

Minutes

City Council/Public Financing Authority City of Huntington Beach

Tuesday, September 6, 2016
4:00 PM - Council Chambers
6:00 PM - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

**A video recording of the 4:00 PM and 6:00 PM portion of this meeting
is on file in the Office of the City Clerk, and archived at
www.surfcity-hb.org/government/agendas/**

4:00 PM - COUNCIL CHAMBERS

CALL TO ORDER

ROLL CALL — 4:05 PM

Present: Posey, O'Connell, Sullivan, Katapodis, Hardy (arrived at 4:07 PM), Delgleize, and Peterson
Absent: None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

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

For Study Session No. 1, a PowerPoint communication submitted by Chief Financial Officer (CFO) Lori Ann Farrell, dated September 6, 2016, entitled *FY 2016/17 Proposed Budget and Long-Term Financial Plan Update*.

PUBLIC COMMENTS PERTAINING TO STUDY SESSION / CLOSED SESSION ITEMS

(3 Minute Time Limit) — None

STUDY SESSION

1. Finance Department provided an overview of the highlights of the Fiscal Year 2016/17 Proposed Budget and updated 5-Year Financial Plan Estimates.

City Manager Fred Wilson introduced Finance Manager Carol Molina-Espinosa, who presented a PowerPoint entitled *FY 2016/17 Proposed Budget & Long-Term Financial Plan Update* with slides entitled: *Summary, Overview of FY 2016/17 Proposed Budget, Back to Basics, FY 2016/17 Proposed Budget, FY 2016/17 General Fund Highlights, FY 2016/17 General Fund Overview, General Fund Revenue Highlights, FY2016/17 General Fund Highlights, Public Safety, Public Safety - Police, Public Safety - Fire, Police Officer Staffing Recap, Quality of Life, Economic and Financial Sustainability, FY 2016/17 Staffing Changes, Capital Improvement Program (All Funds), User Fee Study and Review, FY 2016/17 Proposed Budget Recap, Long-Term Financial Plan, Benefits of a Five-Year Plan, Five-Year Plan Highlights, Base Case Expenditure Assumptions, Revenue Assumptions, Five-Year Projection*

Scenarios, Base Case (in thousands), Stress Test (Mild Recession), Citywide Long Term Needs, Other Funding Gaps and Challenges, Future Considerations, Recap, and Questions.

Councilmember Peterson clarified several items with Chief Financial Officer (CFO) Lori Ann Farrell including: this budget is based on current, not proposed new fees; amount of the Senior Center in Central Park maintenance/custodial fee is increased due to increased facility size; beach rehabilitation project for the service road will be from Goldenwest to Sea Point; CIP and Infrastructure calculations; and staffing levels.

Councilmember O'Connell and CFO Farrell discussed one-time user fees which are not included in the Proposed Budget, but the Finance Department tracks those amounts which can vary from \$1 million to \$3 million year to year. The one-time revenue amounts historically have been applied by City Council to unfunded liabilities, infrastructure, equipment, CIP or other unanticipated needs.

Councilmember Posey and CFO Farrell discussed the Transient Occupancy Tax (TOT) formula and community resources who agree with the projection.

Councilmember Delgleize and Director of Community Services Janine Laudenback discussed park funds. Councilmember Delgleize and CFO Farrell discussed sales tax numbers which are conservative or "flat" for budget purposes, and the reality that on-line sales tax usually goes to counties, not to cities.

Councilmember O'Connell and CFO Farrell discussed the amount of sales tax from the City's brick-and-mortar locations vs what goes to the County of Orange from on-line sales.

Mayor Pro Tem Sullivan and CFO Farrell discussed finding reports that detail sales tax vs on-line Sales and the fact that there are proprietary laws, and use of a sales tax consultant to determine where the city stands on a "big picture" level.

Mayor Pro Tem Sullivan and CFO Farrell discussed costs associated with the purchase of a new police car and whether CPI is included in that calculation, and the lease/purchase agreement for an ambulance.

Mayor Katapodis and CFO Farrell discussed the gas tax that the City receives which goes into a separate fund and is used for street repairs and maintenance. In the past these funds have sometimes been moved to the General Fund, but due to reduced amounts collected the last couple of years, that transfer is no longer anticipated.

RECESS TO CLOSED SESSION — 4:55 PM

A motion was made by O'Connell, second Posey to recess to Closed Session for Items 2 — 7.

With no objections, the motion carried.

CLOSED SESSION

- 2. Pursuant to Government Code §54956.9(d)(2) the City Council recessed into Closed Session to confer with the City Attorney regarding potential litigation. Number of cases, two (2).**

3. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: ComUNIDAD v. City of Huntington Beach; Orange County Superior Court Case No. 30-2016-00869173-CU-WM-CXC.
4. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Gary Faust vs. City of Huntington Beach, WCAB Case Nos. ADJ9807357; Claim Nos. COHB-15-0011.
5. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Cory Wekerle vs. City of Huntington Beach, WCAB Case Nos. ADJ8593524; ADJ10022197; Claim No. COHB-12-0168.
6. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Huntington Shorecliff, LP v. City of Huntington Beach, et al. (JS Stadium), Orange County Superior Court Case No. 30-2011-00463995.
7. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Robert Bruce Jenkins v. City of Huntington Beach/June McCann, Orange County Superior Court Case No. 30-2015-00774236. Automobile accident at the intersection of Adams Ave and Lake Street involving "Seniors on the Go" bus driven by City employee.

6:00 PM – COUNCIL CHAMBERS

RECONVENE CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 6:04 PM

ROLL CALL

Present: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson

Absent: None

PLEDGE OF ALLEGIANCE — Led by Councilmember Posey

INVOCATION — Led by Rev. Karen Maurer of the Beach Cities Interfaith Services, St. Wilfrid's Episcopal Church and member of the Greater Huntington Beach Interfaith Council.

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.

CLOSED SESSION REPORT BY CITY ATTORNEY — None

AWARDS AND PRESENTATIONS

Mayor Katapodis presented a World Alzheimer's Awareness Month proclamation to Jackie Mark, Outreach & Advocacy Coordinator, Alzheimer's Orange County. Ms. Mark thanked the City Council for their assistance in making the public aware of the opportunities to support the services, events and

education provided by Alzheimer's Orange County. All funds raised locally stay local. She invited the public's participation in this year's Walk for Alz in Huntington Beach on Saturday, November 5, 2016. Details can be found at www.alzoc.org/walk.

Mayor Katapodis called on the Huntington Beach Surf Team to congratulate them for capturing the Surf Championships in New Zealand. Coach Andy Verdone, Assistant Coach Bret Barnes and Huntington Beach High School Principal Daniel Morris introduced several team members and shared highlights of their experience. The 2016 Huntington Beach High Surf Team members include: Samantha Cendro, Chiasa Maruyama, Jacob Baker, Jeremy Guilmette, Sammy Harju, Ryan Salazar, Brad Monroe, John West, Griffin Foy, Christian Seebold, Kristina Hehl, Kayla Little, Tyler Jones, Ian Mellor, Conrad Glider, Sage Guinaldo, Ethan Hurst, Jovan Smith-Scott, Max Seiersen, Kyle Adams, Brenden Smith Scott, Chelsea Herring and Olivia Bloom.

