



City of Huntington Beach

Charter Review Commission

AGENDA

Tuesday., Feb. 2 2010, 6:00 PM
City Hall, B-8

- I. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside

II. **Public Comments:**

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

- III. **Approval of the Commission minutes from January 5 and January 21.**
- IV. **Staff Presentation on *Charter Sections 614 Contracts – Public Works and Section 617 Infrastructure Funds***
- V. **Discussion and possible action on City Charter Section:**
- 613 – Execution of Contracts
 - 614 – Contracts on Public Works including
 - a. Increasing or Eliminating threshold for triggering a bid process & possibly indexing that amount
 - b. The addition of the financial viability of the bidders
 - c. Discussion on a request to add a prevailing wage requirement
 - 617 – Infrastructure Fund including discussion on:
 - a. The requirement that expenditures for infrastructure improvements and maintenance not be less than 15% of the general fund revenues
 - b. Citizen Infrastructure Advisory Board
- VI. **Discussion and possible action on the Charter Review Commission Timeline/Schedule – Dapkus**
- VII. **Distribution and possible discussion on legislative drafts of some of the Charter Sections on which the Commission has taken straw votes – McGrath**
- VIII. **Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission**
- Request by Commission Chair Harlow to reconsider the straw vote taken on Charter Section 607(b) 2 - Retirement Tax

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

IX. Adjourn to the next regular meeting scheduled for THURSDAY, Feb. 18 at 6 PM in City Hall Room, B 8

Attachments: *

1. Minutes from the Jan. 5 and Jan. 21 meetings
2. Public Works Commission Memo dated December 16, 2009, *Charter Section 617 – Infrastructure Fund*
3. Public Works Commission memo dated January 20 on revisions to *Charter Sections 614-Contract on Public Works and 617 - Infrastructure Fund*
4. Staff memo dated January 26 supporting the Public Works Commission's recommendations on *Charter Section 614 –Contracts on Public Works*
5. Staff memo dated January 28 on *Charter Section 617 – Infrastructure Fund*
6. Updated Charter Review Timeline/Schedule
7. Memo from City Attorney McGrath & Legislative Drafts of *Charter Section 308,606, 607,608, 610, & 611*
8. Information from Commissioner Bixby on amendments to *City Charter* on contracting and on the prevailing wage
9. **PLEASE** also refer to information from the Jan. 21 meeting regarding prevailing wage available on the city's website under at:

http://www.huntingtonbeachca.gov/government/boards_commissions/files/012110AgendaPacket.pdf

* Material Related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the Agenda Packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

ATTACHMENT #1



City of Huntington Beach

Charter Review Commission

ACTION MINUTES

Tues., Jan. 05, 2010, 6:00 PM

- I. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside
All present except Stuart

II. **Public Comments:**

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

Public Comments were received as follows:

- *David Rice spoke in favor of adding a provision to the City Charter requiring a vote of the public on major General Plan amendments.*

III. **Approval of Minutes from the December 15 Commission meetings.**

Motion Dettloff, second Kutscher to approve the minutes from the Dec. 15 meeting as submitted.

IV. **Discussion on a request to add language regarding General Plan amendment to the Charter similar to that in Newport Beach Municipal Code 423 – Traffic Density.**

Following discussion on the above request Commissioner Dettloff made a motion that major General Plan amendments should not be addressed in the City Charter. Her motion was seconded by Commissioner Bauer. She added that they are currently address through City Council policy, and they should continue to be addressed in that manner. Following further discussion, it was recommended that the recommendation from Rice be forwarded to the City Council as a policy consideration.

The motion carried 11-3-1 (Bixby, Shaw, & Sullivan No)

V. **Discussion as requested on Section 607(b) 2 - Retirement Tax**

At the Chair's request, the City Administrator provided information on the retirement tax. The retirement property will provide about \$4 million this year to the city. It's cost is about \$75 on a house evaluated at \$500,000. If the revenue from the tax is lost, the city will continue to have its retirement obligation.

Commissioner Sullivan made a motion to place before the voters the option to repeal this section of the City Charter. The motion was seconded by Commissioner Silver. Following a presentation by Commissioner Silver, the motion was amended to add that it should not take effect until July of 2012. The motion carried 10-4-1 (Bixby, Shaw, Johnson, & Dettloff No)

VI. **Under Article VII of the Charter - Campaign Finance**

Commissioner Bixby had three recommendations for Campaign Reform:

- *Add new charter section to provide safe harbor for prompt refund of improper campaign contributions*

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

- **Add new charter section to regulate surplus campaign funds**
- **Add new charter section to require electronic filing & Internet publication of Statements of Economic Interests and campaign finance disclosures from elected city officials**

Commissioner Bauer offered a motion not to include them in the Charter. The motion was seconded by Commissioner Sneddon. The motion carried 12-2-1 (Bixby & Shaw No)

Commissioner Bauer made a motion to approve Commissioner Bixby's recommendation to include in the City Charter a requirement that the city council to determine at least once every 10 years whether charter review is warranted. The motion was seconded by Commissioner Sneddon. The motion carried 12-2-1 (Silver & Sullivan No)

Commissioner Bixby's recommendations included a prohibition of the use of eminent domain to transfer property from one private owner to another. After some discussion about current city law and practices, a motion was made by Commissioner Silver, seconded by Commissioner Bauer not to recommend this be added to the City Charter. The motion carried 9-5-1 (Hartnett, Bixby, Shaw, Brenden, & Sullivan No).

Commissioner Bixby's recommendations also included a Charter amendment to require that the use of the City's transient occupancy tax (TOT) to encourage neighborhood improvement districts by funding neighborhood capital improvements selected by residents appointed to a Neighborhood Improvement Program Committee. Following discussion about the current use of the TOT to encourage tourism a motion not to include this in the City Charter was made by Commissioner Silver and seconded by Commissioner Dettloff. The motion carried 13-1-1 (Bixby No).

