



**CITY OF HUNTINGTON BEACH
SUPPLEMENTAL COMMUNICATION**
Joan L. Flynn, City Clerk
Office of the City Clerk

TO: Honorable Mayor and City Councilmembers
FROM: Joan L. Flynn, City Clerk *JLF*
DATE: 9/8/2015
SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE SEPTEMBER 8, 2015, REGULAR CITY COUNCIL/PFA MEETING

Attached are the Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

STUDY SESSION

- #1. PowerPoint presentation submitted by Director of Public Works Travis Hopkins, dated September 8, 2015, entitled *Trash Enclosures*.
- #2. PowerPoint presentation submitted by Director of Planning and Building Scott Hess, dated September 8, 2015, entitled *Housing Element Amendment*.
- #2. Communication submitted by Amy Freilich of Armbruster Goldsmith & Delvac LLP, on behalf of McKenna Automotive, regarding the limitation of residential housing construction within the Beach and Edinger Specific Plan.

CITY MANAGER'S REPORT

- #1. PowerPoint presentation submitted by Police Chief Robert Handy, entitled *Huntington Beach Police Crime Update September 2015*.

PUBLIC HEARING

- #17. PowerPoint presentation submitted by Director of Finance Lori Ann Farrell, dated September 8, 2015, entitled *Fiscal Year 2015/16 Proposed Budget*.

CITY OF HUNTINGTON BEACH TRASH ENCLOSURES



**CITY COUNCIL STUDY SESSION
SEPTEMBER 8, 2015**

**COMMUNITY SERVICES
PUBLIC WORKS**

AFFECTED AREAS



CITY BEACH

CITY PARKS

SPORTS COMPLEX

DOWNTOWN & BUS STOPS

CURRENT CITY BEACHES

- **ADOPT –A- BEACH TRASH RECEPTACLES**



- 550 Receptacles
- Automated dumping nightly

- **LARGE 30 YARD ROLL-OFF DUMPSTERS**



- 2-6 30 Yard dumpsters
- Hauled daily between 8am – 10am
- Full bins covered with loose tarps at the end of the daily shift

RECOMMENDED FOR CITY BEACHES



- **RETROFIT EXISTING DRUM STYLE TRASH RECEPTACLES WITH COVERS**



- Purchase 550 receptacle covers
- Installation by January 1
- Estimated cost \$33,000 –
Submitted for 15/16 budget



RECOMMENATION FOR ROLL-OFFS



- FABRICATE AND INSTALL SLIDING LIDS FOR EACH ROLL-OFF



- Fabrication and Purchase by Rainbow Environmental

CURRENT CITY PARKS



- **CURRENT PARK TRASH RECEPTACLES**



- Approximately 400 of these cans in service
- **HAND DUMPING** Required

- **NEWER PARKS RECEPTACLE WITH COVER**



- Approximately 125 of these cans in service
- **HAND DUMPING** Required

RECOMMENDED FOR CITY PARKS



- **RETROFIT EXISTING DRUM STYLE TRASH**
- PURCHASE 400 DOME COVERS
- Estimated cost \$50,000
- Cost distributed over 3 consecutive years at \$17,000 per year.



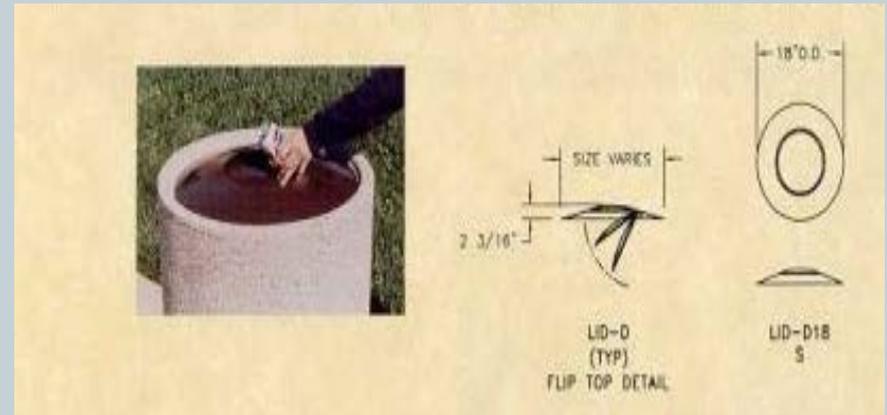
CITY SPORTS COMPLEX

CURRENT RECEIPTICALS



- 80 RECEIPTICLES in service
- HAND DUMPING required

RECOMMENDED CHANGES



- RETROFIT with new “flip” lids
- Estimated cost is \$15,000
- Purchase with FY 15-16 Operating funds

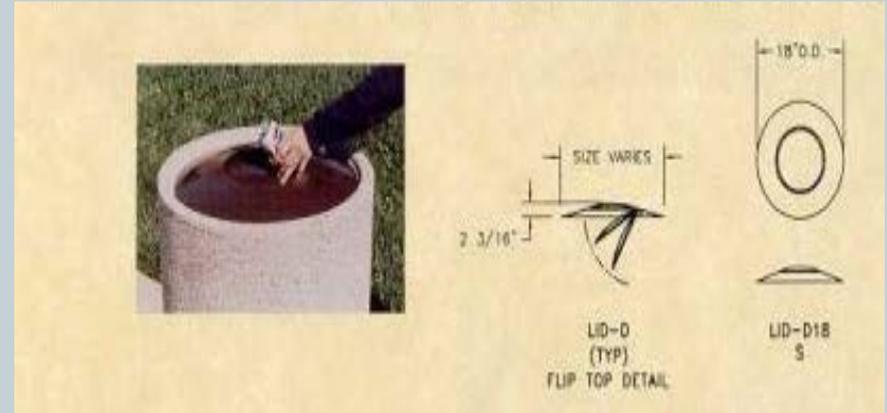
DOWNTOWN AND CITY BUS STOPS

CURRENT RECEPTICALS



- 120 RECEPTICLES in service
- HAND DUMPING required

RECOMMENDED CHANGES



- RETROFIT with new “flip” lids
- Estimated cost is \$23,000
- Purchase with FY 15-16 Operating funds

SUMMARY OF ESTIMATED COSTS



Location	Cost	Implementation Timeline
<u>Beaches</u> Trash Can Covers	\$33,000	Jan 1, 2016 if approved in 15/16 budget
<u>Beaches</u> 60 Yard Bins	Unknown	Within the next 3 months
Parks	\$51,000	\$17,000/year for 3 years
Sports Complex	\$15,000	Install by Jan 1 Purchase with 15/16 Operating Budget
Downtown & Bus Stops	\$23,000	Install by Jan 1 Purchase with 15/16 Operating Budget
Total	\$122,000	

QUESTIONS FOR STAFF

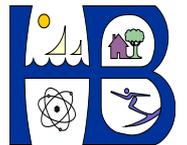


Questions?

Huntington Beach Housing Element Amendment



**City Council Study Session
September 8, 2015**



Site Capacity Analysis (Oct '13 vs June '15)

- In 2013, City demonstrated capacity that exceeded RHNA for all income levels
- Vacant and underutilized sites can be credited towards lower income RHNA targets when zoned for the “default” density of 30 units/acre minimum
- Vacant & underutilized sites in DTSP and BECSP provided capacity for 670 units at 30+ du/acre, providing majority of City’s lower income site capacity
- In May 2015, the City Council adopted amendments to the BECSP, which included a reduction in the allowable number of units that could be built within the specific plan area (i.e. – reduced capacity of the BECSP)
- In June 2015, HCD rescinded City’s certification of Housing Element

	NET Very Low/Low Income RHNA Target	Very Low/Low Site Capacity (Credit Toward RHNA)	Very Low/Low RHNA Surplus?
October 2013	533 units	783 units	YES
<i>Jan. 2014 – April 2015: 97 Very Low/Low income units built or approved</i>			
April 2015	436 units	783 units	YES
<i>May 2015 – BECSP Amendments Adopted; Reduction in Residential MAND (i.e. – site capacity)</i>			
June 2015	436 units	26 units	NO

Housing Element Amendment Approach

- The City must update the Housing Element to ensure that **adequate sites** remain available to meet the City's RHNA requirement
- The amendment will include an **Adequate Sites Program**, which will need to identify sites to accommodate the remaining lower income RHNA
- The **Adequate Sites Program** will include sites that meet specific criteria in order to be counted toward the City's 410 unit lower income RHNA shortfall