Mayor Katapodis presented a commendation to the Boys and Girls Club of Huntington Valley for their ongoing efforts in helping local youth. The commendation was accepted by Executive Director Art Groenveld who thanked the City Council and described the new facility on the campus of Goldenwest College where they provide programs for children from infancy through high school. The community was invited to visit on Wednesday, September 21, at 5:30 p.m., for a tour.

Mayor Katapodis called on members of the Huntington Beach Police Officers' Foundation who presented a check from its 10th Annual Charity Golf Tournament to the Alzheimer's Family Services Center. Mayor Katapodis presented a commendation to the Alzheimer's Family Services Center for 35 years of service.

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:

Administrative Items

Item No. 17, a PowerPoint communication submitted by Director of Public Works Travis Hopkins, entitled *Sewer Service Fund Annual Performance Audit*.

Item No. 18, a PowerPoint communication submitted by Police Chief Robert Handy, entitled *Body Worn Cameras*.

Ordinances for Introduction

Item No. 19, one (1) communication received from Gino Bruno regarding Commercial Photography; and a PowerPoint communication submitted by Assistant City Manager Ken Domer, entitled *Commercial Photography*.

Item No. 20, one (1) communication received from Damon Willens, of Anderson, McFarland and Conners, LLP regarding Unmanned Aircraft Systems (Drones); and a PowerPoint communication submitted by Police Chief Robert Handy, entitled *Drone Ordinance*.

Item No. 21, one (1) communication received from Kim Cramer regarding the Deputy Community Prosecutor Position; and a PowerPoint communication submitted by City Attorney Michael Gates, entitled *Community Prosecutor*.

PUBLIC COMMENTS (3 Minute Time Limit) — 18 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>.

Barbara Haynes was called to speak and asked for City Council support to address issues related to sober living homes in residential neighborhoods, and stated she will return at a future date to present additional information in hopes of reaching an educated conclusion. (00:29:20)

Henry Carey, downtown business owner, was called to speak and voiced his support of Ordinance for Introduction Item No. 21, Ordinance No. 4105 to add a Deputy Community Prosecutor. (00:31:14)

Bernie Bischof was called to speak and invited everyone to Old World's 39th Annual Oktoberfest, September 11 through October 30. Opening Day is a Fund Raiser in support of the Huntington Beach Kiwanis Club, Sunday, September 11, at 2 p.m. (00:32:02)

L. V. Lampley, Founder and CEO, White Lotus Homes for the Homeless, was called to speak and invited the community to attend a White Lotus Night Bazaar on October 9 - 11, at Huntington State Beach, 10 a.m. to 10 p.m. The organization's objective is to provide "container" homes for homeless and underserved women and children. More details can be found at www.whitelotusnightbazaar.net or phone 714-837-4731. (00:33:43)

Debbie Killey, Vice Chair of the Environmental Board, was called to speak and provided an update on the Board's activities including inviting community participation in two up-coming events. September 17, is Coastal Clean-up Day. The Environmental Board is working with City staff to assist at north Central Park from 9 - 11 a.m. Volunteers are invited to participate. The second event to be aware of is the Green Expo at City Hall, October 8, 10 a.m. to 2 p.m., in support of local environmental businesses. (00:37:51)

Jessica Budica, Chair of the Environmental Board, was called to speak and briefly shared the Board's vision for a water wall which will provide filtered water for re-filling bottles, drinking fountain for humans and a floor spigot for pets. She also provided details on the up-coming anti-litter campaign art contest for children in grades 3 to 12 to promote clean beaches and litter responsibility. (00:39:17)

Gerald Chapman was called to speak and voiced opposition to Ordinance for Introduction Item No. 19, amending Huntington Beach Municipal Code related to Commercial Photography. (00:41:12)

Peggy Price was called to speak and informed the community about this year's Compassion events taking place from September 11 - 21 to highlight acts of kindness and acknowledge local organizations that help to make a difference year round. She shared a video describing Charter for Compassion objectives. Further details can be found at www.compassionhb.com. (00:43:47)

Edward Paige was called to speak and voiced opposition to Ordinance for Introduction Item No. 20, relating to Unmanned Aircraft Systems (UAS - Drones). Mr. Paige distributed five (5) separate pieces of communications relating to drones. (00:47:08)

Shaun Land was called to speak and voiced opposition to Ordinance for Introduction, Item No. 19, amending Huntington Beach Municipal Code related to Commercial Photography, and Item No. 20, related to Unmanned Aircraft Systems (UAS - Drones). (00:50:56)

Celeste Hamil, Chairman, Allied Arts Board, was called to speak and invited the community to attend the Bi-Annual Arts Awards, October 19, at the Senior Center in Central Park, to honor exceptional artistic talent. Nomination forms are available at the Arts Center on Main Street. Also, visit the Memento Mori: Skulls & Bones in Art exhibit, September 24 to November 5, recognizing talent from around the world at the Huntington Beach Arts Center. (00:54:00)

Maureen was called to speak and shared her opinion of City Council actions and City maintenance issues. (00:56:44)

Damon Willens, Anderson, McPharlin and Conners, LLP, Los Angeles law firm, was called to speak and voiced opposition to Ordinance for Introduction Item No. 20, regarding Unmanned Aircraft Systems (UAS - Drones) and encouraged staff to consult with him and/or appropriate Federal Aviation Administration (FAA) staff before implementing a local ordinance. (00:58:51)

David Humphreys, President, Huntington Beach Police Officers' Association, was called to speak and voiced his opposition to Administrative Item No. 18, regarding the purchase of body worn cameras for patrol officers for evidence collection, basically because it is his opinion that the funds should be used to increase staffing levels before use of this technology. (01:02:03)

Brandon Reed, Treasurer, Huntington Beach Police Officers' Association, was called to speak and voiced his opposition to Administrative Item No. 18, regarding the purchase of body worn cameras for patrol officers for evidence collection, basically because it is his opinion that the funds should be used to increase staffing levels before use of this technology. (01:05:49)

Richard Backstrom, Board of Directors, Huntington Beach Police Officers' Association, was called to speak and voiced his opposition to Administrative Item No. 18, regarding the purchase of body worn cameras for patrol officers for evidence collection, basically because it is his opinion that the funds should be used to increase adequate firepower before use of this technology. (01:08:56)

Yasha Nikitin, Vice President, Huntington Beach Police Officers' Association, was called to speak and voiced his opposition to Administrative Item No. 18, regarding the purchase of body worn cameras for patrol officers for evidence collection, basically because it is his opinion that the funds should be used to address other issues before use of this technology. He also distributed a communication from the department's Standard Operating Procedures Manual relating to shift minimums. (01:11:47)

Dennis Hashin, Retired Member, Huntington Beach Police Officers' Association and Foundation, was called to speak and shared details of the Huntington Beach 9/11 Memorial dedication on Sunday, September 11, 2 - 4 p.m., sponsored by both the Huntington Beach Police Officers' and Huntington Beach Firefighters' Association Foundations. All costs for this Memorial were donated from businesses and citizens of Huntington Beach. (01:15:21)

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

Mayor Katapodis announced the appointments of Councilmembers Peterson and Posey to the Downtown Business Improvement District Board; and, the appointments of Councilmembers Hardy and Delgleize to the Visit Huntington Beach Board.