There was also a recommendation by Commissioner Bixby to add to the City Charter a requirement that park in-lieu fees to be spent on parkland development whenever the per-capita park acreage ratio is below the requirement specified in the General Plan. Following discussion about current city practice and the General Plan requirements, Commissioner Bauer made a motion not to include this requirement in the City Charter. The motion was seconded by Commissioner Dettloff. The motion carried 12-2-1 (Shaw & Bixby No).

Commissioner Bixby recommended that the Commission consider adding city tideland to the requirements in Section 612 (Measure C) of the Charter. Commissioner Shaw made a motion to add city owned tidelands to this section of the Charter. City Attorney McGrath noted that the city could only identify as city owned tidelands a small area adjacent to the Huntington Beach Yacht Club. Commissioner Shaw withdrew his motion. Commissioner Bauer made a motion not to add city owned tidelands to this section of the Charter. The motion was seconded by Commissioner Sneddon and carried 13-1-1 (Bixby No).

VII. Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission

- **Recommendations from Commissioner Mark Bixby**

Commissioner Shaw requested that the Commission receive the staff report on prevailing wage prior to the public meeting scheduled for Jan. 21.

Commissioner Bame expressed a concern about forwarding recommendations other than those related to the Charter to the City Council. He noted that the Commission's mandate was to provide recommendations for amending the Charter.

* Material Related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the Agenda Packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

After some discussion, it was agreed that recommendations other than charter amendments would be offered as a separate list which would be reviewed and approved by the Commission.

VIII. Adjourn to the next regular meeting scheduled for Thursday, Jan 21 at 6 PM in City Hall Room B 8.

Attachments: *

- 1. Letter from Karen Jackle, President of Huntington Beach Tomorrow**
- 2. Memo from city staff on the city's General Plan Process**
- 3. Memo from city staff on the retirement property tax.**
- 4. Newport Beach Municipal Code 423**
- 5. H.B. Municipal Codes Section 2.07 – Campaign Reform**
- 6. Summary Report on recent amendments on Municipal Code. 2.07**
- 7. Sonenshein Memo dated Oct. 31 on Campaign Finance**
- 8. Matrix of other cities campaign finance law.**
- 9. Recommendations from Commissioner Bixby on Article VII of the City Charter**
- 10. Recommendations from Commissioner Bixby on additions to the City Charter**
- 11. Letter dated 09-14-09 from Ed Kerins regarding Section 607(b)2 of the Charter**
- 12. Information from David Rice on his request regarding the General Plan**
- 13. Minutes from the December 15 Meeting**

* Material Related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the Agenda Packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.



City of Huntington Beach

Charter Review Commission

ACTION MINUTES

Thurs., Jan. 21 2010, 6:00 PM

- I. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside

II. **Public Comments:**

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

PUBLIC COMMENTS WERE RECEIVED AS FOLLOWS:

- *Daniel Lozano – Support for adding prevailing wage.*
- *Connie Boardman - Support for adding prevailing wage and a request for the Commission to reconsider its straw vote on the retirement property tax.*
- *Karen Jackle – Opposed to adding prevailing wage*
- *Bruce Lecair – Support for adding prevailing wage*
- *Bob Douglas - Support for adding prevailing wage*
- *John Carter - Support for adding prevailing wage*
- *Jim Moreno - Support for adding prevailing wage*
- *Derek Spalding - Support for adding prevailing wage*
- *Robert Felix - Support for adding prevailing wage*
- *Peter Nicholas - Support for adding prevailing wage*
- *Bob Kass - Support for adding prevailing wage*
- *Ken Hurd - Support for adding prevailing wage*
- *Kevin Hehl - Support for adding prevailing wage*
- *Bret Baker - Support for adding prevailing wage*
- *Nicholas Nicioli - Support for adding prevailing wage*
- *Teferi Gebre - Support for adding prevailing wage*
- *Robert Livingston - Support for adding prevailing wage*
- *Hart Keeble - Support for adding prevailing wage*
- *Vincent Parker - Support for adding prevailing wage*
- *Rodney Larson- Support for adding prevailing wage*
- *Anthony Burrowes - Support for adding prevailing wage*
- *Jared Shoete - Support for adding prevailing wage*
- *Chris Meyer - Support for adding prevailing wage*
- *Rhett Smallwood - Support for adding prevailing wage*
- *Rob Bryant - Support for adding prevailing wage*
- *Richard Slawson - Support for adding prevailing wage*

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

- **David Ball - Support for adding prevailing wage**
 - **Doug Manione - Support for adding prevailing wage**
 - **Jim Adams – Support for adding prevailing wage**
- III. This meeting has been scheduled to take public testimony on a proposal to add a Section to the City Charter on the use of the prevailing wage. Commission discussion on this item will take place at their next meeting on Tuesday, February 2.
- IV. Discussion and possible action on the Charter Review Commission Timeline/Schedule ***Discussion on the Commission's schedule was postponed to the Feb. 2 meeting.***
- V. Adjourn to the next regular meeting scheduled for Tuesday, Feb. 2 at 6 PM in City Hall Room B-8.