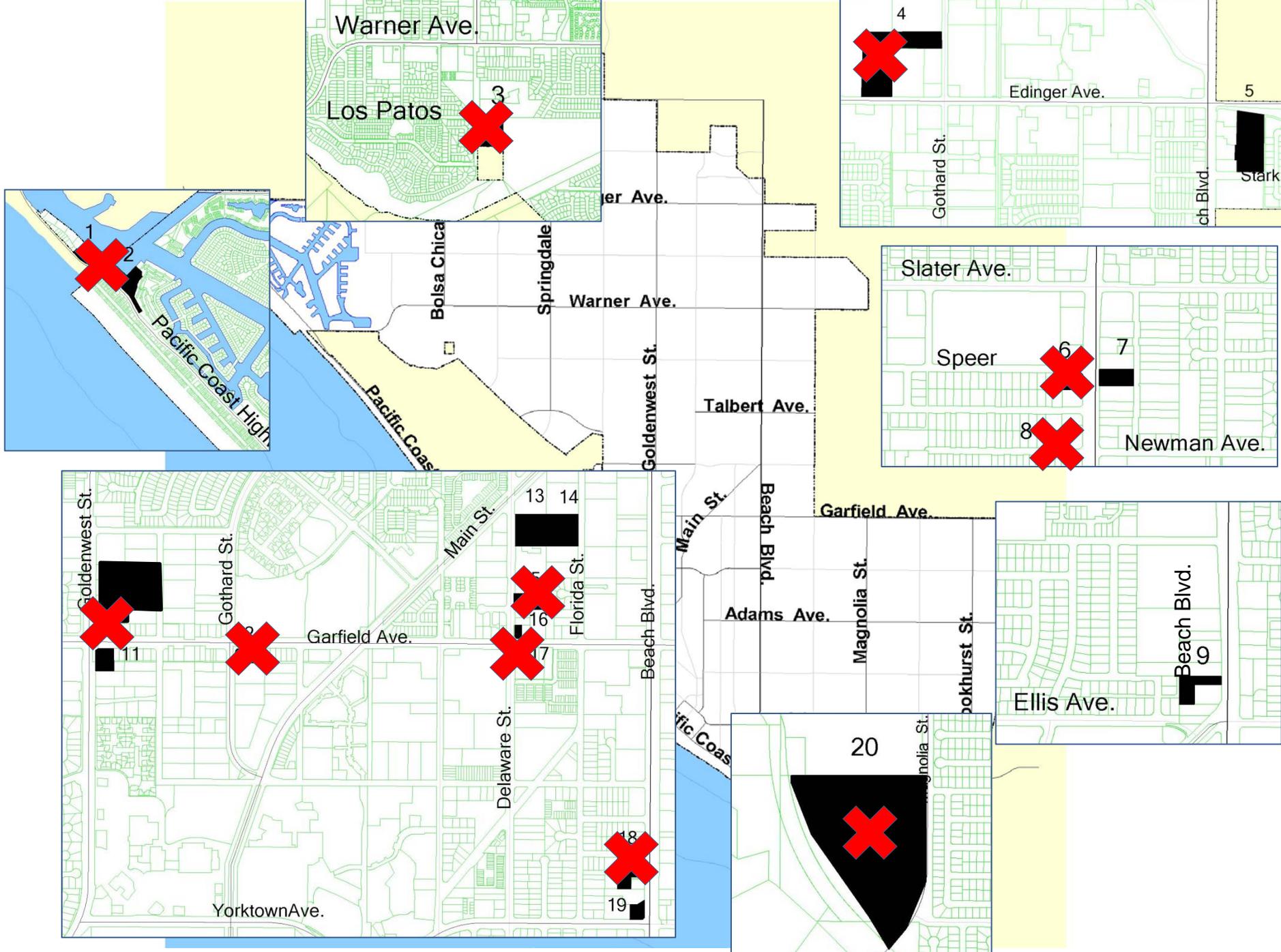
Site Requirements

State Law Qualifying Criteria to Make Up Sites Shortfall:

- Parcel large enough to accommodate minimum 16 units
- Residential permitted by-right (site plan review, no CUP)
- Allow min. “default density” of 30 du/acre for lower income credit
- At least 50% of 410 unit shortfall must be designated on exclusively residential sites (no mixed use)

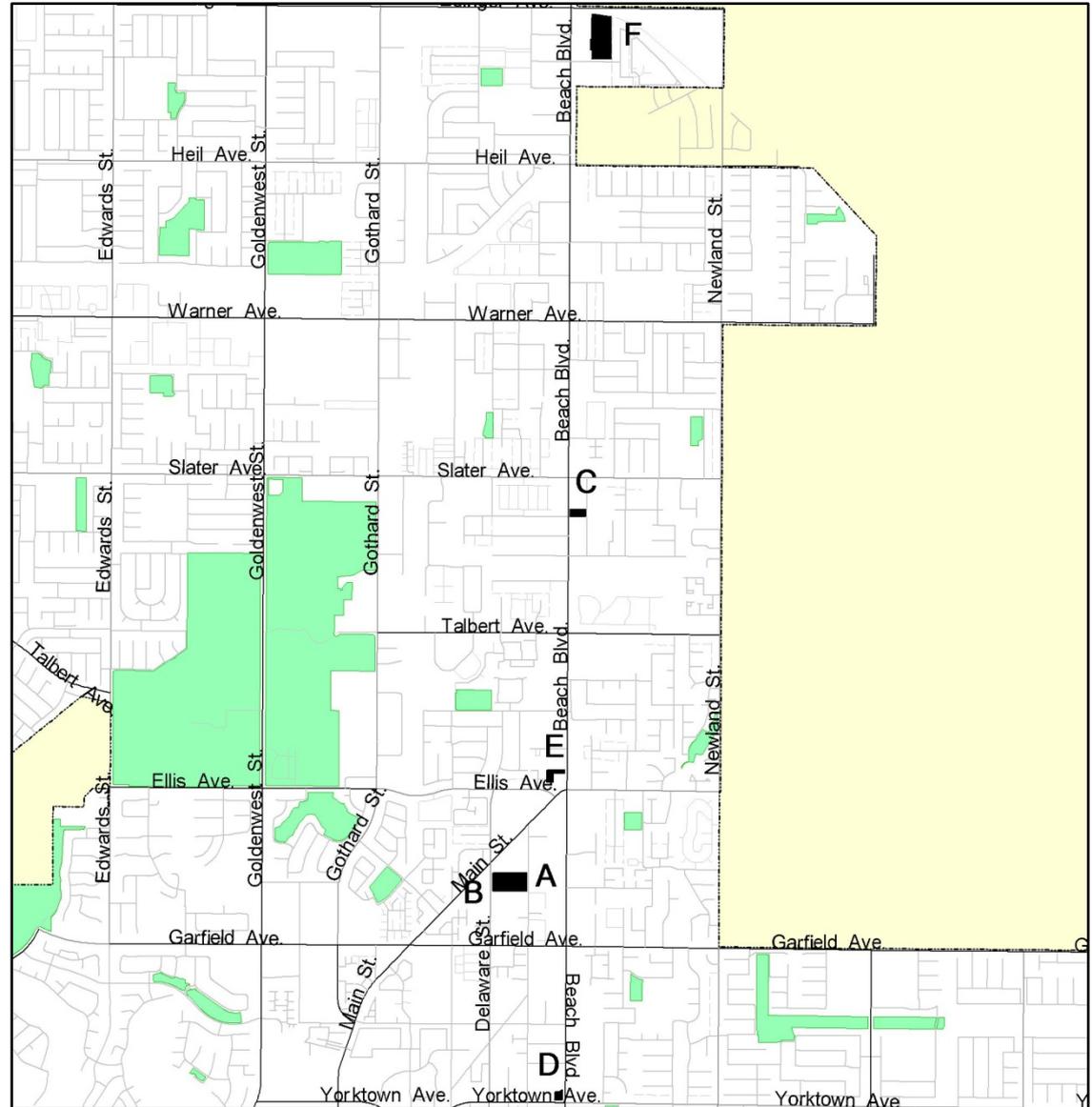
Other factors for site consideration:

- Feasibility of implementing within time frame (by September 2016)
- Pending project status
- Minimize potential change of existing commercial, industrial or low density residential areas to high density residential
- Residential already allowed use at default density (30 du/ac)
- Minimize costs associated with implementation
- Clear path to HCD acceptance



Preliminary List of Qualifying Sites

Map #	Location
A	18700 Delaware/18811 Florida (Main & Delaware)
B	18792 Delaware (Delaware S/ of Main)
C	17631 Cameron (E of Beach, S of Slater)
D	19471 Beach (NWC Beach and Yorktown)
E	18431 Beach (Beach and Main)
F	16052 Beach (Beach and Stark)



Sites A & B: Delaware and Florida



- **Sites already identified in Housing Element**
- **Site analysis previously accepted by HCD**
- **Not on primary commercial corridor**
- **History of zoning on sites has allowed multi-family residential**
- **Current zoning requires residential**
- **Combined capacity accommodates 193 units**

Site C: Cameron (south of Slater)



- **Site already identified in Housing Element as an underutilized site**
- **Site analysis previously accepted by HCD**
- **Capacity accommodates 39 units**

Site D: Beach and Yorktown



- **Site already identified in Housing Element as an underutilized site**
- **Site analysis previously accepted by HCD**
- **Capacity accommodates 22 units**

Site E: Beach and Main



- **Site already identified in Housing Element as a vacant site**
- **Site analysis previously accepted by HCD**
- **Capacity accommodates 24 units**
- **Non-profit provider interest in providing extremely low income (<30% AMI) and veteran housing**

Site F: Beach and Stark



- Behind primary commercial corridor
- 5 acre commercial frontage along Beach would be retained
- Access would be from Stark and adjacent alley
- Can accommodate majority of shortfall
- Capacity for 395 units



Potential Capacity

Map #	Location	Current Zoning	Existing H.E. Site	Assumed Density	Site Acreage	Realistic Unit Potential
A	Main/ Delaware/ Florida	SP14	Underutilized Sites A &B	50 du/ac	2.86	143
B	18792 Delaware	SP14	Vacant Sites 67 a&b	50 du/ac	1.00	50
C	17631 Cameron	SP14	Underutilized Site D	50 du/ac	0.79	39
D	19471 Beach (NWC Beach and Yorktown)	SP14	Underutilized Site E	50 du/ac	0.45	22
E	18431 Beach (Beach and Main)	SP14	Vacant Site 66	31 du/ac	0.78	24
F	16052 Beach (Beach and Stark)	SP14	N/A – new site	68 du/ac	5.8	395
Total Site Capacity					11.68	673

Adequate Sites Program would commit the City to accommodate the 410 unit lower income shortfall by designating a combination of the listed sites for residential uses subject to a Site Plan Review

Other Housing Element Program Changes

- The City must address parking for the sites selected to accommodate the shortfall
 - Parking requirement does not need to reflect the previous BECSP standards, but would be in line with the Citywide parking requirements

# Bedrooms	Current HBZSO/Citywide Req.	Current BECSP Parking Req.
Studio/1 BR	1 min.	2 min.
2 BR	2 min.	2 min.
3 or more BR	2.5 min.	2.5 min
Guest	0.5/unit	0.5/unit
Average	2 spaces per unit	2.5 spaces per unit

- Other changes would update the current Housing Element programs: reflect actions that the City has taken toward the Homeless Assistance and Extremely Low Income Housing programs

Next Steps

- Complete Draft Housing Element Amendment
- Public Review and Comment Period
 - **September 15, 2015 – October 14, 2015**
- Concurrent HCD Review
- Planning Commission and City Council Public Hearings – October/November 2015
- Designation of Adequate Sites must be completed by September 2016 (*within 3 years HE adoption*)

Esparza, Patty

From: Dombo, Johanna
Sent: Tuesday, September 08, 2015 1:24 PM
To: Agenda Alerts
Subject: FW: McKenna Letter to City Council 9-8-15
Attachments: McKenna ltr to City Council re Workshop 9-8-2015(2).pdf

From: Samantha Mouradian [<mailto:Samantha@agd-landuse.com>] **On Behalf Of** Amy Freilich
Sent: Tuesday, September 08, 2015 1:23 PM
To: Hardy, Jill; Sullivan, Dave; Delgleize, Barbara; O'Connell, Billy; Peterson, Erik; Posey, Mike; Fikes, Cathy
Cc: Wilson, Fred; Dombo, Johanna; Gates, Michael; Frakes, Sandie; Hess, Scott; De Coite, Kim; Vigliotta, Mike; dmckenna@mckennacars.com; Amy Freilich
Subject: McKenna Letter to City Council 9-8-15

Good Afternoon Mayor Hardy and Councilmembers,

I have attached a letter prepared by Armbruster Goldsmith & Delvac LLP on behalf of McKenna Automotive.