Councilmember O'Connell recused himself as he has business interests near the Downtown Business District.

A motion was made by Hardy, second Delgleize to approve the appointments of Councilmembers Peterson and Posey to the Downtown Business Improvement District Board; and, the appointments of Councilmembers Hardy and Delgleize to the Visit Huntington Beach Board.

The motion carried by the following vote:

AYES:	Posey, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
RECUSED:	O'Connell
NOES:	None

Councilmember Peterson reported attending the Orange County Sanitation District (OCSD) General Meeting and the Southern California Association of Government (SCAG) meeting where he heard an excellent economist speak about the economy of our region. Councilmember Peterson suggested that Council invite this economist to make a future Study Session presentation.

Councilmember O'Connell reported attending the Southern California Association of Government (SCAG) meeting, and the Orange County Business Council (OCBC) Chairman's Leadership Breakfast with Dr. James Doti, President, Chapman University.

Mayor Pro Tem Sullivan reported attending the League of California Cities - Orange County Division General Membership Meeting at the Senior Center in Central Park.

Mayor Katapodis reported attending the League of California Cities - Orange County Division General Membership Meeting and stated that Councilmember O'Connell is now on their Board of Directors - Orange County Division. He also attended the Orange County Transportation Authority (OCTA) Board meeting, and the 5th Annual Pacific Coast Dreamin' Barefoot Ball to benefit the Bolsa Chica Conservancy.

Councilmember Posey reported attending the League of California Cities - Orange County Division General Membership Meeting.

Councilmember Delgleize reported attending the League of California Cities - Orange County Division General Membership Meeting, the 3/1 Marine Corp. Dining Out event at Old World, and the Orange County Business Council (OCBC) Chairman's Leadership Breakfast with Dr. James Doti, President, Chapman University.

CITY MANAGER'S REPORT

City Manager Fred Wilson reported on the Annual Inter-Coastal Clean-up Day to be held on September 17, 2016, at the City Beach and in Central Park. He encouraged volunteers to sign-up. Details are on the City's website.

CONSENT CALENDAR

Councilmember Peterson pulled Consent Calendar Item No. 12 for further discussion.

1. Approved and adopted minutes

A motion was made by Hardy, second Posey to review and adopt the City Council/Public Financing Authority regular meeting minutes dated August 15, 2016, as written and on file in the office of the City Clerk.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

2. Received and filed the City Clerk's Quarterly listing of Contracts filed in the City Clerk's office between April 1, 2016, and June 30, 2016

A motion was made by Hardy, second Posey to Receive and file the "List of Contracts Approved by Department Heads and Submitted to the Office of the City Clerk during the Period of April 1, 2016, through June 30, 2016."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

3. Approved appointments to the Human Relations Task Force (HRTF) as recommended by City Council Liaisons Mayor Katapodis and Councilmember Hardy

A motion was made by Hardy, second Posey to approve the appointment of Shideh Balali Farjoodi for a term to expire December 31, 2017, as recommended by City Council liaisons Mayor Katapodis and Councilmember Hardy; and, approve the appointments of Michael Waldinger and Youngsun Park for terms to expire December 31, 2019, as recommended by City Council liaisons Mayor Katapodis and Councilmember Hardy.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

4. Approved Quitclaim Deed for Dedication of Right-of-Way for Public Street and Utility Purposes at 220 Geneva Avenue

A motion was made by Hardy, second Posey to approve the subject Quitclaim Deed and authorize the Mayor and the City Clerk to execute on behalf of the City; and, instruct the City Clerk to record the approved Quitclaim Deed and the attached exhibit with the Orange County Recorder.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

5. Approved and authorized execution of Amendment No. 1 to Cooperative Agreement No. C-2-2030 with the Orange County Transportation Authority (OCTA) for the Traffic Signal Synchronization Project along Edinger Avenue

A motion was made by Hardy, second Posey to approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Cooperative Agreement No. C-2-2030 Between Orange County Transportation Authority and the Cities of Santa Ana, Fountain Valley, Huntington Beach, and Westminster and for Edinger Avenue Traffic Signal Synchronization Project Funded as Part of the Measure M2 Regional Traffic Signal Synchronization Program (Project P)."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

6. Approved and authorized execution of Amendment No. 2 to Cooperative Agreement No. C-1-3021 with the Orange County Transportation Authority (OCTA) for the Traffic Signal Synchronization Project along Goldenwest Street

A motion was made by Hardy, second Posey to approve and authorize the Mayor and City Clerk to execute "Amendment No. 2 to Cooperative Agreement No. C-1-3021 between Orange County Transportation Authority and the Cities of Huntington Beach and Westminster for the Goldenwest Street Project Funded as part of the Measure M2 Regional Traffic Signal Synchronization Program (Project P)."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

7. Approved and authorized execution of Amendment No. 3 assigning the Original Ground Lease Agreement between the City and Smart SMR of California to American Tower Asset Sub, LLC, for Cell Tower located at 3817 Warner (within the Warner Fire Station parking lot)

A motion was made by Hardy, second Posey to approve and authorize the Mayor and City Clerk to execute "Amendment No.3 to Ground Lease Agreement Between the City of Huntington Beach and American Tower Asset Sub, LLC," assigning the Ground Lease from Smart SMR of California to American Tower Asset Sub, LLC.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

8. Approved a three-year contract with Community Service Programs, Inc. (CSP) in the amount of \$242,581 for management of the Gang Prevention and Intervention Program

A motion was made by Hardy, second Posey to approve and authorize the "Professional Services Contract Between the City of Huntington Beach and Community Service Programs, Inc. for Management of Gang Prevention and Intervention Program."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

9. Approved a three-year contract with Community Service Programs, Inc. (CSP) in the amount of \$308,892 for the Juvenile Diversion Program

A motion was made by Hardy, second Posey to approve and authorize the "Professional Services Contract between the City of Huntington Beach and Community Service Programs, Inc., for Management of Juvenile Diversion Program."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

10. Approved and authorized execution of Amendment No. 1 to Professional Services Contract between the City and RCS Investigations & Consulting, LLC for as-needed Background Investigative Services extending the contract term one year

A motion was made by Hardy, second Posey to approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Agreement between the City of Huntington Beach and RCS Investigations & Consulting, LLC for As-Needed Background Investigative Services."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