Attachments:

1. City staff memo on prevailing wage requirement
2. Information from Jim Adams on behalf of the LA/OC building & Construction Trades Council:
 - a. A copy of his original letter containing language to be included in the Charter
 - b. A document supporting prevailing wage: ***Prevailing Wage Laws are Good for America***
 - c. The results of eleven studies of the: ***Effects of Prevailing Wage Laws.***
 - d. A booklet on ***Construction Apprenticeship Programs Career Training for the California Recovery.***
 - e. A booklet on ***Prevailing Wage and Government Contracting Costs.***
 - f. A ***California Building Trades*** bulletin with respect to the Supreme Court grants review of Building Trades Petition on whether Charter Cities can exempt contractors on their projects from State Law requiring contractors on Public Works Projects to pay a prevailing wage.
3. Updated Charter Review Timeline

* Material Related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the Agenda Packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

ATTACHMENT #2



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

TO: Chairman Harlow and the Charter Review Commission

FROM: Chairman McGovern and the Public Works Commission

DATE: December 16, 2009

SUBJECT: Revisions to City Charter Section 617

The Public Works Commission wishes to unanimously express our concern over the policy of including debt service for new infrastructure as part of the Charter required 15% contribution for infrastructure improvements and maintenance. Acting as the appointed Citizens Infrastructure Advisory Board, we find the current application unacceptable and subject to further review. Please consider the following points in relation to this critical issue:

- We believe the City is not complying with the intent and spirit of the Charter Section 617. *The Commission believes the Charter Amendment was intended to provide funds to maintain existing infrastructure. Members of the Infrastructure Advisory Committee (IAC) and Infrastructure Planning Committee (IPC) who advocated the Charter Amendment to the community presented the amendment as a potential way to help repair and maintain deteriorating infrastructure facilities.*
- Section 617 should encompass wording to preclude that past and future capital projects, requiring General Fund indebtedness, should not be considered as infrastructure maintenance or repair. *The Commission disagrees with the General Fund Infrastructure Debt Service for new facilities and does not consider debt servicing a part of infrastructure improvement or maintenance to existing capital assets.*
- The Commission requests that the Charter Commission carefully review Section 617 and develop clear wording that directs the City to allocate minimum general funds (15%) to the Infrastructure and support the core services required to protect the assets of the City. *This action will further the City's goal to fund necessary infrastructure repairs and routine maintenance. To support this important and required revision we recommend reference to a City ordinance or resolution. Based on the 2009/10 report, compliance with Section 617 indicates a five-year moving average, excluding debt service, is far below the required 15%.*

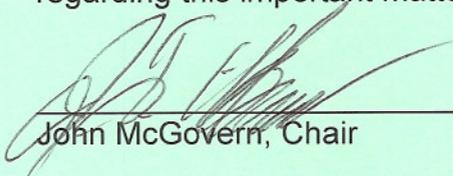
	Actual	Actual	Actual	Budget ¹	Budget
	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	FY 2009/10
Actual General Fund Revenue	160,723,710	176,223,745	185,198,525	194,689,700	181,345,941
% of Revenue w/ debt service	18.26%	14.49%	13.89%	14.45%	14.56%
Avg from FY 2005/06 (5-Year)²	15.13%				
% of Revenue w/o debt service	13.95%	10.57%	10.48%	11.21%	11.08%
Avg from FY 2005/06 (5-Year)	9.24%				

¹ Adopted General Fund Revenue for FY 2008/09

² FY 2008/09 Expense projected at 90%

- The Commission strongly recommends that a subcommittee of the Public Works Commission members and other citizens be appointed to review this important Charter issue on a regular basis (semi annually) and report compliance to the full Public Works Commission. *If no revision or clarification is initiated, the available funds for infrastructure maintenance will continue to erode as the City undertakes future debt service for projects or refinances existing projects with debt.*
- The City is not providing the funds necessary for proper asset management and sustainability. *With the acknowledged limited budgets the funds necessary for proper asset management and sustainability are not being provided. Critical infrastructure such as our streets, drainage system, and public buildings is in desperate need of repair and replacement after years of deferred maintenance. There are always advocates for new parks, new or bigger recreation centers, or more landscaped medians, but not for the underground infrastructure that is out of sight, out of mind. The City needs to protect these assets through good stewardship which requires a commitment to infrastructure funding, not burdened with debt service for new capital projects.*
- As the City moves into an era of environmentally sound choices, we must make the decision to sustain our valuable and essential infrastructure. *Adequate funding for infrastructure maintenance must be sustained through annual funding, supported by the city charter requirement.*

The PWC stands ready and willing to work with the Charter Commission, the City Council and the City Administration in assuring this process is given a priority review. Our members look forward to discussing modifications to relevant sections of the City Charter at the scheduled February Charter Review Commission meeting. Please do not hesitate to contact me regarding this important matter.



John McGovern, Chair

Cc: Mayor Green and City Council Members
Fred A. Wilson, City Administrator

Attachments: Memo dated February 21, 2007
Memo dated August 23, 2004



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

TO: Honorable Mayor Coerper and City Council Members

FROM: Public Works Commission

DATE: February 21, 2007

SUBJECT: 15% to Infrastructure Calculation

The Public Works Commission wishes to unanimously express its concern over the policy of including debt service for the South Beach Improvements and the Central Park Sports Complex as part of the Charter required 15% contribution for infrastructure improvements and maintenance. The Commission believes the Charter Amendment was intended to provide funds to maintain existing infrastructure. Members of the Infrastructure Advisory Committee (IAC) and Infrastructure Planning Committee (IPC) who advocated the Charter Amendment to the community, presented the amendment as an effective way to help repair deteriorating infrastructure facilities. Although the inclusion of funds for infrastructure debt service may be legal, it does not represent the intent of the Charter Amendment.

It should also be noted that the cost of park improvements were not included when the 15% set-aside requirement was established. During the Integrated Infrastructure Management Program (IIMP) deliberations, the IAC was advised that park improvement costs had an identified funding source through Park Acquisition and Development fees.

The Commission requests that, for future budget years, the 15% calculation methodology be revised to exclude expenditures for bonded indebtedness and other costs not directly related to existing infrastructure maintenance, repair, replacement, and/or improvement. This action will further the City's goal to fund necessary infrastructure repairs.