This letter that supplements our April 30, 2015 letter regarding the limitation of residential housing construction within the Corridor and particularly residential development on the property adjacent to the McKenna Automotive property and is being submitted to the City in connection with the City Council Meeting scheduled for 4 pm today to address a Proposed Amendment to the City of Huntington Beach Housing Element.

If you would like to discuss any of the content in this letter, please do not hesitate to contact my office.

Very truly yours,
Amy Freilich

Samantha Mouradian
Receptionist

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 Please consider the environment before printing this email.

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 9/8/15

Agenda Item No. SS #2

ARMBRUSTER GOLDSMITH & DELVAC LLP
LAND USE ENTITLEMENTS □ LITIGATION □ MUNICIPAL ADVOCACY

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September 8, 2015

City of Huntington Beach
Attn: Mayor Jill Hardy and City Council
2000 Main Street, 4th Floor
Huntington Beach, CA 92648

Re: September 8 Workshop on Balancing Essential Commercial/
Automotive Economic Uses with Residential and Affordable Housing
within the Beach and Edinger Specific Plan (“BECSP”) Area (“Corridor”)

Dear Mayor Hardy and Councilmembers:

This letter supplements our letter of April 30, 2015 with regard to the limitation of residential housing construction within the Corridor and particularly residential development on the 1.64 acre property adjacent to the automotive industrial/commercial use on the McKenna Automotive property and is being submitted to the City in connection with the above scheduled workshop.

McKenna “Surf City” Volkswagen (“**McKenna Automotive**”) has been serving the Huntington Beach community for over 40 years, and is the largest VW Orange County Dealer servicing the greater Los Angeles and Orange County Area, specializing in New and Certified Pre-Owned Volkswagen Cars, Volkswagen Service & Volkswagen parts. McKenna Automotive is one of 10 dealerships within the Beach Boulevard Corridor (as compared with approximately 16 such dealerships just 10-15 years ago). McKenna is also the fee owner of a portion of the Kia dealership property, located next to the Volkswagen dealership.

As indicated in our April 30 letter, McKenna Automotive is extremely concerned about the impact of additional housing adjacent to its dealership locations and was supportive of the well-thought-out City policy of reducing the MAND (“**Cap**”) in the BECSP Corridor in order to avoid significant public health and safety impacts and detrimental impacts to auto services in the Corridor.

Apparently because of the recently filed Kennedy Commission lawsuit, which seeks to reaffirm the original 4500 unit Cap in the Corridor,¹ the City Council has scheduled the September 8th

¹ A lawsuit was filed by the Kennedy Commission et al. against the City seeking to invalidate the recent BECSP amendment, asserting that the City’s action to reduce the MAND is inconsistent with the City’s General Plan Housing Element and state law “because, among other things, it places a moratorium on the construction of affordable housing within the BECSP and creates a shortfall of sites available to meet the City’s low-income housing need.” (Kennedy Petition, ¶1). The lawsuit asserts a laudable goal of implementing the City’s required fair

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workshop to again review how to address housing in the City, and appears on the verge of rescinding its action to restrict the MAND to 2100 and locating additional housing within the Corridor. Yet, the City's workshop notice indicates that the City (1) is not reconsidering the zoning for the high intensity residential project adjacent to the McKenna Automotive properties so detrimental to Corridor automotive uses, and (b) instead, is promoting even further concentration of housing adjacent to and within a few blocks of the McKenna Automotive site.

As further described below, placing the entire City RHNA within the BECSP Corridor is inconsistent with City General Plan goals to encourage economic growth along the Corridor, will destroy the Corridor's economic and automotive mixed use character and will fail to meet the City's obligation to avoid an overconcentration of affordable housing. The City should not be buffeted by the Kennedy Commission litigation or by claims of an adjoining property owner with no vested rights.

Instead of taking this action, McKenna Automotive urges the City to carefully consider at this workshop how it may (a) appropriately plan for affordable housing in the City without unconstitutionally over-concentrating that housing within the BECSP Corridor and (b) take action, clearly within its legislative authority, to stop the proliferation of housing adjacent to key economic drivers in the community, including McKenna Automotive.

As it evaluates the locations for future housing in the City, we urge the City Council to focus on the rights of McKenna Automotive, an existing business in the community for over 40 years, and to give it equal or greater importance than those of an adjacent owner which—per its filed application—will create a public nuisance.

I. More housing in the Neighborhood Parking Segment of the BECSP Conflicts with General Plan Goals.

The Neighborhood Parkway Segment has already been subject to construction of two of the major housing developments along the Corridor. **104 affordable housing units—comprising more than 10% of the City's RHNA for very low and low-income housing—and 358 total units—comprising almost 20% of all of the housing approved to date in the BECSP and 26% of the City's 2014-2021 RHNA—are located in the "Neighborhood Parkway Segment" in which McKenna Automotive is located.** Further housing development in this BECSP segment and adjacent to existing auto uses (which make up a substantial portion of this segment's uses) will be completely incompatible with the numerous auto dealerships, auto repair and similar uses in the Neighborhood Parkway Segment. **Yet, most of the new housing sites**

share of Regional Housing Need, but offers the City misguided, inappropriate and unconstitutional advice for implementing and balancing its diverse goals.

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selected by the City for consideration at its workshop are jammed into this area and a few blocks immediately surrounding it.

Announced plans by an applicant to build a 165 unit residential project (not mixed-use as required by City zoning) adjacent to the McKenna Automotive site—at a density of over 100 units to the acre and with slightly more than half of the parking required by the zoning code—further threatens the automotive mixed use character of the Corridor and specifically threatens the viability of the McKenna Automotive business. As we have previously demonstrated, this proposed housing project (the application for which has been determined by the City to be incomplete as it violates numerous City zoning requirements) or any high density residential housing would create self-imposed public nuisance and health and safety impacts (parking and traffic congestion, lighting, noise, air quality degradation, vibration, and other potential nuisance factors) by forcing its construction in a location adjacent to the McKenna commercial and industrial uses and cause significant impacts upon McKenna Automotive which could force it to abandon its current automotive use.

II. More Housing in the Neighborhood Parkway Segment Will Have a Detrimental Effect on City Revenues.

It is in the City's economic interest to avoid placing further housing in the Neighborhood Parkway Segment as well. *New car sales collectively provide 16% (approximately \$5.4 million dollars per year) in sales tax revenue to the City.* As indicated in the City's proposed 2015/2016 budget: "auto sales are the City's largest retail category contributing to the sales tax base each year." 8 of the top 25 sales generating businesses in the City are automotive businesses.

We have commissioned Kosmont Companies, a leading economic development advisory firm, to prepare a fiscal impact and economic benefit analysis of alternative uses on an existing site. Their analysis demonstrates a threefold difference in fiscal revenue generation potential and an even more significant difference in job creation—approximately 3 jobs versus 60—when comparing residential and automotive uses for any given site along Beach Boulevard. Their study also notes that residential is more expensive from a fiscal expenditure perspective, including police and fire services, than is automotive or other retail use. The Kosmont analysis also discloses that with the exception of motor vehicle and parts dealers and certain a few other categories of retail uses (Sporting Goods, Hobby, Book & Music Stores; General Merchandise Stores) for which retail sales show a surplus, the City is experience a retail sales leakage.² As

² Overall retail sales in the City are lower than retail spending potential based on households and average household income, suggesting that the City is likely leaking a portion of Huntington Beach resident retail purchases to other jurisdictions, while surrounding cities include Westminster, Fountain Valley, Costa Mesa, Garden Grove, Santa Ana, and Anaheim are experiencing overall retail sales surplus (i.e. capture of consumer retail spending).

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such the auto sale and parts industry is a crucial driver of revenues for the City. We would expect that a potential loss of 2 of its 10 existing Beach Boulevard dealerships due to placement of residential uses should be of critical concern to the City. As the Kosmont study also indicates:

- Careful consideration should be given to new development on Beach Boulevard (e.g. residential, mixed-use) with respect to the potential effects on existing adjacent businesses, particularly automotive businesses as the top sales tax revenue driver for the City (16% of total sales, 8 of top 25 sales tax generating businesses).
- Existing automotive dealerships on the Boulevard have indicated incompatibility and negative consequences on their businesses from new adjacent residential uses, including parking, noise, lighting, time of operations and other related effects.
- Because the automotive retail sector benefits from a “critical mass” factor as a result of being grouped within "auto malls” adjacent to one another (such as Beach Boulevard of Cars), retention and/or expansion of existing dealerships and potential attraction of new ones is an important consideration for the City in retaining its existing tax base.

III. The City Can Resolve These Issues and Avoid Challenge by McKenna Automotive

By the adoption of an amendment to the BECSP in April, 2015, the City has, after exhaustive study and review of staff, expert and community input, comprehensively determined that excessive proliferation of housing within the BECSP Corridor, if left to continue, would irreversibly destroy the Corridor’s commercial and automotive mixed use character, essential to the sound economy of the City. The City accordingly amended the prior BECSP by reducing the previously authorized Cap of 4500 residential housing units to 2100 units, which taking into account the existing or vested 1900 units, left 200 units of new construction capacity. In taking this action, the City appropriately determined that reducing the number of housing units within the Corridor met all of the City’s General Plan goals, objectives, policies and strategies.