11. Approved Grant Agreement from the Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant PT1753 for 2016/2017 in the amount of \$583,000 providing funds to reimburse City's costs for Sobriety/Drivers License checkpoints, one full time DUI officer, traffic enforcement details and tablet computers for motor officers; approved appropriation and the establishment of a separate business unit for this funding

A motion was made by Hardy, second Posey to approve and accept the OTS STEP Grant agreement #PT1753 between the OTS and the City of Huntington Beach for \$583,000; and, authorize the Chief of Police to execute the grant agreement with OTS; and, approve appropriations and estimated revenue in the amount of \$583,000; and, establish a separate business unit for this funding and authorize the Chief of Police to expend up to a total of \$583,000 plus accrued interest on the Selective Traffic Enforcement Program (STEP) Grant.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

12. Fourth of July Celebration – Approved Scope of Work for Financial and Operational Procedures

Councilmember Peterson pulled this item to confirm with staff that the purpose of this item is to solidify the procedures for receiving and spending monies citywide, not necessarily just for the 4th of July Board. Chief Financial Officer (CFO) Lori Ann Farrell confirmed that this process will confirm best practice procedures that could be implemented with any department when applicable.

A motion was made by Peterson, second Delgleize to approve the Scope of Work for the Financial and Operational Procedures review for the Fourth of July Celebration Fund.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Delgleize, and Peterson
NOES: Hardy

13. Adopted Ordinance No. 4115 adding new Section 1.16.100 to authorize recovery of Attorneys' Fees related to City prosecution of misdemeanors
Approved for introduction August 15, 2016, Vote: 7-0

A motion was made by Hardy, second Posey to adopt Ordinance No. 4115, "An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Adding New Section 1.16.100 Thereof Related to Attorneys' Fees."

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

PUBLIC HEARING

14. Public Hearing held - adopted Resolution No. 2016-58 to adopt a Budget for the City for Fiscal Year 2016/17 and Resolution No. 2016-33 establishing the Gann Appropriation Limit

City Manager Fred Wilson introduced Public Hearing Item No. 14, by stating there have been three Study Sessions since July where the Fiscal Year 2016/17 Budget, the Capital Improvement Program, and supporting documentation were presented. This is a balanced budget that focuses on basics, i.e., financial sustainability. Manager Wilson introduced Finance Manager Carol Molina-Espinoza who made a PowerPoint presentation entitled *Fiscal Year 2016/17 Proposed Budget which included slides entitled: FY 2016/17 Proposed Budget, Back to Basics, FY 2016/17 Proposed Budget, FY 2016/17 General Fund Overview, General Fund Revenue Highlights, FY 2016/17 General Fund Highlights, Public Safety, Quality of Life, Economic and Financial Sustainability, FY 2016/17 Staffing Changes, Capital Improvement Program (All Funds), FY Proposed Budget Recap and Questions.*

Mayor Katapodis opened the Public Hearing for this item.

Public Hearing Speakers — None

City Clerk Robin Estanislau announced two supplemental communications received for this item: Communication from Steve Engle, and a PowerPoint communication submitted by Chief Financial Officer (CFO) Lori Ann Farrell entitled *Fiscal Year Proposed Budget*.

There being no speakers, Mayor Katapodis closed the Public Hearing.

Councilmember Peterson recommended staff allow more time for public review between the time the proposed budget is presented and voted on by the City Council. He also shared his concerns about the massive pension liability as well as major infrastructure needs.

Councilmember Posey and Director Farrell discussed contributions to the Trust Fund 15.

Councilmember O'Connell and Mayor Katapodis both thanked staff for their great job in paying down underfunded liabilities and keeping the budget balanced.

A motion was made by Delgleize, second O'Connell to conduct the Public Hearing on the Fiscal Year 2016/17 Proposed Budget of \$345,539,579 as outlined in the Proposed Budget document and related Exhibits; and, adopt Resolution No. 2016-58, "A Resolution of the City Council of the City of Huntington Beach Adopting a Budget for the City for FY 2016/17; and, authorize the Professional Services included in the FY 2016/17 Proposed Budget to be representative of the services projected to be utilized by departments in FY 2016/17; and, adopt Resolution No. 2016-33, "A Resolution of the City Council of the City of Huntington Beach Establishing the Gann Appropriation Limit for FY 2016/17" of \$845,394,563; and, approve minor technical adjustments to the FY 2016/17 Proposed Budget in the Funds and by the amounts contained in Attachment 2, Exhibit A-1; and, authorize an additional ½ FTE (Code Enforcement) in the FY 2016/17 Proposed Budget Table of Organization for the Community Development Department as shown on Attachment 2, Exhibit D-6.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

15. Approved Zoning Text Amendment No. 16-001 (Huntington Beach Zoning and Subdivision Ordinance Department Name Change) by approving for introduction Ordinance Nos. 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4098, 4099, 4100, 4101, 4102 and 4103

City Manager Fred Wilson introduced Item 15 and stated that this is to change the name "Department of Planning and Building" to "Department of Community Development".

Mayor Katapodis opened the Public Hearing.

City Clerk Robin Estanislau announced there were no public speakers.

Mayor Katapodis closed the Public Hearing.

A motion was made by Hardy, second Posey to approve Zoning Text Amendment No. 16-001 by approving for introduction after the City Clerk reads by title, Ordinance No. 4089, "An Ordinance of the

City Council of the City of Huntington Beach Amending Section 203.06 of the Huntington Beach Zoning and Subdivision Ordinance Titled Definitions to Amend the Definition of Director (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4090, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 210.16 of the Huntington Beach Zoning and Subdivision Ordinance Titled Residential Districts (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4091, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 211.04(Q) and Section 211.08 of the Huntington Beach Zoning and Subdivision Ordinance Titled C Commercial District (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4092, "An Ordinance of the City Council of the City of Huntington Beach Amending Sections 212.04 L-11 C, 212.04 L-12(L), 212.04 L-12(S) and 212.08 of the Huntington Beach Zoning and Subdivision Ordinance Titled I Industrial Districts (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4093, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 213.10 of the Huntington Beach Zoning and Subdivision Ordinance Titled OS Open Space District (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4094, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 218.02, 218.04(H) and 218.12 of the Huntington Beach Zoning and Subdivision Ordinance Titled M Mixed Use - Transit Center District (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4095, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 222.10D of the Huntington Beach Zoning and Subdivision Ordinance Titled FP Floodplain Overlay District (FP1, FP2, FP3) (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4096, "An Ordinance of the City Council of the City of Huntington Beach Amending Sections 230.10D, 230.22D, 230.46A7, 230.46C10, 230.52J, 230.94, 230.96E1 of the Huntington Beach Zoning and Subdivision Ordinance Titled Site Standards (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4097, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 233.04 of the Huntington Beach Zoning and Subdivision Ordinance Titled Signs (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4098, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 241.24 of the Huntington Beach Zoning and Subdivision Ordinance Titled Conditional Use Permits and Variances - Temporary Use Permits - Waiver of Development Standards (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4099, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 245.32 of the Huntington Beach Zoning and Subdivision Ordinance Titled Coastal Development Permit (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4100, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 246.04 of the Huntington Beach Zoning and Subdivision Ordinance Titled Development Agreements (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4101, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 250.12F of the Huntington Beach Zoning and Subdivision Ordinance Titled General Provisions (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4102, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 257.08 of the Huntington Beach Zoning and Subdivision Ordinance Titled Mergers (Zoning Text Amendment No. 16-001);" and, after the City Clerk reads by title, Ordinance No. 4103, "An Ordinance of the City Council of the City of Huntington Beach Amending Section 214.10 of the Huntington Beach Zoning and Subdivision Ordinance Titled PS Public-Semipublic District (Zoning Text Amendment No. 16-001)."