Attached to this letter are two tables setting forth City staff's calculation of the percentage of General Fund Revenue to Infrastructure with and without debt service and how the Debt Service amount is calculated.

As discussed above, the Public Works Commission feels strongly that Debt Service should not be a part of the annual percentage calculation of General Fund Revenue to Infrastructure funding that is required by Section 617 of the City Charter. Accordingly, we respectfully request the following Council Minute Action to clarify this point (this is similar to the working in the Charter that clarifies the intent of Measure C regarding parks).

It is the intent of Charter Section 617, the Infrastructure Fund amendment, that the minimum annual five (5) year rolling average of expenditures for infrastructure improvements and maintenance of 15% of general fund revenues shall include neither expenditures for bonded indebtedness (including principal, interest and/or other expenses) for capital improvements nor other costs not directly related to existing

infrastructure maintenance, repair, replacement and/or improvement. The intent of the 15% of general fund revenues is to provide a minimum level of annual infrastructure investment which will assure that the state of the City's infrastructure does not degrade to a point that requires major taxpayer investments to correct. The Public Works Commission shall report annually to the City Council an assessment of the methodology for the General Fund budget's 15% infrastructure expenditure calculation. (City Council Minute Action of _____).



Michael Siersema, Chair

Attachment

MS/GM:jg

cc: Penelope Culbreth-Graft, DPA, City Administrator
Robert F. Beardsley, PE, Director of Public Works



CITY OF HUNTINGTON BEACH

2000 Main Street ♦ PO Box 190 ♦ CA 92648
PUBLIC WORKS COMMISSION

August 23, 2004

Honorable Mayor and City Council:

At its meeting on August 18, 2004, the Public Works Commission requested that I prepare the following letter:

Background

The 2003-04 General Fund budget for the Public Works Department was reduced by approximately \$3 million and 34 full-time positions over the previous year, a 15 percent reduction in funding and staffing. This was the largest reduction of any city department, representing about two-thirds of all city position reductions and the total net change in the General Fund portion of the city budget.

The reduction was accomplished through a major reorganization of staff, creation of alternative service delivery methods and reduction or elimination of specific services. Service level changes included a reduction in park and tree maintenance, pest control, arterial weed removal and sidewalk cleaning and repairs. Other changes included a reduction in facilities preventative maintenance programs and a decrease in graffiti removal response time.

The Public Works Department has identified approximately \$20 million in unfunded and under funded Public Works programs. Of this amount, approximately \$8.5 million has been identified by the Department as being the most significant, with those protecting property and enhancing safety as being the most critical, in the following priority order:

- Flood Control and Storm Drain Station Capital Replacement-\$2.4 million
- Bridge Repair and Pier Maintenance-\$.5 million
- City Facility Capital Replacement-\$1.7 million
- Sidewalk, Curb and Gutter Repairs-\$2.8 million
- American with Disabilities Act Transition Plan-\$50,000
- Parks and Landscape Maintenance-\$350,000
- Tree Maintenance-\$432,000
- Arterial Weed Removal and Sidewalk Cleaning-\$224,000
- Graffiti Removal-\$75,000
- Downtown Sidewalk Cleaning-\$50,000

The Public Works Commission is aware of the financial constraints facing the City of Huntington Beach but at the same time is concerned about possible degradation of the City's infrastructure and reduction in services. While it may not be possible to finance all \$8.5 million in priority projects in FY 2004-05, we believe that a commitment should be made this next Fiscal Year to finance at least some of these projects. Funding will provide needed repairs and services and get the City back on track of funding infrastructure needs.

In addition, a March, 2002 Charter amendment created the Infrastructure Fund to receive revenues for infrastructure improvements and maintenance. While a permanent source of funding for the Infrastructure Fund has yet to be established, we believe it appropriate that the Fund receives priority allocation of unexpected funds received by the City for the FY 2004-05 Budget.

Recommendation

1. That the City Council provides funding in the FY 2004-05 Budget for some of the \$8.5 million in priority public works projects as identified by the Public Works Department.
2. That the Infrastructure Fund receives priority allocation of unexpected funds received by the City for the FY 2004-05 Budget.

Sincerely,



Richard R. Hart, Chair
Public Works Commission

RH:jg

- c: Public Works Commissioners
Robert F. Beardsley, PE, Director of Public Works

ATTACHMENT #3



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

TO: Chairman Harlow and the Charter Review Commission

FROM: Chairman McGovern and the Public Works Commission

DATE: January 20, 2010

SUBJECT: Proposed Modifications to City Charter Section 614 Contracts on Public Works and Section 617 Infrastructure Fund

The Public Works Commission (PWC) has reviewed sections of the current City Charter that apply to public works activities. Section 614 Contracts on Public Works, and Section 617 Infrastructure Fund, are relevant to our duties. Proposed modifications are incorporated in this memo with strike-out for removal and *italicized and underlined text* to show insertions.

Section 614 Contracts on Public Works

The PWC concurs with all requirements of this section requiring public bids for construction, bid rejection procedure, urgency clause, and utility extensions. The minimum expenditure amount of twenty-five thousand dollars (\$25,000) or more was established in 1982. An increase to one hundred thousand (\$100,000) dollars, to be applied consistently in all areas of the section, is proposed. This amount is consistent with California Public Contract Code Section 22032.

SECTION 614 CONTRACTS ON PUBLIC WORKS

Except as hereinafter expressly provided, every contract involving an expenditure of more than ~~Twenty-five Thousand Dollars (\$25,000)~~ One Hundred Thousand Dollars (\$100,000) for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum of ~~Twenty-five Thousand Dollars (\$25,000)~~, One Hundred Thousand Dollars (\$100,000), shall be let to the lowest responsible bidder after notice by publication in accordance with Section 503 by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is less than ~~Twenty-five Thousand Dollars (\$25,000)~~ One Hundred Thousand Dollars (\$100,000), the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section.

