant and unavoidable environmental impacts or needs a statement of overriding considerations. There was also discussion on the difference between private and city-initiated development projects. City Attorney Gates noted this proposed amendment is only directed at city-initiated, not private developer-initiated, projects. Councilmember McKeon agreed with City Attorney Gates that this proposed amendment would never apply to any private industry, such as auto dealers, development plan seeking a zoning change.

Mayor Van Der Mark thanked Councilmember Kalmick for bringing forth the Yorba Linda Council meeting video, and noted that Yorba Linda, as a General Law City, is also trying to fight the state's housing mandates.

Councilmember McKeon shared his opinion that comparing Council's review of the Library Department budget with the concern for significant and unavoidable environmental impacts is not analogous. A development project determined to have significant and unavoidable environmental impacts should have voter approval to proceed, rather than just the support of a Council majority.

Councilmember McKeon noted that very seldom will the high threshold in this proposed amendment be triggered. He added that generally speaking mitigation options are often available and utilized and noted

that just because no SB 9 applications have been received to date does not mean there will not be such applications in the future. He reviewed SB 9 as allowing for a single-family lot to be divided for building two duplex units with no requirement for additional parking allowance. This proposed amendment will not prevent the private sector from meeting free market demands, nor will it result in "rot" within the community as Councilmember Kalmick stated.

In response to Councilmember Kalmick using the Pacific Airshow as a comparable situation for environmental impact, Councilmember McKeon noted the Airshow is a temporary 3-day situation, whereas the proposed charter amendment is intended to address permanent environmental impact situations.

Councilmember McKeon stated this effort is not about the Housing Element, or just housing, but rather about any city-initiated General Plan update or zoning change where the EIR finds significant and unavoidable environmental impacts.

Councilmember Moser stated she believes this is a politically motivated effort that undermines Council responsibility as elected officials to make informed decisions for the benefit of Huntington Beach. She sees this as a tactic to delay and obstruct any development to serve a political agenda. The economic impact of this proposal cannot be overstated, and the cost for potential legal battles and state penalties will only exacerbate the issue. She added that Huntington Beach cannot survive a "forever" war with the state of California.

Councilmember Moser stated that Council should work collaboratively with the community to develop solutions that meet state requirements while also reflecting local priorities, focus on public outreach and education to ensure residents understand the importance of a compliant Housing Element. She sees this proposed charter amendment as a bad tactic and futile ploy that creates more chaos, and doesn't address homelessness, housing affordability, aging infrastructure, climate resiliency, or create jobs for a thriving community. She urged her colleagues to vote "No" on this item.

Mayor Pro Tem Burns stated he believes this proposed amendment will strengthen the City's Charter with the intention to keep Huntington Beach a better place to live and protect Huntington Beach from outside overreach which could lower the quality of life. He stated if there is no fight, there is no win, and in his opinion, Huntington Beach is worth fighting for and he therefore supports this item.

Mayor Van Der Mark stated she is not against "development" and is interested in preventing Huntington Beach from turning into Los Angeles.

Councilmember Kalmick stated that environmental thresholds are set by statutes which change all the time, and he sees this effort as a "rock in the river" that CEQA will just maneuver around by establishing very high thresholds so that any move will result in significant and unavoidable environmental impact. He believes that approving this proposed amendment will burden private developers with the cost for mitigating significant and unavoidable environmental impacts. He stated agreement with Yorba Linda Councilmember Huang that this is not a building target, but a housing target. He added that if CEQA did not exist, or the state exempts housing elements and zoning amendments associated with housing, then this proposed amendment would become moot, and will just impact the City's ability to plan updates by increasing costs to fund a special election or delay action to wait for a General Election.

Councilmember Kalmick stated this proposed amendment does not change any law and does not protect Huntington Beach from Sacramento. He stated there is just not enough time to proceed responsibly to get this on the November ballot. He also has concerns that the state can change thresholds and

anything Huntington Beach wants to do will create significant thresholds and will have to go out to the voters.

Councilmember McKeon stated he sees the next effort from the state will require the private sector to produce housing, or cities will be penalized. The state's one-size for every city solution to housing is not acceptable and it won't stop if cities do not fight against the mandates. He added if a beneficial development project comes forth in the future, it will be incumbent upon Councilmembers to educate the voters on its merits.

Councilmember Moser stated this is a very rushed process which will not allow for appropriate discussion. She added that grant options for SB 2 funding for the homeless shelter are being passed up, and currently Huntington Beach is ineligible for Orange County Housing Financing Trust developer "gap" funding [because there is no certified Housing Element].

Councilmember McKeon stated that one of the biggest fallacies of the 20% affordable housing inclusionary rate is that it actually has an inverse effect because the other 80% is subsidizing the 20%. A 95% built out community does not have enough land to build single family homes, so in all likelihood only high-density apartments can be built. The 80% market rate units will drive up the market rate for the entire city, thereby making the entire city more unaffordable as all rents are comp based.

A motion was made by McKeon, second Van Der Mark to place on the November 2024 Ballot a proposed Charter Amendment stating that "No City initiated general plan amendment or zoning change may be approved by the City where the related environmental review (EIR) finds the same proposed general plan update or zoning change presents "significant and unavoidable" negative impacts to the environment, without first receiving approval by a vote of the people." The proposed Charter Amendment should include language to the effect of "City Planning and Zoning is a local, "municipal affair," beyond the reach of State control or interference; and City Planning and Zoning is a local activity reserved for the City and its people, and not the State," and direct staff to bring back a proposed November 2024 ballot initiative within thirty (30) days for City Council approval.

The motion carried by the following roll call vote:

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

ADJOURNMENT — 8:55 PM a motion was made by Strickland with a second by Burns to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, July 16, 2024, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

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

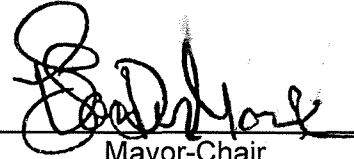


City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:



City Clerk-Clerk



Mayor-Chair