The City recognized the need to balance housing and affordable housing requirements with other fundamental City policies, including the stated goals of its General Plan to promote economic development, and the constitutionally mandated obligation (just reaffirmed by the Supreme Court this year) to avoid overconcentration of affordable housing within a specific corridor of the City as required by state and federal law. Such balance cannot be achieved if the economic sector of the Corridor is threatened or abandoned.

If the City reverses its course and accommodates additional sites in the Corridor for residential housing (affordable and market rate) beyond its 2100 MAND cap, despite already having

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authorized 1900 units in the Corridor, or, in particular allows 165 units out of the 200 units allowed under its amended MAND cap to be placed next to the McKenna dealership, the City may put McKenna Automotive in a no-win situation in which McKenna will face a public nuisance and will be forced to defend against violations of law, including taking, substantive due process and federal and state violations of fair housing laws resulting from the City's concentration of all of its lower income housing needs within a single corridor.

To avoid this potential litigation, McKenna Automotive recommends that the City prohibit any further non-vested residential units within the Neighborhood Parkway Segment of the BECSP (the area of Beach Boulevard from approximately Main Street to Adams Avenue) and/or (b) remove the ability of any applicant to apply for residential uses adjacent to existing automotive uses, on the basis that such location would be a detriment to public health and safety. To accomplish this, the City could adopt one of the following approaches, each of which is fully within the legislative authority of the City to enact:

- A. (1) Amend and reduce the BECSP Cap to the existing 1900 built and vested residential units; or
 - (2) Retain the 2100 Cap, but either prohibit any further non-vested residential units within the Beach Boulevard Neighborhood Parkway Segment or adjacent to automotive uses and/or deny any CUP for proposed use of residential units adjacent to automotive uses, whether or not within the Neighborhood Parkway segment of the BECSP;
- B. Zone and plan for the remainder of its RHNA affordable housing needs outside of the Corridor, within the City's remaining land areas, which areas are wholly adequate to meet such RHNA needs; and
- C. Prepare an economic evaluation of the viability of further attracting retail development and job use within the Corridor.

IV. Facts Necessary to Understand in Resolving Conflict in City Goals

A. Authorizing Residential Projects in the Neighborhood Parkway Segment of the BECSP is in Direct Conflict with the Land Use Element of the General Plan

The City has ample grounds to remove housing from the BECSP and in particular adjacent to auto dealerships and other automotive uses. The Land Use Element of the General Plan clearly recognizes the conflict created by placing high density residential development adjacent to auto establishments and large retail/commercial/industrial land uses and actively seeks to avoid placing such land uses side by side.

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Building high density residential uses, including but not limited to the announced plans by an applicant to build a residential housing project of 165 residential units adjacent to the McKenna Automotive site, will quickly lead to a conflict between the existing large automotive and retail/commercial/industrial businesses and the residents of the project, leading to public nuisance lawsuits between the residents of the project and the automotive and other large retail/commercial/industrial businesses, as well as possible litigation against the City for inconsistency with the General and Specific Plans, denial of state and federal fair housing acts, denial of substantive due process and inverse condemnation.

The City's General Plan Land Use Element definitively provides:

- LU 10.1.5. Require that buildings, parking, and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods.
- LU 10.1.6. Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character, and operational hazards.
- LU 11.1.5. Require that mixed-use developments be designed to mitigate potential conflicts between the commercial and residential uses, considering such issues as noise, lighting, security, and truck and automobile access.
- LU 12.1.5. Require that new and recycled industrial structures and sites be designed to convey visual interest and character and to be compatible with adjacent uses, considering the:
 - d. enclosure of storage areas with decorative screening or walls;
 - e. location of site entries to minimize conflicts with adjacent residential neighborhoods; and
 - f. mitigation of noise, odor, lighting, and other impacts.
- (II-LU-7) C. EXISTING LAND USE CONFLICTS

There are several areas of the City in which the juxtaposition of residential uses with commercial or industrial uses has resulted in conflicts (Figure LU-4). These areas are described below:

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Garfield Avenue, Huntington Street, Clay Avenue, Gothard Street - This area contains low density, medium density, and high density residential uses adjacent to heavy manufacturing uses. At this time, no manufacturing use poses a problem, however, a future manufacturing use as permitted by zoning may create a land use conflict with the residential uses.

Magnolia Street, Warner Avenue - The northwestern area of this intersection contains industrial uses adjacent to a school, low density, and high density residential uses. The mix of industrial uses adjacent to noise sensitive uses create noise impacts on the noise sensitive uses.

- (II-LU-11) ISSUES

7. In some areas of the City, residential units are incompatibly located in commercial and industrial districts and create conflicts with adjoining uses.

Thus, building residential development adjacent to McKenna's automotive, commercial and industrial repair land use is not consistent with the General Plan. Development of high density, multi-family residential use adjacent to commercial/industrial automotive facilities would create non-mitigatable health and safety impacts upon: (1) the residents of the adjacent multi-family building, consisting of substantial air quality issues, operational hazards, light, noise, vibration, and long operating hours, that would negatively affect the health and safety of those potential residents; and (2) the existing automotive uses which would face public nuisance suits and degradation of their economic viability essential to the City's fiscal viability.

B. Conflict with the Specific Plan

In light of the recent hearings on the Beach and Edinger Corridors Specific Plan amendment, it became readily apparent that there is a conflict in land uses within the Specific Plan between auto and other large retail uses and high density residential development that has been occurring in specific areas along these corridors. To avoid this conflict, it is essential that the City direct placement of remaining lower income and other housing units, whether within the BECSP or in remaining areas in the City to locations most beneficial to the City and future residents, and one that does not negatively impact the economic vitality and future economic development of the City. We note the following points with respect to the Specific Plan's approach to resolving these conflicts in favor of auto use.

1. The Neighborhood Parkway Segment of the Specific Plan is an area that contains predominantly auto dealerships and repair uses, and other large commercial uses, and the

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Specific Plan clearly targets the preservation of existing automotive uses. Additional housing development in this area is in conflict with Strategic Priority No. 5 of the Specific Plan, which provides:

- Support the Continued Presence and Expansion of Auto-Dealerships along Beach Boulevard.
- Permit existing auto dealerships to expand anywhere on the corridor.
- Encourage new auto sales dealership development along segments closer to I-405.
- Work with existing auto dealerships to investigate the potential for off-site overflow fleet storage and to support the retention, expansion and eventual clustering of the auto dealership offerings along Beach Boulevard.

2. High density residential uses will be highly incompatible with these uses. The Specific Plan amendment requires residential uses within this segment to obtain a conditional use permit and to meet the standard that “the establishment, maintenance and operation of the use will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood and will not adversely affect the General Plan.” This standard cannot be met for housing developed adjacent to automotive and repair uses.

3. There is a need to preserve and permit expansion for high revenue generating economic uses within the City and to preserve land area in which such uses can be maintained. The Specific Plan recognizes this by promoting high density housing along Edinger Avenue, not Beach— “Along Edinger Avenue in particular, promote the development of dense, high quality housing formats. . .” (SP Section 1.3).

4. There are numerous places along the Beach and Edinger Corridor in which housing can be developed and the goals of the Specific Plan achieved without conflict with the economic goals of the City but the Neighborhood Parkway Segment is not one of those areas. Housing along Beach Boulevard in this segment creates health safety and welfare risks to future residents, due to the high volume of automobile vehicle sales and repair, which includes bright night lighting, noise, regulated hazardous materials use, vibration and potential for air quality impacts. Further, the Neighborhood Parkway Segment of Beach Boulevard contains large commercial uses that are automobile dependent, so walkability will not be furthered by placing housing in this segment.

The City has been proactive in meeting its RHNA need. There is extensive development of housing in the City, and there are numerous areas outside of the Corridor in which housing can be developed. We urge the City to recognize that the construction of additional housing along the Neighborhood Parkway Segment of the City is inconsistent with its own Specific Plan requirements.

Mayor and City Council
City of Huntington Beach
September 8, 2015
Page 9

V. Statutory and Constitutional Issues Relating to placing all of the City's RHNA Affordable Housing within the BECSP Corridor

A. Under the California Fair Housing Act, the City is not required to waive its land use regulations applicable to a project, if the project creates a health and safety violation concerning the neighborhood or adjoining property. As noted above, the development of high density, multi-family residential use adjacent to commercial/industrial automotive facilities would create non-mitigatable public health and safety impacts upon the residents of the adjacent multi-family buildings, consisting of substantial air quality issues, operational hazards, light, noise, vibration, and long operating hours, that would negatively affect the health and safety of those potential residents. Thus, the City can demonstrate a valid health and safety violation concerning the neighborhood or adjoining property negating the need to allow a high density, multi-family residential use adjacent to automotive and other large scale commercial/industrial uses.

There is authority for the City to deny these proposed uses. For example, in *Shea Homes Ltd. Partnership v. County of Alameda*, 110 Cal.App.4th 1246 (2013), the Court ruled that the County properly denied a developer's request for a density bonus for lower income housing within an inappropriate area, where there was sufficient land available for affordable housing in other areas.

B. Additional high density housing units placed within the Neighborhood Parkway Segment of the Specific Plan, including the proposed 165-unit residential development adjacent to the McKenna Automotive property and use, will require substantial parking space concessions and incentives in order to meet current City requirements. Indeed, the incomplete CUP application for the 165-unit project requests a 40% reduction in BECSP parking requirements, purportedly based upon California Government Code § 65915 (the Density Bonus law) on the ground that the project is entitled to the parking concessions or incentives as an affordable housing project protected by the California Density Bonus law.

In fact, no high density housing project with the BECSP, including but not limited to the proposed 165 units of this proposed project, can fulfill the prerequisite requirements of the density bonus law, which specifically provides that such incentives and concessions are available only when the applicant seeks a density bonus for a housing development. Since there is no maximum allowable residential density within the BECSP, no density bonus is required and therefore no concession or incentive is available for parking reductions. Indeed to grant such concessions would only increase the traffic congestion and other nuisance factors implicit in building residential dwellings adjacent to automotive uses.