The motion carried by the following vote:

AYES:	Posey, O'Connell, Sullivan, Katapodis, Hardy, and Peterson
OUT OF ROOM	Delgleize

NOES: None

ADMINISTRATIVE PUBLIC HEARING

Five Affirmative votes are required for adoption of this Resolution per CA Civil Code Section 1245.240

16. Adopted Resolution of Necessity No. 2016-60 for Condemnation of a portion of 80 Huntington Street

City Engineer Tom Herbel made a PowerPoint presentation entitled *Atlanta Avenue Widening, Consideration of Direction to Proceed with Eminent Domain* with slides entitled: *History, Existing Conditions, Street View, Final Configuration, Project Costs, Need and Purpose/Public Interest and Necessity, Summary, Recommended Action and Questions.*

Councilmember Hardy and Mr. Herbel discussed the financial consequences to the City if the item is not approved (approximately \$2 million, including \$673,000 from a Federal grant which would have to be paid back).

Councilmember Delgleize and Mr. Herbel discussed that the 25 foot strip of land in question is less than 2 percent of the total park area.

Councilmember Posey and Mr. Herbel discussed scenarios affecting mobile homes if the land is not taken.

Councilmember Peterson and Mr. Herbel discussed how mobile homes on Hamilton Avenue do not encroach on the City's right-of-way.

Councilmember Hardy and CFO Farrell discussed the property owner rights regarding the mobile homes.

Councilmember Posey and CFO Farrell discussed the owner's knowledge of the history and facts related to this transaction.

Mayor Katapodis opened the Public Hearing.

City Clerk Robin Estanislau announced there were no public speakers, and that she had received Supplemental Communication from Director of Public Works Travis Hopkins entitled *Atlanta Avenue Widening, Consideration of Direction to Proceed with Eminent Domain.*

Mayor Katapodis closed the Public Hearing.

Councilmember Hardy explained that this is an effort to benefit the community as a whole, and noted that the property owner has not appeared to speak against this action. By using an eminent domain action for this property, the owner not only receives fair market value for the land, but also receives favorable tax incentives, and therefore she supports this item.

Councilmember Delgleize spoke in support of Councilmember Hardy's comments.

Mayor Katapodis explained that while he is not necessarily a fan of eminent domain, he supports its use in this particular situation.

Councilmember Posey stated he was originally against this item, however, because of the current conversation, it is his opinion it would be fiscally irresponsible to abandon the project and he therefore now supports this item.

A motion was made by Hardy, second Delgleize to adopt Resolution No. 2016-60, "A Resolution of the City Council of the City of Huntington Beach Finding and Determining that the Public Interest and Necessity Require Condemnation of a Permanent Street Easement and a Temporary Construction Easement in Portions of Certain Real Property Located at 80 Huntington Street, City of Huntington Beach, Orange County Assessor's Parcel No. 024-291-16, for the Atlanta Avenue Widening Project."

The motion carried by the following vote:

AYES: Posey, Sullivan, Katapodis, Hardy, and Delgleize
NOES: O'Connell, and Peterson

ADMINISTRATIVE ITEMS

17. Accepted the Sewer Service Fund Performance Audit for Fiscal Year 2015-16 and suspended the annual Consumer Price Index adjustment of the Sewer Service Charges for Fiscal Year 2016-17

City Manager Wilson introduced this item by stating that staff recommendation is to suspend the annual CPI adjustment for the upcoming fiscal year, and introduced Senior Administrative Analyst Chris Davis who provided a PowerPoint presentation entitled *Sewer Service Fund Annual Performance Audit* with slides titled: *Introduction, Reserve Policy, Fund Balance Summary, Future Sewer Needs, Alternative Sewer Charges, and Recommended Action*.

Mayor Katapodis and staff discussed that currently there are thirteen (13) lift stations that need to be replaced, (one of which will be replaced by a developer) at a cost of from \$2 million to \$3.5 million each, and it is projected that sewer fees should hold for approximately the next seven years.

Councilmember Delgleize and Director of Public Works Travis Hopkins discussed that every year the rates, reserves, operating costs and revenues are evaluated and currently there is a good reserve and operating costs vs revenues are in good balance. Every year the City Council is provided with the information to determine if rates need to increase or not. An evaluation will not be made for another seven years, but based on current information, staff projections support the recommended suspension.

A motion was made by Hardy, second O'Connell to accept the Sewer Service Fund Performance Audit for Fiscal Year 2015-16 as presented; and, suspend the Annual CPI Adjustment of Sewer Service Charges for Fiscal Year 2016-17.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

18. Approved and appropriated \$290,000 for the purchase of 50 body worn cameras and an evidence management system that includes five years of data storage, and 50 mobile smart phones with data plans for use by patrol officers for evidence collection

City Manager Wilson introduced Police Chief Handy who made a PowerPoint presentation entitled *Body Worn Cameras* including slides titled: *BWCs in Huntington Beach, Current Environment, Value of Video as Evidence, Traffic and DUI Enforcement, JAG Grant Funds, SLESF Grant Funds, Other Recent Tech Upgrades, In House Data Storage vs Cloud, Community Survey by CSULB, Use of Force Injuries: 5 years, Cost savings claims/litigation, HB Cost savings claims/litigation, HB Cost savings: Injury prevention, Implementation, Costs and Questions.*

Councilmember Delgleize and Chief Handy discussed detail of the proposal including a five (5) year agreement which includes a hardware (camera) upgrade at two-and-a-half (2.5) years and at five (5) years. The software would constantly be upgraded during the agreement term. City Attorney Michael Gates stated that since 2006 there have been approximately 50 civil suits regarding police conduct such as negligence or excessive force resulting in an approximate cost of \$4 million to the City. City Attorney Gates further added that through his experience with representing the Orange County Sheriffs' Department in the past, video evidence shortens the shelf life of a case because it is clearly evident if something went wrong or it is a false accusation. Chief Handy added that the primary purpose of using this equipment is to accurately record what happened. Being able to conclusively show what really happened will reduce staff time and liability, as well as officer stress.

Councilmember Posey and Chief Handy discussed how Supplement Law Enforcement Services Fund (SLESF) grant money covers five years, but the cost of the data plan for the 50 cameras after year one will not be covered by grant funds. Eventually the funds will come out of the General Fund, if the program is expanded, at a cost of approximately \$165,000 in today's market. It is anticipated that these costs will continue to drop as they have in the last three or four years.