All public works contracts exceeding the sum of ~~Twenty-five Thousand Dollars (\$25,000)~~ One Hundred Thousand Dollars (\$100,000) may be let and purchases exceeding the sum of ~~Twenty-five Thousand Dollars (\$25,000)~~ One Hundred Thousand Dollars (\$100,000) may be made without advertising for bids if such work or the purchase of such materials or supplies shall be

deemed by the City Council to be of urgent necessity for the preservation of life, health, or property and shall be authorized by at least five affirmative votes of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council.

Section 617 Infrastructure Fund

The PWC has expressed extensive concern over preserving funds for infrastructure maintenance. In keeping with our primary focus, we propose a limit to general fund debt service toward the minimum fifteen percent (15%) infrastructure calculation.

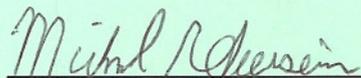
Section 617 INFRASTRUCTURE FUND

(a) All revenue raised by vote of the electors or imposed by vote of the City Council on or after March 5, 2002, by a measure which states that the revenue to be raised is for the purpose of infrastructure, as said term is defined in this paragraph, shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include storm drains, storm water pump stations, alleys, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, parks, beach facilities, playgrounds, traffic signals, streetlights, block walls along arterial highways, and all public buildings and public ways. Interest earned on monies in the Infrastructure Fund shall accrue to that account. Monies in said Fund shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration and property acquisition. Monies in said Fund shall not be transferred, loaned or otherwise encumbered for any other purpose.

(b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. ~~The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average.~~ Debt service included in the calculation shall not exceed three percent (3%) of general fund revenue as determined for infrastructure expenditures.

(c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget.

Representatives from the PWC and the Public Works Department will attend the scheduled Charter Review Commission meetings. We look forward to discussing these proposals.



Michael Siersema, Vice Chair

MS/LD:jg

Cc: Mayor Green and City Council
Fred Wilson, City Administrator

ATTACHMENT #4



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

TO: Fred Wilson, City Administrator

FROM: Travis K. Hopkins, PE, Director of Public Works 

DATE: January 26, 2010

SUBJECT: Charter Section 614 Contracts on Public Works

The Public Works Department supports the Public Works Commission proposal to increase the expenditure minimum for publicly bid contracts from twenty-five thousand dollars (\$25,000) to one hundred thousand dollars (\$100,000). The current minimum was established in 1982. The increased amount is proposed to apply consistently throughout the section. This limit is in keeping with California Public Contract Code Section 22032.

The proposed revision only applies to Public Works construction contracts. Anticipated benefits would include fewer bid bond requirements and shortening the award process by two to three months. A higher minimum can significantly reduce citywide staff time required by the public process. Potentially, more qualified contractors will submit on the smaller jobs, resulting in more competitive pricing.

Current procurement policy would guide bids for under the \$100,000 threshold. Formal bids are required for purchases over \$30,000 per HBMC Section 3.02. Additionally, we agree with all language in Section 614 requiring public bids for construction, bid rejection procedure, urgency clause, and utility extensions.

TKH/LD

ATTACHMENT #5



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

TO: Chairman Harlow and the Charter Review Commission

FROM: Bob Wingenroth, Director of Finance

DATE: January 28, 2010

**SUBJECT: Proposed Modifications to City Charter Section 617
Infrastructure Fund**

In a memo dated January 20, 2010, Chairman McGovern and The Public Works Commission (PWC) proposed modifications to City Charter Section 617. The Finance Department has reviewed the PWC's proposed modifications and concurs with one exception as noted below. We recommend the following insertion shown below at the end of subsection (b), in **bold text**.

Section 617 INFRASTRUCTURE FUND

(a) All revenue raised by vote of the electors or imposed by vote of the City Council on or after March 5, 2002, by a measure which states that the revenue to be raised is for the purpose of infrastructure, as said term is defined in this paragraph, shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include storm drains, storm water pump stations, alleys, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, parks, beach facilities, playgrounds, traffic signals, streetlights, block walls along arterial highways, and all public buildings and public ways. Interest earned on monies in the Infrastructure Fund shall accrue to that account. Monies in said Fund shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration and property acquisition. Monies in said Fund shall not be transferred, loaned or otherwise encumbered for any other purpose.

(b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. ~~The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average. Debt service included in the calculation shall not exceed three percent (3%) of general fund revenue as determined for infrastructure expenditures.~~ **If the city's prior year audited financial statements report general fund expenditures in excess of revenues, the City Council may authorize a temporary suspension of this requirement.**

(c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget.

Rationale for our recommendation

Over the last ten years, the City of Huntington Beach has established a number of financial policies. One of the policies establishes an Economic Uncertainties Reserve. This Economic

Uncertainties Reserve can only be used at the direction of the City Council and is intended as a funding source of last resort in an emergency. An emergency may be a natural disaster, a man-made disaster, or catastrophic financial emergency. The Economic Uncertainties Reserve provides resources for the City to continue to operate and provide needed services in an emergency. Without our recommended language, the Economic Uncertainties Reserve could be drawn down to zero in order to fully fund the 15% infrastructure requirement, without the opportunity for public discussion, debate, or Council action. Depending on circumstances, it may be the best decision to draw down the Economic Uncertainties Reserve to invest in needed infrastructure. This insert, however, does not compel it, but allows for an open City Council decision and opportunity for discussion and debate.