C. Limiting affordable housing to within the BECSP (as proposed by the Kennedy Commission litigation) violates federal and state fair housing law by concentrating minority low

Mayor and City Council
City of Huntington Beach
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income housing within a single area of the City. Notwithstanding the allegations of the *Kennedy Commission* petition, concentrating development of affordable housing for racial minorities solely within a single area of the City, the BECSP, constitutes a violation of California and federal fair housing law.

The City has an extensive minority racial population requiring the furnishing of appropriate affordable housing under California law. Under federal law, the City must identify the following factors to determine whether the concentration of lower income dwelling units within the BECSP constitutes undue racial concentration. See *Shannon v. U.S. Dept. of HUD*, 436 F.2d 809 (3rd Cir. 1970), setting forth a number of the following factors (among others) to be considered:

- What procedures were used in considering the effects on racial concentration when it made a choice of site or of type of housing?
- How has the City historically reacted to proposals for low income housing outside areas of racial concentration?
- Where is low income housing, both public and publicly assisted, now located in the geographic area of the City?
- Where is middle income and luxury housing, in particular middle income and luxury housing with federal mortgage insurance guarantees, located in the geographic area of the City?
- Have the zoning and other land use regulations of the City had the effect of confining low income housing to certain areas, and if so how has this effected racial concentration?
- Are there alternative available sites?

Similar requirements are identified in the U.S. Supreme Court case of *Texas Dept. of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, __ U.S. __ (June 25, 2015). See also *Walker v. Dept. of Housing & Urban Development*, 402 F.3d 532 (5th Cir. 2005), establishing that violations of the federal fair housing act (Title VIII) can be established by a showing of disparate treatment of, and impacts upon, racial minorities by the concentration of lower income housing. Preparing to address all of these factors, and others relating to specific sites, requires extensive analysis and studies of population, minority population, and concentration of minority housing, in order to amend housing element distribution to meet the current 2014-2021 regional housing needs assessment in accordance with federal and state constitutional and statutory requirements.

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VI. Conclusion

At its workshop, the City, in determining its future course, should be conscious of meeting its lower income housing needs:

1. In accordance with the goal and objectives already spelled out in its General and BECSP Specific Plan, requiring balance in the location for future housing with the economic needs of the City, particularly in protecting its extensive automotive use establishments, including but not limited to McKenna Automotive;
2. By protecting the health and safety of residents of high density housing by assuring that such housing will not be built adjacent to automotive commercial/industrial uses which could create significant public nuisance impacts on the residents; and
3. By complying with federal and state law in avoiding the concentration of lower income housing within the single corridor of the BECSP, but rather locating such housing within the entirety of the City.

On behalf of McKenna Automotive, we urge you to carefully consider these fundamental principles in your September 8 workshop.

Very truly yours,



Amy E. Freilich

cc: Michael Gates, Esq.
Michael Vigliotta, Esq.
Mr. Fred Wilson
Mr. Scott Hess
Danny McKenna

Huntington Beach Police



City Manager's Report
Crime Update September 2015

Overview

- Calendar year crime data from January through July 2015
- Data by area of town
- Comparisons to last year and other years
- County crime information
- Strategies

Huntington Beach

Part I Crimes – Thru July 2015

Part I Comparison Last Year / This Year				
	YTD 2014	YTD 2015	Difference	Percent Change
<i>Homicide</i>	1	0	-1	-100.0%
<i>Rape</i> (definition change in 2014)	32	27	-5	-15.6%
<i>Robbery</i>	59	66	7	11.9%
<i>Aggravated Assault</i>	144	136	-8	-5.6%
<i>Simple Assaults</i>	790	730	-60	-7.6%
<i>Burglary</i>	359	438	79	22.0%
<i>Larceny</i>	1979	2163	184	9.3%
<i>Auto Theft</i>	169	221	52	30.8%
<i>Arson</i>	10	16	6	60.0%
Total (Not including Simple Assaults and Arson)	2743	3051	308	11.2%
Violent Crimes	236	229	-7	-3.0%
Property Crimes	2507	2822	315	12.6%

Huntington Beach (Areas Down)

Part I Crimes – Thru July 2015

Part I Comparison Last Year / This Year				
	YTD 2014	YTD 2015	Difference	Percent Change
<i>Homicide</i>	1	0	-1	-100.0%
<i>Rape</i> (definition change in 2014)	32	27	-5	-15.6%
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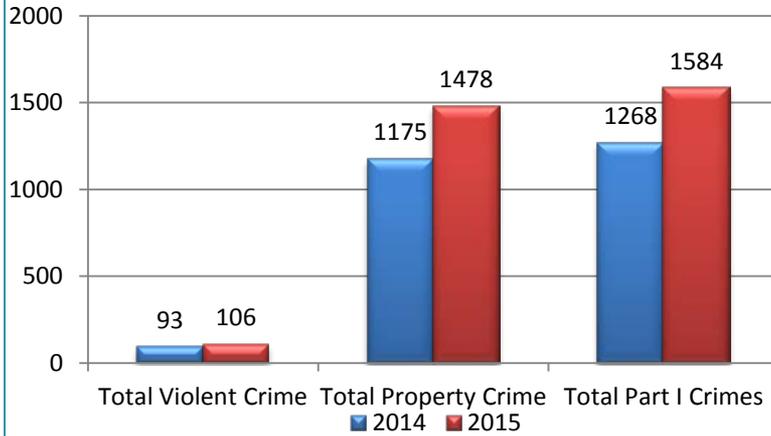
Huntington Beach (Areas Up)

Part I Crimes – Thru July 2015

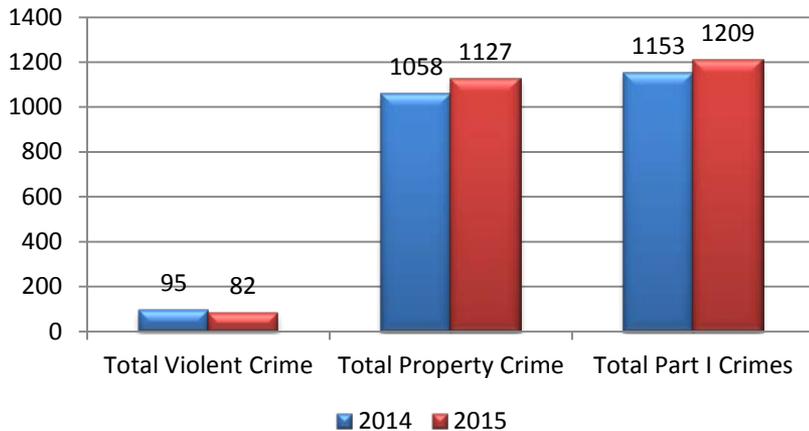
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Crime By Area