Councilmember Posey and City Attorney Gates discussed that any form of evidence could be beneficial, even when the City has hired a prosecuting attorney. The real purpose of this effort is to defend the officers and the City. Every piece of evidence that helps the City is indispensable.

Councilmember Hardy and Chief Handy discussed the Chief's goal that all 150 uniformed officers will eventually wear body cameras, and that it will be a discretionary item that they will use as they feel is appropriate. Chief Handy confirmed that grant funds cannot replace something, but could be used to add more body worn cameras in future years.

The discussion continued on studies that show whether or not use of body worn cameras increase or decrease the amount of time to file reports. Approximately seventy percent (70%) of the City's officers who participated in the ninety-day pilot study indicated use of body worn cameras increased their time, and twenty percent (20%) said it saved them time. Other agencies reported use of the technology does not find increase officer reporting time; rather, that the extra time reported may be due to training.

Councilman Hardy and Chief Handy discussed the loss of an Administrative Secretary some time ago who provided administrative support for the Captains. Discussion continued about the data plan of 40GB per officer per month (upgrades if exceeded, a "pooled" or "family" account, costs to upgrade to an unlimited data plan).

In response to Huntington Beach Police Officers' Association (HBPOA) members recommending that funds be used to increase staffing levels vs. this type of technology, Councilmember Hardy and Chief Handy discussed using grant money on smartphones, automatic license plate readers or replacement of rifles if the body worn cameras were fully funded in another way. Chief Handy further explained that the HBPOA has refused to meet with Police Department management in over a year, and how grant money could also be used for more stationary cameras throughout the City, such as those used at the pier. Additionally, the jail cameras and cameras throughout the Police Department and City Hall have just recently been upgraded, and there is currently an application for grant funds to replace the infrared cameras in the helicopters.

Councilmember Peterson shared that in his experience as an electrical contractor, that technology costs usually come down over time, the processing power gets stronger and he would expect prices related to data storage to keep falling. He expressed his opinion that this is a good project, and that money spent to keep up with technology and updated weapons is money well spent. He thanked Chief Handy and his staff for all of the time that has gone into presenting project facts and answering Council questions.

Councilmember Posey and Chief Handy discussed that the cameras will each be assigned to one officer rather than used by multiple officers because it becomes more complicated in always knowing who took which video when equipment is shared. The vendor also recommends assigning one camera to one officer. The camera can be accessorized and mounted as each officer prefers and experience shows that this way the camera will more likely be used.

Councilmember Posey expressed his opinion that the body worn cameras will be a force multiplier and video evidence is very strong and compelling. The body worn camera project also dovetails very nicely with the plan to hire a City prosecutor and in the end will most likely make a police officer's job easier with another tool in the box. He stated his support for this item.

Councilmember O'Connell and Chief Handy discussed implementation costs for this project, and prosecution rate of DUI's. There was also discussion of how officer injuries are classified and the questionnaire at the end of the pilot project. Councilmember O'Connell shared his opinion that these funds could be more wisely spent, indicating he will be voting against this item.

Mayor Pro Tem Sullivan expressed that his main concern is officer safety and he and Chief Handy discussed how it is becoming more difficult to be a police officer because of the increasing anti-police officer sentiments seen around the world. Body worn cameras would have a deterrent impact on the lower-level assaults on officers, but not necessarily on the very violent encounters. Studies have shown that a suspect's behavior improves with use of a camera.

Mayor Pro Tem Sullivan also shared that if the state marijuana issue is passed [in November's election], it will certainly increase the drug related DUI arrests and using body worn cameras becomes even more important. He further stated his opinion that it would be foolish to not support this item as a means to increase officer safety.

Councilmember O'Connell and Chief Handy discussed the difference in demographics between Rialto and Huntington Beach as it could relate to officer safety. Councilmember O'Connell expressed that there are big differences and in his opinion, Rialto statistics or experiences should not be used as examples for Huntington Beach. Chief Handy stated that there are many studies throughout the country, not just at Rialto, that consistently show a reduction in use of force and citizen complaints where body worn cameras are implemented.

In response to an inquiry made by Councilmember O'Connell, Police Officer Humphreys, HBPOA, concurred that these funds could be more effectively spent on other things.

Councilman Peterson and Chief Handy discussed that the City's police officers are not being sent out to the field with broken or non-functioning equipment. The City's officers are well equipped with effective equipment. It was just recently brought to the Chief's attention that the number of rounds through some of the first-generation rifles is high, and an RFP was immediately issued to purchase new ones. Also, based on the current working environment for officers, a request to provide an extra vest was presented at the last Council meeting. This will provide each officer with two vests. Chief Handy expressed his opinion that management and the City Council are in touch with the demands of the officers' jobs and the difficulties they can face and are doing everything possible to support them. Management must evaluate how to spend available resources to best meet the department needs for the long term.

Councilmember Peterson expressed his opinion that management is doing a good job, and that he fully expects this program will prove itself over the course of the next five years.

Councilmember O'Connell and Chief Handy discussed that there are currently 74 or 75 rifles, and 85 people assigned to patrol. Chief Handy noted that not everyone should carry a rifle, and in fact, not everyone wants to carry a rifle. He explained how some police departments put a rifle in every car for use by the officer using that patrol car, but that HB officers have requested that rifles be assigned — a bit more expensive option, but provides better marksmanship when an officer is familiar with his weapon.

Councilmember O'Connell voiced concerns about purchasing this type of technology with identified issues, preferring to wait until reports provide a more sound recommendation.

Councilmember Hardy stated that she has a lot more information on this topic than she had six months ago, and is not yet convinced this is the proper time to proceed. In her opinion there are better ways to help the officers do their job, rather than spending funds on defending the job they do. She agrees with many of Councilmember O'Connell's statements and will oppose the item at this time.

Councilmember Posey stated his opinion that the expense is justified since grant funds are available.

Councilmember O'Connell confirmed with Chief Handy that grant funds are available for this project for only five years.

Councilmember Delgleize stated that she understands and appreciates the concerns expressed by Councilmembers O'Connell and Hardy, but she will be supporting the item for the safety of the officers who serve Huntington Beach.

Councilmember Posey and City Attorney Gates discussed the "assumption" that over five years \$300,000 to \$400,000 in annual savings could be expected not only in attorney fees but also in settlements if body worn cameras are used.

Councilmember O'Connell and Chief Handy discussed that there could be unexpected costs that could result in a cost overrun. Councilmember O'Connell encouraged Council to listen to the officers walking the streets, the ones facing the dangers of the job.

Councilmember Posey stated his opinion that it is necessary to listen to the officers, as well as experts such as attorneys, police chiefs, and other police departments with experience using body worn cameras, and studies that show use of this technology saves municipalities and taxpayers' money.

Councilmember Delgleize encouraged the HBPOA to sit down with police management to address officer's concerns.