Thank you for considering our proposed modification.

cc: Chairman McGovern and the Public Works Commission
Fred Wilson
Paul Emery
Bob Hall
Travis Hopkins

ATTACHMENT #6

UPDATED CHARTER REVIEW COMMISSION TIMELINE:

Topic	8/18	9/01	9/15	10/06	10/20	11/03	11/17	12/01	12/15	1/05	01/21*	2/02	2/18	3/2	3/16	4/6	Status			
<i>Consent Items Sects. 101-105 , 301, 404, 405, 603, 604, & 606</i>	✗		Town Hall Meeting on Sections 300,302, 304, 305, 306, 309, 310, 311, & 800 – Elected City Officials					Town Hall Meeting – Section 612 – Measure C			Town Hall Meeting – Prevailing Wage						S			
<i>Section 200 – Council-Administrator Form of Government</i>									✗											S
<i>Section 300, Elective Offices Discussion on Elected Mayor</i>					✗	✗						✗								S
<i>Section 302 Council Compensation -</i>					✗	✗														R
<i>Section 303 - Meetings Possible set by Ordinance or Resolutions</i>		✗																		S
<i>Section 304 Subsection (b) Council control of all legal business of the city</i>					✗	✗														S
<i>Section 305-306– Mayor’s Role – Review and discuss adding language on Mayor’s Rotation</i>					✗	✗														S
<i>Section 307 Non-Interference with Administration</i>									✗											S
<i>Section 308 – Bonds -Compliance with State Law</i>		✗																		D
<i>Section 309 City Attorney - Discuss Making Appointed</i>					✗	✗						✗								S
<i>Section 310 City Clerk - Discuss Making Appointed Format for Maintaining Records</i>					✗	✗						✗								S
<i>Section 311 – City Treasurer - Discuss Making Appointed Qualifications</i>					✗	✗						✗								S
<i>Section 312- Vacancies – Moral Turpitude</i>		✗																		S
																	S			

Charter Review Timeline

Topic	8/18	9/01	9/15	10/06	10/20	11/03	11/17	12/01	12/15	1/05	01/21*	2/02	2/18	3/2	3/16	4/6	Status			
Section 313 - Conflict of Interest – Nepotism- See Municipal Code and Adm. Reg. 411		X	Town Hall Meeting on Sections 300, 302, 304, 305, 306, 309, 310, 311, & 800 – Elected City Officials					Town Hall Meeting – Section 612 – Measure C			Town Hall Meeting – Contracts & Prevailing Wage						S			
Section 400 – 404 City - Administrator /Asst. City Adm. Change/Update Titles - Hire/Fire Dept. Heads							X													S
Sections 500-503 – Ordinances, Resolutions, Publication, Legal Notices - Second Reading of Ordinances		X																		S
Sections 600-602 -City Budget - Change in Fiscal Year Submission to Council 30 not 60 days		X																		S
Sections 605 - City Budget - Allow Capital Projects to be Carried forward from one FY to the Next		X																		S
Section 607(b) 2 - Retirement Tax													X							D
Section 607 , 608, 610, 611- Taxes Update to conform with State Law		X																		S
Section 609 – Estate Transfer Tax - Possible Elimination		X																		S
Section 612 – Measure C - Possibly Increase and Index Dollar Amount												X								R
Sections 613-614 – Contracts • Increase/Eliminate Dollar Amount & Possibly Index to CPI • Financial Viability of Bidders • Prevailing Wage Discussion															X					ED
Section 615- City Franchises		X																		S
Section 616- Independent Audit - Higher Level Audit		X																		S

* Meeting Moved to THURSDAY

Charter Review Timeline

Topic	8/18	9/01	9/15	10/06	10/20	11/03	11/17	12/01	12/15	1/05	01/21*	2/02	2/18	3/2	3/16	4/6	Status			
Section 617 – Infrastructure (c) Update Board Name			Town Hall Meeting					Town Hall Meeting			Town Hall Meeting	X					D			
Article 7- Elections - Campaign Finance Reform						X				X										S
Section 800- Transitions – Review after Election Sections					X	X														S
Section 801 – Definitions Possibly Eliminate Subsection (e) – Masculine includes Feminine		X																		S
Section 802 – Charter Violations Discuss eliminating dollar amount & setting fines by ordinance/reso		X																		S
Section 803- Property Rights Policy Question		X																		S
Proposed Miscellaneous Additions to the City Charter													X							ED
Review of Language																	X			ED
Voter Approval of a Major General Plan Amendment										X							Q			
Unresolved Items													X				R			

LEGEND	
X	Recommended Date for Discussion
C	Completed
D	Discussion Needed
ED	Extended Discussion Needed
PH	Public Hearing
Q	No Substantive Issue – Possibly Quick Decision
R	Reconsider
S	Straw Vote Taken

ATTACHMENT #7



CITY OF HUNTINGTON BEACH
Interdepartmental Communication

TO: JENNIFER MCGRATH, City Attorney
FROM: PAUL D'ALESSANDRO, Assistant City Attorney
DATE: January 5, 2010
SUBJECT: Review of Charter Sections 308, 606, 607, 608, 610 & 611
RLS 09-2312

The City has empanelled a Charter Review Committee to make recommendations regarding the City Charter. You have asked for a review of Charter Sections 308, 606, 607, 608, 610 & 611.

Section 308. OFFICIAL BONDS.

The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bond would provide.

Analysis: Under the General Law, City Treasurers, City Clerks, and other officers that may be enumerated by the City Council are required to provide "Official Bonds" in favor of their City. [Gov't Code Section 36518, 36519.] The bonds are conditional upon the officer to well, truly and faithfully perform all official duties then required of him by law, and also all such additional duties as may be imposed on him by any existing law of the State or law enacted subsequently to the execution of the bond. [Gov't Code Section 1501.] Although the City Charter and Municipal Code do not currently require any city official to provide an official bond, the City Council may enact an ordinance that would require such bonds to be provided, in which case this Charter section would apply.