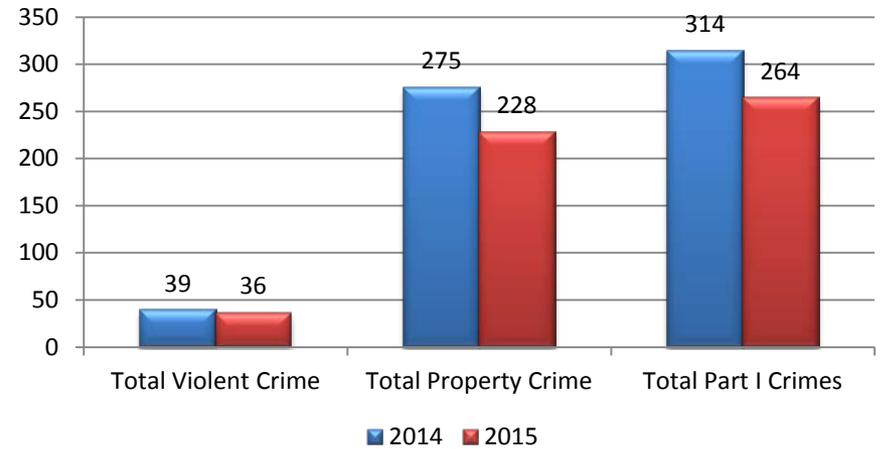
Part I Crimes - North Area



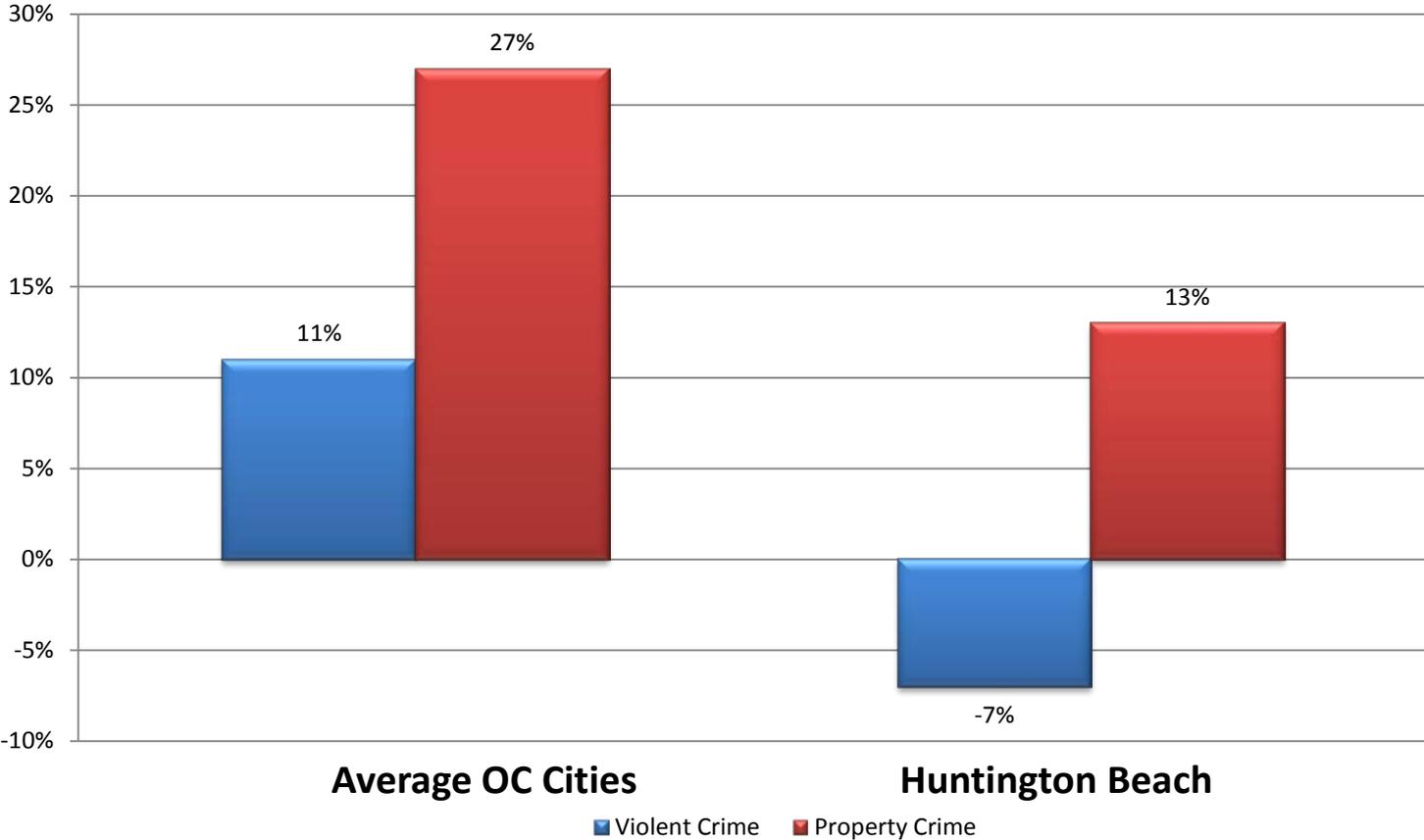
Part I Crimes - South Area



Part I Crimes - Downtown Area



Average Crime Rate Orange County and Huntington Beach



2014-2015 Traffic Accident Data

Traffic Accidents			
	2014	2015	%Change
January	156	176	12.8%
February	150	156	4.0%
March	184	184	0.0%
April	212	162	-23.6%
May	181	173	-4.4%
June	168	169	0.6%
July	182	182	0.0%
August	193		
September	183		
October	189		
November	159		
December	192		
Total	1233	1202	-2.5%

Possible Reasons

- Historical crime rate decreases since the 1990's
- Shift toward early release from incarceration
 - Fewer inmates in jail/prison
 - Less time in jail per offense
 - More criminals on the street
- Proposition 47 changes
 - Reclassifications of crimes/reduction in consequences or crime
- Increased organized groups of offenders

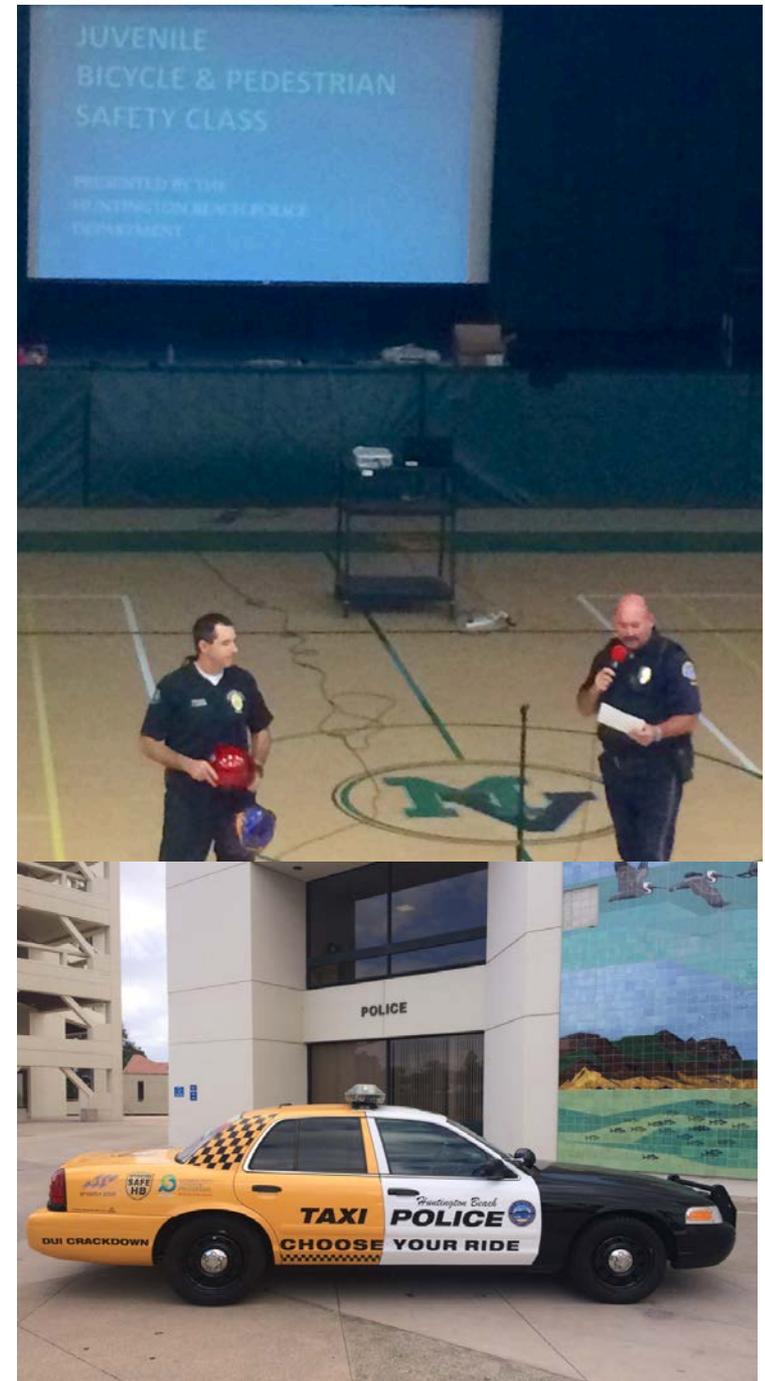
Strategies

- Increased Staffing
 - Hiring initiative 214 sworn currently, up from 194 in 2013
- Crime Suppression Meetings Bi Monthly
- Deploy resources based on data
- Use of bait cars and GPS devices to target repeat offenders
- Use of technology and social media to solve crimes



Strategies

- Alternate service delivery methods
- Homeless task force
- Enhanced partnerships
 - Probation
 - Mental health
- Sharing intelligence
- Reaching out to the community/prevention



Strategies

- Realignment of specialty resources
- Increase intelligence tools:
 - LPR Data
 - Cell phone data
 - Social media data
- Increase DNA database collections



Questions?



City of Huntington Beach



FISCAL YEAR 2015/16 PROPOSED BUDGET

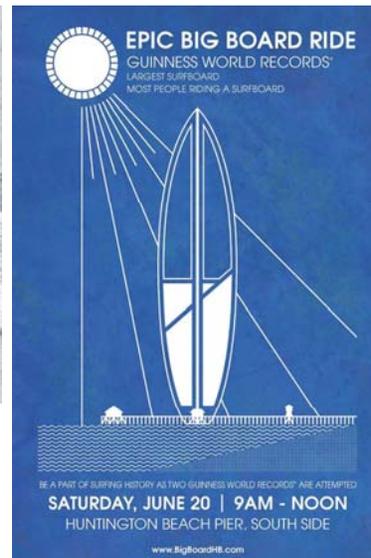
SEPTEMBER 8, 2015

FY 2015/16 PROPOSED BUDGET

“Making it Count”

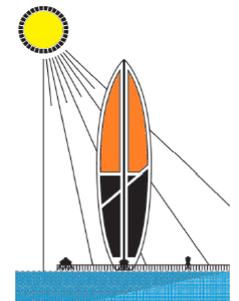


OFFICIALLY  AMAZING



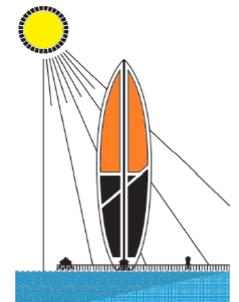
“Making It Count”

- Every financial decision made today will have a lasting impact for generations to come
- FY 2015/16 Proposed Budget maximizes limited resources by funding areas needing it most:
 - Public Safety
 - Quality of Life Programs
 - Financial Sustainability
 - Infrastructure



FY 2015/16 Proposed Budget

- The Proposed All Funds Budget totals \$344.6 million, a \$2.3 million or 0.7% increase from the FY 2014/15 Adopted Budget
- The Proposed General Fund Budget totals \$216.7 million, a \$6.8 million, or 3.2% increase from the FY 2014/15 Adopted Budget



FY 2015/16 General Fund Overview

- Balanced General Fund Budget for FY 2015/16
- A General Fund revenue increase of 4.6% is projected
- A \$3 million budget set-aside is included
- Fixed cost increases such as PERS, Workers' Compensation, insurance premiums and utilities are included
- Equipment replacement funding is increased by \$500,000 for a total of \$5 million
- Increased funding and staffing for Public Safety and related capital equipment and technology investments (\$4.0 million)