Mayor Katapodis and Chief Handy discussed the Rialto statistics which came from the Rialto Police Chief and a Cambridge University published study where half of the department wore the body cameras, and half did not, for a year; the cameras were randomly assigned; and, the incidents of use of force were measured in the random sample vs the control sample. Other studies across the country have replicated the Rialto results, i.e., reduction in the use of force and complaints against officers.

The discussion continued as Mayor Katapodis confirmed with Chief Handy that half of Orange County law enforcement departments are in the process of implementing or testing body worn cameras with the intent to implement. Mayor Katapodis stated his opinion that use of body worn cameras will not prevent lawsuits.

Chief Handy stated that he believes that a suspect's behavior improves when officers are wearing a body camera, and during the City's pilot program several officers felt that their camera de-escalated a couple of incidents. He also explained that while leadership of the HBPOA does not support the use of body worn cameras, some HB police officers do, and some do not.

Chief Handy confirmed that all officers carry audio recorders and they are not often activated. City Attorney Gates stated that in many of the cases he represented [for the O. C. Sheriff's Department] audio records are used when available, but they do not show if there is inappropriate touching or excessive force.

Chief Handy confirmed that use of the body worn cameras will be determined by each officer in each situation. Mayor Katapodis shared his opinion that he doesn't see the need at this point for body worn cameras, and also shared his concerns about making an investment before careful development and implementation of a process and policy that responds appropriately to the Public Information Act, and possibly prevents litigation.

Mayor Katapodis and Chief Handy continued the discussion on DUI's and proving impairment. Mayor Katapodis stated his opinion that if concern for officer safety is that the root of the request, funds should be used to purchase and assign a rifle to each officer.

A motion was made by O'Connell, second Katapodis to continue the item for six months to gather information from cities comparable in size to Huntington Beach, time to look at details more thoroughly, including litigation details and whether time to make incident reports is increased or decreased.

The motion failed by the following vote:

AYES: O'Connell, Katapodis, and Hardy
NOES: Posey, Sullivan, Delgleize, and Peterson

A motion was made by Peterson, second Delgleize to appropriate \$290,000 from the Supplemental Law Enforcement Services Fund (Fund 984); and, authorize the Chief of Police to purchase 50 TASER Axon

body worn cameras, supporting equipment, with five years of "Evidence.com" data/evidence management system service, and 50 smart phones with data plans to accompany the body worn camera devices.

The motion carried by the following vote:

AYES: Posey, Sullivan, Delgleize, and Peterson
NOES: O'Connell, Katapodis, and Hardy

ORDINANCES FOR INTRODUCTION

- 19. Continued to a Date Uncertain — Introduction of Ordinance No. 4087 amending Chapter 5.54 of the Huntington Beach Municipal Code (HBMC) related to Commercial Photography**
Continued from the July 5, 2016, August 1, 2016 and August 15, 2016 City Council meetings

City Manager Wilson introduced Deputy Director of Business Development Kellee Fritzel who made a PowerPoint presentation entitled *Ordinance 4087 - Commercial Photography* with slides titled: *Municipal Code Chapter 5.54, Ordinance No. 4087, Current Municipal Code, Recommended Changes, Permit Required, and Example (with amendments)*

Councilmember Hardy and Assistant City Manager Ken Domer discussed some specific examples, i.e., a professional photographer who is taking photos of a private event and determines well after the fact that one of the photos would be appropriate for a frame maker. A professional photographer typically has a business license and that is good enough. This Ordinance is geared towards situations where staging is required to possibly close down a street for instance.

Councilmember Hardy expressed her opinion that this Ordinance is too vague and requires a lot of interpretation. City Attorney Gates stated that ordinances are drafted in his office, but their office does not make policy points. If policy points need to change, it can be sent back for further review, keeping in mind that if you get too specific, then the original intent can be lost.

Councilmember Delgleize stated that residents have asked her about this item, and it is clear from public comments that were made at this meeting, the private sector feels they are affected, and in her opinion this should be re-written to eliminate any of that confusion. City Attorney Gates stated that the original intent was to apply to large scale productions where neighbors or area parking may be impacted.

Councilmember Peterson expressed his opinion that the City doesn't have the resources to enforce this, and his understanding that a permit requirement for big productions is already in place.

Assistant City Manager Domer stated that the initial effort was to respond to resident complaints about a production in a residential neighborhood. There were some changes made from the original introduction, but obviously it isn't right yet. The intent is not to impact people who are taking individual photos, but those requiring staging or any City services.

Councilmember Posey suggested that the next version should define more specifically the type of photography or filming situation that necessitates the need for a permit.

A motion was made by Peterson, second O'Connell to continue to a date uncertain introduction of Ordinance No. 4087, "An Ordinance of the City of Huntington Beach Amending Chapter 5.54 of the

Huntington Beach Municipal Code Relating to Commercial Photography," to allow time for staff to modify content to better represent the intent of requiring a permit for commercial photography.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

20. Continued to a Date Uncertain – Introduction of Ordinance No. 4121 adding Chapter 8.80 to the Huntington Beach Municipal Code (HBMC) relating to Unmanned Aircraft Systems (UAS - Drones)

City Manager Wilson introduced Chief Handy who made a PowerPoint presentation entitled *Drone Ordinance* with slides titled: *Unmanned Aircraft Systems Drones, Need for Ordinance, Ordinance Development, Ordinance, Prohibited Operations (partial), and Questions.*

Councilmember O'Connell, Chief Handy and City Attorney Gates discussed that historically the FAA has had jurisdiction of airspace at or above 400 feet from the ground surface, and there is local or city jurisdiction from the ground surface to 400 feet above. The FAA is modifying that position because of drones and indicating they may move the threshold all the way to the ground surface.

Councilmember Hardy and Chief Handy discussed that drones create the opportunity of anonymously invading privacy, and there is no expectation of controlling or eliminating drones. The expectation is to provide an enforcement option for police officers to use, if necessary, when they request drone operators to cease operation. Several staff members discussed the issue with local drone operators.

City Attorney Gates confirmed that this ordinance was modified from the original draft and considered FAA regulations as well as ordinances adopted by many other jurisdictions. Attorney Gates explained that FAA may make changes that will require a re-visit in the future. He also discussed other jurisdictions that have faced litigation over drone ordinances, specifically Los Angeles that may be challenged because of ordinance language.

Mayor Pro Tem Sullivan shared a personal experience with a drone that invaded his back yard privacy and he had no idea who the operator was. He is ready to support this ordinance.

Councilmember Delgleize and Chief Handy discussed that the penalty for flying a drone could be a civil citation or a misdemeanor depending upon actual circumstances. Councilmember Delgleize shared her opinion that this ordinance is needed even if it needs to be changed down the road to meet new FAA standards.

City Manager Wilson stated that there is an upcoming round table discussion at the end of the month on commercial and recreational drones hosted by the Association of California Cities.