Section 606. DETERMINATION OF CITY TAX RATE.

The City Council shall prescribe by ordinance for the assessment, levy and collection of taxes upon property which is taxable for municipal purposes. If the City Council fails to fix the rate and levy taxes on or before August 31 in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

Analysis: All cities, whether charter or general law, have the power to tax. Cal. Const. art. XI, § 5 (charter cities); Cal. Gov't Code § 37100.5 (general law cities). This section provides the Charter authority for the City Council to impose taxes. Issues most likely to arise in this area are constitutional limitations on taxation, such as Propositions 13 and Proposition 218. A "general tax" is a tax placed into the general fund for any and all municipal purposes. (*Neecke v. City of Mill Valley*, 39 Cal. App. 4th 946, 46 Cal. Rptr. 2d 266 (1995).) The imposition of general taxes is also subject to the provisions of Propositions 62 and 218 which require, among other things, a two-thirds vote of the legislative body, a majority vote of the voters voting in an election on the tax and the consolidation of such an election with a regularly scheduled general election for members of the city council.

Section 607. TAX LIMITS.

- (a) *The City Council shall not levy a property tax for municipal purposes in excess of One Dollar annually on each One Hundred Dollars of the assessed value of taxable property in the City, except as otherwise provided in this section, unless authorized by the affirmative vote of a majority of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.*
- (b) *There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the above limitation, if no other provision for payment thereof is made:*
1. *A tax sufficient to meet all liabilities of the City of principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and*
 2. *A tax sufficient to meet all obligations of the City for the retirement system in which the City participates, due and unpaid or to become due during the ensuing fiscal year.*
- (c) *Special levies, in addition to the above and not subject to the above limitation, may be made annually, based on City Council approved estimates, for the following specific purposes, but not to exceed the following respective limits for those purposes for which limits are herein set forth, to wit: parks and recreation and human services not to exceed \$0.20 per One Hundred Dollars; Libraries not to exceed \$0.15 per One Hundred Dollars; promotional interests and cultural affairs not to exceed \$0.07 per One Hundred Dollars; and civil defense and disaster preparedness not to exceed \$0.03 per One Hundred Dollars. The proceeds of any special levy shall be used for no other purpose than that specified.*

Analysis: This section sets forth the City's tax limits for both regular property tax and the certain special levies. It should be noted that specifically as to property tax, the adoption of Prop 13 in 1978 limited ad valorem property taxes to one percent of the full cash value of the property. The one percent tax is collected by the counties and is apportioned to the taxing agencies within the counties. (Cal. Const. art. XIII A, § 1(a); Cal. Rev. & Tax. Code §§ 95 et seq.)

Section 608. VOTE REQUIRED FOR TAX MEASURES.

No tax, property tax, or other measure whose principal purpose is the raising of revenue, or any increase in the amount thereof, shall be levied, enacted or established except by ordinance adopted by the affirmative vote of at least five (5) members of the City Council; provided, however, that any tax levied or collected pursuant to Section 607(b) of this Charter shall be exempt from the minimum voting requirement of this section.

This section shall not apply to any license, permit, or any other fee or charge whose principal purpose is to pay or reimburse the City for the cost of performing any regulatory function of the City under its police power in connection with the City's duty to preserve or maintain the public peace, health, safety and welfare.

This section shall not apply to any user or service fee or charge provided such fee or charge is directly related to such use or service, is charged to the user or person receiving such service, and is to pay or reimburse the City for the costs of providing such use or service.

This section shall not apply to any fee or charge relating to any franchise or proprietary function of the City.

Analysis: This section provides that a supermajority of the City Council is required for the approval of certain taxes. As mentioned above, it should be noted that the subsequent adoption of several voter propositions, such as Prop 13 and Prop 218, have imposed numerous additional constitutional requirements regarding the imposition of taxes by cities.

Section 610. BONDED DEBT LIMIT.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of 12 percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative vote of the majority required by law of the electors voting on such proposition at any election at which the question is submitted to the electors.

Analysis: This section provides the City's limitation on the amount of bonded debt it may incur. Municipal bonds are typically categorized according to the source of the funds for repayment and generally fall into one of two categories: general obligation bonds and limited obligation bonds. General obligation bonds pledge a city's general funds and "full faith and credit" (i.e., the property taxing power) as security for payment of principal and interest to bond holders. The general framework for issuing such bonds is the Municipal Improvement Bond Act of 1901. Two-thirds voter approval is necessary for the issuance of general obligation bonds and they may be only used to fund the acquisition or improvement of real property. (Cal. Const. art. XIII A, § 1(b); Cal. Const. art. XVI § 18; Cal. Gov't Code § 43614.)

Jennifer McGrath

January 5, 2010

Page 4

Section 611. REVENUE BONDS.

Bonds which are payable only out of such revenues, other than taxes, as may be specified in such bonds, may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of the majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the registered voters of the City.

Analysis: Revenue bonds pledge a specific source of revenue (e.g., user fees or charges) as security for the bonds. A city does not obligate other funds or revenues for the payment of the bonds. However, the city may elect to make payments from other sources in the event of default. Typically revenue bond financing avoids the classification as "debt" for purposes of the state constitution since a specific stream of revenues is being pledged and it falls within the "Special Fund" exception to the state constitutional debt limitation.

Please contact me at your earliest convenience if I can be of any further assistance in regard to this matter.



PAUL D'ALESSANDRO
Assistant City Attorney

/pd

KEY
INSERTIONS: <u>Double underline</u>
DELETIONS: Strikethrough

ARTICLE III ELECTIVE OFFICES

Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following ~~his~~ the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 301. POWERS VESTED IN CITY COUNCIL. All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Section 302. COMPENSATION. The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense accounts therefor. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amounts shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City ~~Councilmen~~ Councilpersons.