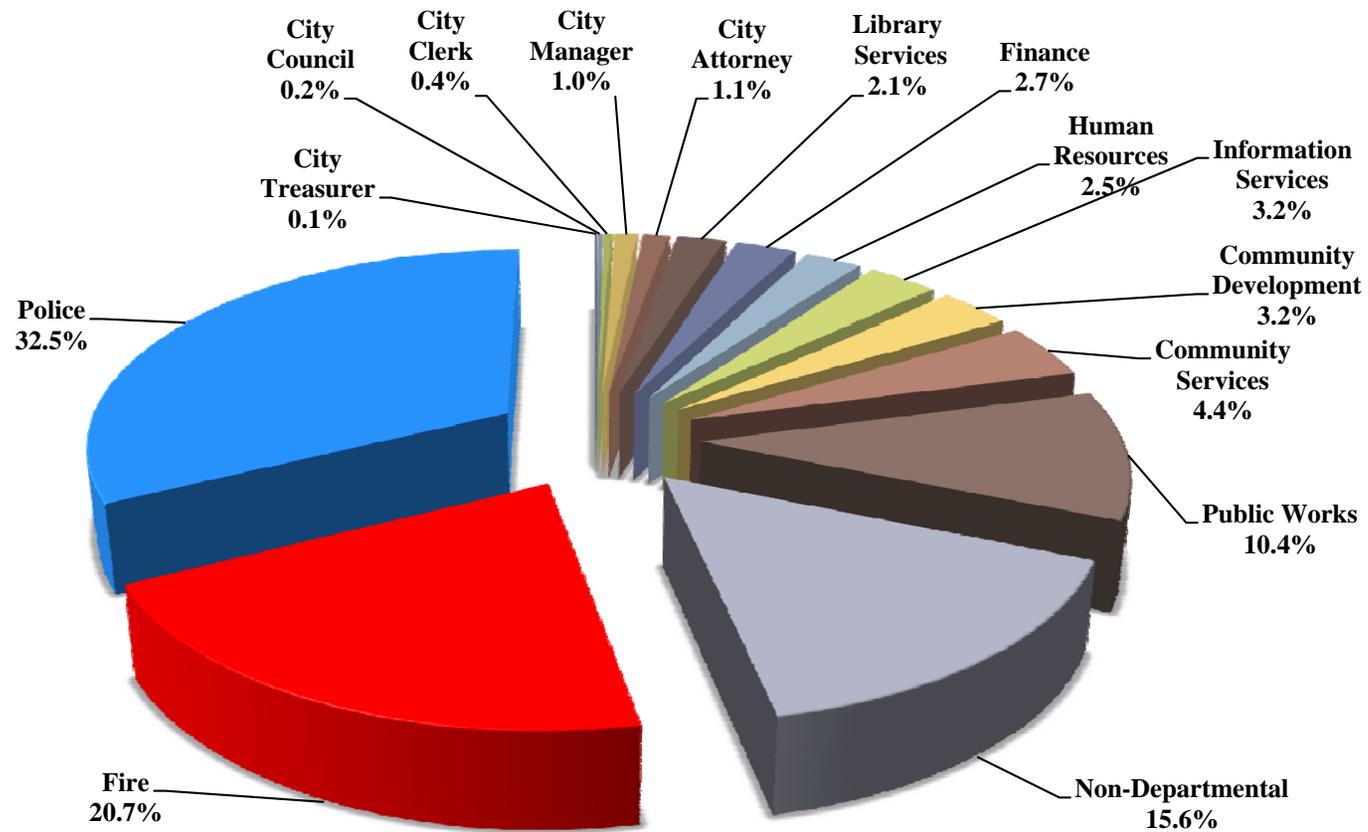
Making It Count

Public Safety



Making it Count - Public Safety

Public Safety Represents 53% of General Fund



Public Safety

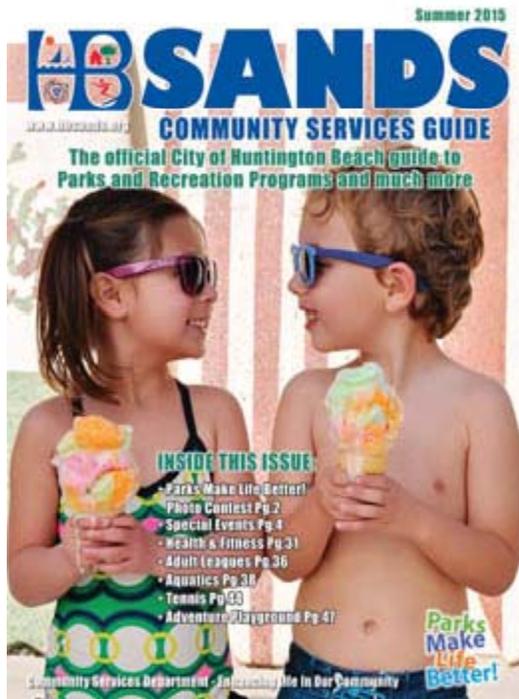
Police Department	Amount
Fund Two Additional Police Officer Positions + uniform & equipment	456,530
Fund Three Community Services Officers	304,512
Fund Two Communication Operators (Cost Neutral)	-
Police Officer and Parking Control Officer to General Fund	201,578
OC Animal Control Contract Increases	100,000
Aircraft Upgrades and Increased Helicopter Fuel	595,933
Server Upgrades including Computer Forensic Lab	65,203
Fleet Replacement (26 units)	955,000
CIP – Police Dept Lobby Security Project	250,000
Various transfers, exchanges to personnel costs	26,437
Total	\$2,955,193

Public Safety

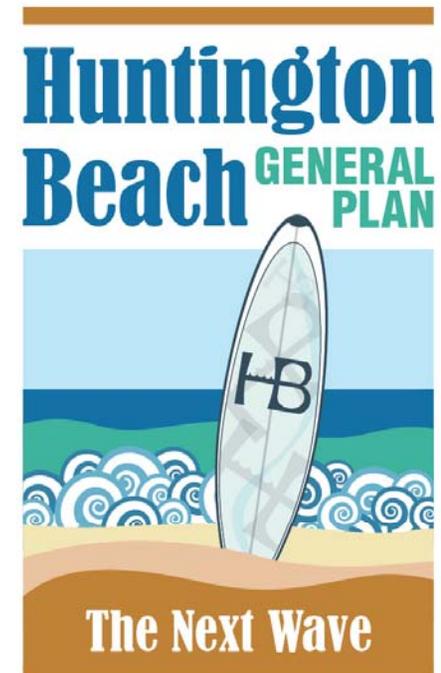
Fire Department	Amount
Lease Financing for new \$775,000 Fire Engine; Year One	165,000
Increase Junior Lifeguard Program	50,000
Standards of Cover Evaluation	50,000
Increase Metro Cities Joint Powers Agreement	83,895
Medical Billing Contract Increase	21,132
Equipment and Supplies - SCUBA Dry Suits, Fire Hose, Defibrillators	190,160
Lifeguard Towers	103,000
Refurbish Oil Wells	105,400
Mobile Data Computers (35 units)	149,377
CIP – Fire Station 8 – Heil Renovation	158,100
Total	\$1,076,064

Making It Count

Quality of Life



Parks
Make
Life
Better!



Quality of Life

- Improve beachgoing experience by increasing restroom cleaning during off-peak periods and providing new trash enclosures (\$66,825)
- Increases funding for tree trimming – new prevailing wage (\$111,000)
- Renovates Central Library interior and entry doors, replaces 70 obsolete computers and increases materials budget (\$335,000)
- Re-title Planning and Building Department to Community Development Department and Establish a Deputy Director position*
- Sand Replenishment Engineering Study at Huntington Harbor Beaches (\$60,000)

*No net increase in the Table of Organization

Making It Count

Economic & Financial Sustainability

CITY OF HUNTINGTON BEACH
FOR THE YEAR ENDED SEPTEMBER 30, 2012



CITY OF HUNTINGTON BEACH
FISCAL YEAR 2013/2014



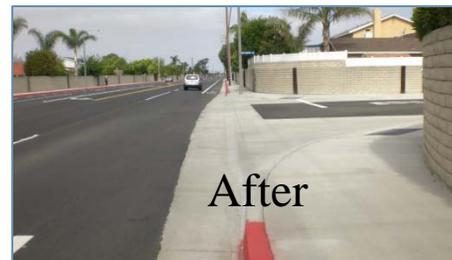
Economic and Financial Sustainability

- The Proposed Budget continues funding for the City's 3-pronged approach to reduce unfunded liabilities:
 - The “25 to 10” Plan for Retiree Medical
 - The “16 to 10” Plan for Retiree Supplemental
 - CalPERS “One Equals Five” Plan
- The Proposed Budget provides full funding for the City's annual Workers' Compensation Costs
- Includes \$250k towards reducing the \$9.2 million Workers' Compensation unfunded liability
- Plans above will help maintain AAA Fitch Rating