Councilmember Peterson expressed concerns about the ordinance, as written, preventing drones in Central Park when he feels it may be one of the safer places in the City to fly a drone. Chief Handy stated there is already an ordinance that prevents the flying of planes over ball fields or Central Park because it is a safety threat to helicopters taking off and landing.

Councilmember Peterson and City Attorney Gates discussed jurisdictional enforcement of "no-fly" zones established by the FAA versus the City. Councilmember Peterson feels that the FAA should manage this issue.

Chief Handy informed Council that the ordinance is not required for the upcoming air show, but that it would enhance safety for the helicopter pilots who have been asking for this for eighteen months.

Councilmember O'Connell asked Damon Willens of Anderson, McPharlin & Conners LLP law firm to approach the podium and share his opinion of the proposed ordinance. Mr. Willens made the following observations: the ordinance contains things that are pre-empted and unnecessary because they overlap FAA's regulations; it overlaps or is inconsistent with State criminal and civil laws; time and place restrictions can be enacted; and, privacy issues can be addressed in such a way that they won't be challenged. He also explained that an ordinance stipulating that drones cannot take off from, or land on, the beach within a specific timeframe, would pass constitutional muster and doesn't infringe upon the FAA's preemption. Regarding the upcoming air show, the FAA will stipulate a no-fly zone and will enforce it, and their penalties are three (3) years in jail or a \$250,000 fine. Mr. Willens closed his statement by indicating that the National League of Cities has just produced a model drone ordinance which he can provide a copy of.

A motion was made by Delgleize, second O'Connell to continue to a date uncertain introduction of Ordinance No. 4121, "An Ordinance of the City Council of the City of Huntington Beach Adding Chapter 8.80 to the Huntington Beach Municipal Code Relating to Unmanned Aircraft Systems (Drones)," to allow time for staff to address concerns raised by Council and consider new information expected for release by the National League of Cities later this month.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

21. Approved for introduction Ordinance No. 4105 amending Section 2.76.010 of the Huntington Beach Municipal Code (HBMC) to add Deputy Community Prosecutor; and authorized Employment Contract

City Attorney Gates made a PowerPoint presentation entitled *Community Prosecutor* with slides titled: *History on Plan for Prosecutor, Move to Increase Public Safety, The Call for a Community Prosecutor, The Plan, Remaining Steps in Process for Council, and Questions.*

Mayor Katapodis and City Attorney Gates discussed that Proposition 47 reclassified some felonies as misdemeanors. The Deputy Community Prosecutor will be expected to carry the cases through to the end and not get involved with early dismissals. The Community Prosecutor will work closely with the Huntington Beach Police Department to prioritize crimes, track repeat offenders, and get convictions and stay-away orders.

Chief Handy described the action as an enhancement, not an indictment on the service provided by the District Attorney's Office.

A motion was made by Peterson, second Delgleize, after the City Clerk reads by title, to approve for introduction Ordinance No. 4105, "An Ordinance of the City of Huntington Beach Amending the

Huntington Beach Municipal Code by Amending Section 2.76.010 Thereof Related to Exclusions from Competitive Service;" and, authorize the City Attorney to prepare and execute on behalf of the City an employment contract with the prospective Community Prosecutor, following 2016-2017 Budget approval.

The motion carried by the following vote:

AYES: Posey, O'Connell, Sullivan, Katapodis, Hardy, Delgleize, and Peterson
NOES: None

COUNCILMEMBER COMMENTS (Not Agendized)

Councilmember Peterson reported attending the Family Literacy Awards Night at Oak View Family and Community Center Gymnasium which recognized the volunteers. This is a program that doesn't cost the City any money, but it brings literacy to the residents, which is a key to success. The graduates have been involved for maybe two or three years working on their citizenship, English language and computer skills. He also attended the 3/1 Marine Corp. Dining Out event at Old World, and thanked the Municipal Employees' Association (MEA) for sponsoring the event.

Councilmember Hardy reported attending the Residents for Responsible Desalination (R4RD) Community Action Event on the Poseidon Desalination project.

Mayor Pro Tem Sullivan reported attending an Executive Committee meeting of the Orange County Senior Citizens' Advisory Council, and the 3/1 Marine Corp. Dining Out event at Old World, thanking Judy Graham and the many City employees who contributed to this event. He also expressed appreciation to Bernie Bischof and Old World for their generosity for a successful event.

Councilmember Delgleize expressed her appreciation for the outstanding work of the employees and Old World in making the 3/1 Marine Corp. Dining Out event so spectacular. She also reported attending the 5th Annual Pacific Coast Dreamin' Barefoot Ball to benefit the Bolsa Chica Conservancy at Pasea Hotel, the California State Lands Commission - Celebrating the Bolsa Chica Lowlands Restoration Project 10th Anniversary event, Ocean View School District - Welcome Back-to-School Kick-Off for the 2016-17 School Year at Spring View Middle School Gym, and the Orange County Business Council (OCBC) Chairman's Leadership Breakfast with Dr. James Doti, President, Chapman University at The Center Club, Costa Mesa.

Councilmember O'Connell reported attending the 3/1 Marine Corp. Dining Out event where there were so many inspirational Marines, the 5th Annual Pacific Coast Dreamin' Barefoot Ball to benefit the Bolsa Chica Conservancy at Pasea Hotel, and the Orange County Business Council (OCBC) Chairman's Leadership Breakfast with Dr. James Doti, President, Chapman University at The Center Club, Costa Mesa.

Mayor Katapodis reported attending the Autism Safety Fair at Central Library, participated in a taped segment on Huntington Beach by Time Warner Cable/Charter for Local Edition that can be viewed on You Tube that includes details on meeting the local Olympians at the HuntHuntington Beach Pier on September 17, as well as the Blessing of the Waves on September 18. He also reported attending the 5th Annual Pacific Coast Dreamin' Barefoot Ball to benefit the Bolsa Chica Conservancy at Pasea Hotel, the Eagle Court of Honor for Tyler Bond, Kevin Moreland and John Miller at Edison High School, was a speaker at the California State Lands Commission - Celebrating the Bolsa Chica Lowlands Restoration Project 10th Anniversary event, attended the Residents for Responsible Desalination (R4RD) Action

Event on the Poseidon Desalination project, Art in the Park (Fine Art & Craft Festival) at Triangle Park and Huntington Beach Art Center, the Huntington Beach Walk to End Alzheimer's Kick-Off Celebration - "Catch the Purple Wave to End Alzheimer's" at Huntington Harbour Yacht Club, Ocean View School District - Welcome Back-to-School Kick-Off for the 2016-17 School Year at Spring View Middle School Gym, Civil War Days, the Change of Command at Seal Beach Naval Weapons Station to acknowledge Captain Martin Hardy, III, who retired after 32 years of Naval service, and Huntington Beach Toyota's celebration to acknowledge the sale of their five millionth car.

ADJOURNMENT — at 11:12 PM to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Monday, September 19, 2016, at 4:00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California



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

ATTEST:



City Clerk-Secretary



Mayor-Chair