Enhance and Maintain Infrastructure

14

Making It Count



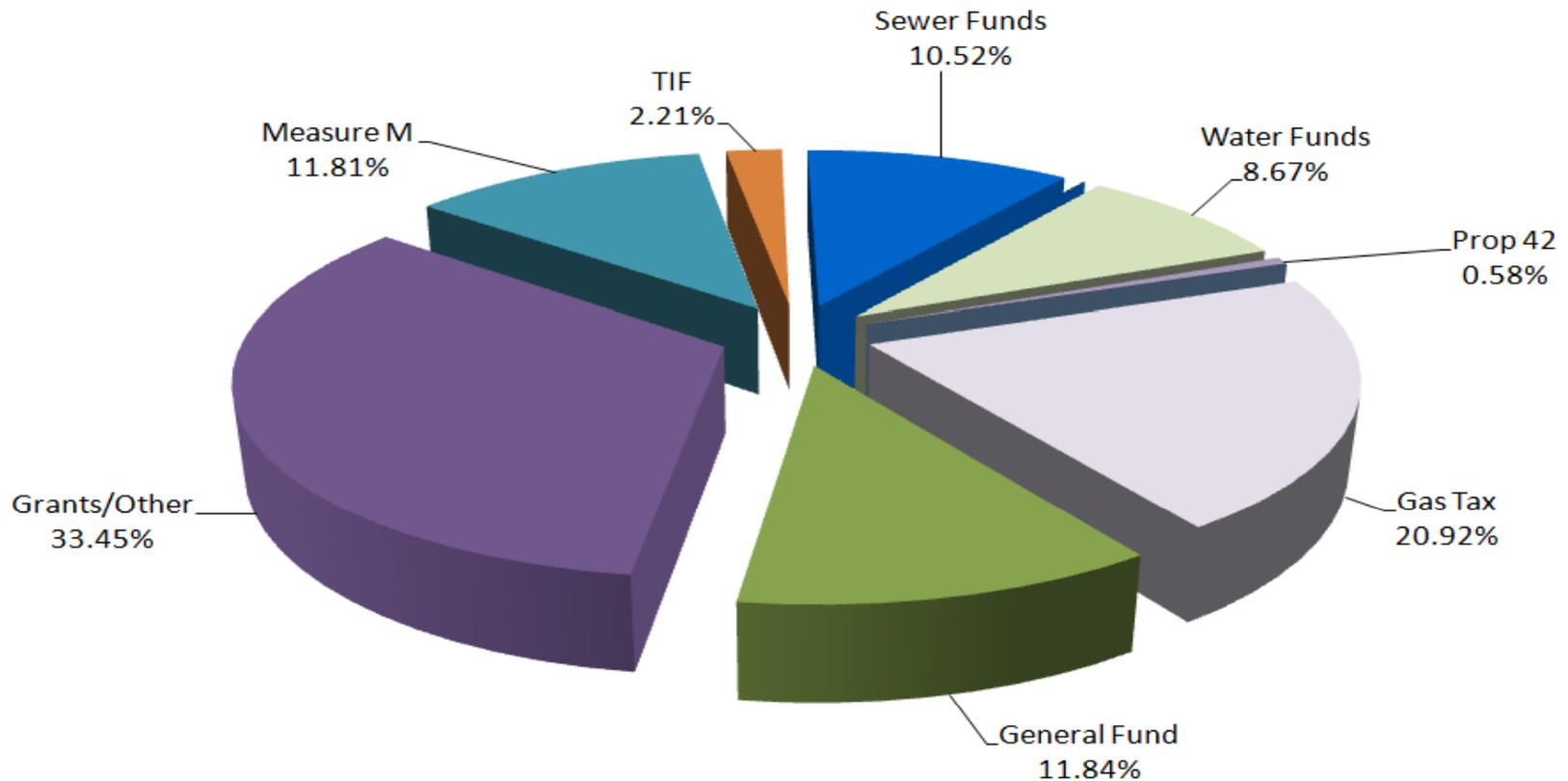
Infrastructure

15

- FY 2015/16 CIP includes \$27.5 million in projects (All Funds)
- This budget exceeds the 15% Infrastructure requirement with \$35.5 million in General Fund spending for infrastructure
- Included in the CIP is \$3.2 million in recurring, structural General Fund support for infrastructure
- LeBard School Site funding of \$667,000 for Year Two (split funding from GF and park development fees)
- Concrete, arterial roadway, sand replenishment, campground expansion, and other projects
- Public Works Commission did not approve the expansion of the existing Sunset Vista RV Campground from 46 spaces to 60 spaces. They recommend limiting expansion to only 6 spaces.

Capital Improvement Program (All Funds)

Capital Improvement Program FY 2015/16*
New Appropriations by Funding Source
\$27,450,830



FY 2015/16 Proposed Council Approved Revisions

General Fund	Amount
FY 2015/16 Proposed Budget submitted on July 6, 2015	\$216,484,367
Community Services – Repair & Maint - Promenade Parking Structure and Staffing*	100,000
Community Development – Professional Services – Solar Panels*	130,000
Total FY 2015/16 General Fund Revised Proposed Budget	\$216,714,367

*These items were approved by the City Council at the August 3, 2015 City Council meeting and are fully offset by revenue increases for a net neutral effect.

FY 2015/16 Proposed Council Approved Revisions

All Funds	Amount
FY 2015/16 Proposed Budget submitted on July 6, 2015	\$344,401,488
General Fund Revisions approved August 3, 2015*	230,000
Fund 701 – Auto Dealers BID Budget Amendment approved August 3, 2015*	(10,500)
Fund 710 – HB Downtown BID Budget Amendment approved September 8, 2015*	20,000
Total FY 2015/16 All Funds Revised Proposed Budget	\$344,640,988

*These items were approved by the City Council and are fully offset by revenue increases for a net neutral effect.

FY 2015/16 Proposed Budget Recap

- Increases funding for critical Public Safety services
- Essentially adds five Police Officers to sworn duties through a creative funding approach, plus two Dispatchers for a total of seven newly funded FTEs in the Police Department
- Provides funding for quality of life enhancements at libraries and beaches
- Eliminates two of the City's three retirement unfunded liabilities in 10 years*
- Funds infrastructure improvements to roadways, parks, facilities and other capital assets
- Enhances compliance with laws and regulations promoting further financial sustainability

*Pending market conditions, no additional changes in actuarial methodologies, etc.

Police Officer Staffing

Public Safety



Police Officer Funding

Sworn Officer Staffing	Total FTEs Funded
Total Funded Sworn Officers in FY 2012/13	207.0
Additional Officers Funded in FY 2013/2014	+5.0
Additional Officers Funded in FY 2014/2015	+2.0
Additional Officers Funded in FY 2015/2016	<u>+2.0</u>
Subtotal	9.0
Total Funded Sworn Officers	216.0

Potential Sources of Funding for Additional Police Officers

Description	Rationale	FTE	Amount
Office of Traffic Safety Grant Funds	State grant can fund one additional officer for one year. If grant is discontinued, funding would be reduced by one FTE and absorbed through natural attrition.	1.0*	\$250K
Purchase Fire Aerial Ladder Truck Outright	Reallocate funding for the annual lease payment budgeted for the 5-year lease of the Fire Ladder Truck.	1.2	\$295K
Increase Parking Meter Fees during Summer Months	During Summer months, the City requires additional law enforcement services due to increased tourism and higher visitor counts from May through August.	1.5*	\$380K
Increase Parking Citations and Fines	Modest increases in certain parking fines can provide a new source of ongoing revenue.	1.1*	\$282K
Increase Municipal Code Violation Fines	Modest increases in fines for Muni Code violations can help generate additional revenue to offset public safety costs of public intoxication, etc.	0.3*	\$85k
	TOTAL	5.1	\$1.3M

*Item is offset by additional grants/revenue for a net neutral impact.

Revised Police Officer Funding

Sworn Officer Staffing	Total FTEs Funded
Total Funded Sworn Officers in FY 2012/13	207.0
Additional Officers Funded in FY 2013/2014	+5.0
Additional Officers Funded in FY 2014/2015	+2.0
Additional Officers Funded in FY 2015/2016	+2.0
Additional Police Officers via Sources Identified	+5.0
Subtotal	+14.0
Total Potential Funded Sworn Officers	221.0

Increased Parking Meter Revenue (Summer Months Only)

Meter Types	Locations	Meter Hours	Current Charge Per Hour	Increase by	New Fee	\$ Increase
Meters - Business	Downtown/Business Zone	112,756	\$ 1.50	\$ 0.25	\$ 1.75	\$ 28,189.00
Meters - Residential	Downtown/Residential Zone	294,921	\$ 1.50	\$ 0.25	\$ 1.75	\$ 73,730.25
Meters - Recreational	PCH/Dog Beach/Bluff Lots	548,278	\$ 1.50	\$ 0.25	\$ 1.75	\$ 137,069.50
Meters - Beach Blvd	Beach Boulevard	87,851	\$ 1.50	\$ 0.25	\$ 1.75	\$ 21,962.75
Pier Plaza	Metered Lots	474,980	\$ 1.50	\$ 0.25	\$ 1.75	\$ 118,745.00
		1,518,786				\$ 379,696.50

Parking Meter Comparison – Other Cities

METER	HB	LAGUNA BEACH	NEWPORT BEACH*	RDNDO BCH	SAN CLMT	SEAL BCH	LONG BEACH
Hourly Meter Rate	\$1.50	\$1.00 - \$2.00	\$1.20 - \$1.75*	\$1.50	\$1.50	\$1.00	\$0.50- \$1.50

*Newport Beach Winter Rate is \$1.20 per hour. Summer rate is \$1.75 per hour.

Parking Citation Revenue Options

TYPE OF CITE	2014 TOTAL	% OF TOTAL	HB	Increase Amount	Increase Revenue
STREET SWEEPING	36,353	45%	\$ 44.00	0	-
EXPIRED METER	21,333	26%	\$ 48.00	10	213,330
NO PRKG SIGN/RED CURB	4,303	6%	\$ 61.00	0	-
FIRE HYDRANT	3,415	4%	\$ 55.00	0	-
EXPIRED REGISTRATION	2,076	3%	\$ 66.00	0	-
72 HOUR VIOLATION	1,915	2%	\$ 42.00	0	-
EXP/MISSING TAB	1,407	2%	\$ 31.00	0	-
ALLEY PARKING	922	1%	\$ 52.00	0	-
24 MIN/GREEN CURB	712	1%	\$ 42.00	0	-
CURB PARKING	635	1%	\$ 55.00	0	-
CROSSWALK	595	1%	\$ 55.00	0	-
FIRE LANE	447	1%	\$ 77.00	0	-
HANDICAP SPACE	252		\$ 356.00	0	-
HANDICAP RAMP **	229		\$ 55.00	301	68,929
TOTAL ADDITIONAL REVENUE					\$ 282,259

Parking Citation Comparison – Other Cities

Parking Fine	HB	IRV	LAG BCH	NPT BCH	RDNDO BCH	SAN CLMT	STA ANA	SEAL BCH
Expired Meter	\$48	-	\$43	\$58	\$27	\$43	\$56	\$43.50
Handicap Ramp**	\$55	\$303	\$300	\$412	-	\$48	-	\$312.50

** CVC 42001.5(a) states the fine for violation of 22500 (I) CVC should be not less than \$250.

Municipal Code Violations

Municipal Code Violation	Count	Fee	Current Revenue	Proposed Adjusted Fee	Adjusted Revenue	Additional Revenue After Increase
BEACH; CONSUME,SELL ALCOHOLIC BEVERAGES	632	\$ 125	\$ 79,000	\$ 175	\$ 110,600	\$ 31,600
DRINKING IN PUBLIC PLACE	385	\$ 125	\$ 48,125	\$ 175	\$ 67,375	\$ 19,250
POSSESS GLASS CONTAINER ON BEACH	323	\$ 125	\$ 40,375	\$ 175	\$ 56,525	\$ 16,150
NO PERSON SHALL SMOKE ON BEACH, PIER OR PIER PLAZA	278	\$ 125	\$ 34,750	\$ 175	\$ 48,650	\$ 13,900
SKATEBOARD,ROLLERBLADES PROHIBITED	75	\$ 125	\$ 9,375	\$ 175	\$ 13,125	\$ 3,750
					Total	\$ 84,650



QUESTIONS?

SEPTEMBER 8, 2015