Section 303. MEETINGS AND LOCATION.

- (a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.
- (b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice

KEY	
INSERTIONS:	<u>Double underline</u>
DELETIONS	Strikethrough

must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. ~~Such waiver may be given by telegram.~~ This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

- (c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.
- (d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.
- (e) Dissemination of Information. City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.

Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.

- (a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.
- (b) **Proceedings.** The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business.

KEY	
INSERTIONS:	<u>Double underline</u>
DELETIONS	Strikethrough

(c) **Rules of Order.** The City Council shall establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings. Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any member, the City Clerk shall call the roll and shall cause the ayes and noes taken on the question to be entered in the minutes of the meeting.

Section 305. PRESIDING OFFICER. At the Council meeting at which any Council member is installed following any general or special municipal election, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes; shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, may inform the people of any major change in policy or program; and shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

Section 306. MAYOR PRO TEMPORE. The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability or at the Mayor's request.

Section 307. NON-INTERFERENCE WITH ADMINISTRATION. Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Administrator, or by any of the department heads in administrative service of the City, of any person to any office or employment, or removal therefrom. Except for the purpose of investigation and inquiry, the members of the City Council shall deal with the administrative service under the jurisdiction of the City Administrator solely through the City Administrator, and no member of the City Council shall give orders to any subordinate of the City Administrator, either publicly or privately.

Section 308. OFFICIAL BONDS. The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bond would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, the employee's superior officer or other officer or employee or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

Section 309. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person elected or appointed shall be an attorney at law, duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law in this State for at least three years prior to ~~his~~their election or appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

KEY	
INSERTIONS:	<u>Double underline</u>
DELETIONS	Strikethrough

- (b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.
- (c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of ~~his~~their employment or by reason of ~~his~~their official capacity.
- (d) Attend all regular meetings of the City Council, unless excused, and give ~~his~~their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.
- (e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City, ~~and endorsing his approval thereon in writing.~~
- (f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.
- (g) Devote such time to the duties of ~~his~~their office and at such place as may be specified by the City Council.
- (h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.
- (i) Surrender to ~~his~~their successor all books, papers, files, and documents pertaining to the City's affairs.

Section 310. CITY CLERK. POWERS AND DUTIES. The City Clerk shall have the power and shall be required to:

- (a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.
- (c) Maintain separate records of all written contracts and official bonds.
- (d) Keep all books and records in ~~his~~their possession properly indexed and open to public inspection when not in actual use.
- (e) Be the custodian of the seal of the City.
- (f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.
- (g) Be ex officio Assessor, unless the City Council, has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

KEY
INSERTIONS: <u>Double underline</u>
DELETIONS: Strikethrough

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist ~~him~~them or act for ~~him~~them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

The minimum qualifications for the position of City Clerk shall be three years of relevant work experience which demonstrates record management skills and practice of administrative procedures. (12/7/84)

Section 311. CITY TREASURER. POWERS AND DUTIES. The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal governments, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into ~~his~~their hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Administrator, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Administrator and City Council.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist ~~him~~them or act for ~~him~~them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

The minimum qualifications for the position of City Treasurer shall be a combination of education and experience in an area relative to fiscal management. (Charter Amendment 12/7/84)

Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council.

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such

KEY	
INSERTIONS:	<u>Double underline</u>
DELETIONS	Strikethrough

member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer is convicted of or pled no contest, regardless of appeal, to a crime, involving moral turpitude or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

- (c) **Replacement.** In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.

Section 313. CONFLICT OF INTEREST, NEPOTISM.

- (a) **Conflict of Interest.** The City Council shall adopt or approve rules and regulations regulating conflicts of interest and promoting fair dealing in all City business.
- (b) **Nepotism.** The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Administrator or any department head or other officer having appointive power appoint any relative of such person or of any Council member within such degree to any such position.

This provision shall not affect the employment or promotional status of a person who has attained a salaried position with the City prior to the existence of a situation contemplated by this provision; however, Council members or officers with appointive powers in such a situation shall disqualify themselves from all decisions affecting the employment and promotional status of such person.

**ARTICLE IV
APPOINTIVE OFFICES AND PERSONNEL**

Section 400. CITY ADMINISTRATOR. COMPOSITION, TERM, ELIGIBILITY, REMOVAL.

- (a) **Composition.** There shall be a City Administrator who shall be the chief administrative officer of the City.
- (b) **Term.** The Administrator shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council; provided, however, that the person occupying the office shall not be removed from office except as herein provided.
- (c) **Eligibility.** The Administrator shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice as regards the duties of the office as herein set forth. No person shall be eligible to be appointed City Administrator or Acting City Administrator while serving as a member of the City Council nor within one year following the termination of membership on the City Council.
- (d) **Removal.** The City Administrator shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Administrator may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Administrator shall be furnished with a written notice stating the Council's intentions and, if requested by the City Administrator, the reasons therefor. Within seven days after receipt of such notice, the City Administrator may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Administrator shall appear and be heard at such hearing. After furnishing the City Administrator with written notice of the intended removal, the City Council may suspend the Administrator from duty, but his compensation shall continue until removal as herein provided. In removing the City Administrator, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City administrator to present to each other and to the public all pertinent facts prior to the final action of removal.

Section 401. POWERS AND DUTIES. Except as otherwise provided in this Charter, the City Administrator shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Administrator shall have the power and be required to:

- (a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers. However, no department head shall be appointed or removed until the City Administrator shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.
- (b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration upon adoption.
- (c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.

- (d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (e) Maintain a centralized purchasing system for all City offices, departments and agencies.
- (f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.
- (g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.
- (h) Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.
- (i) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 402. ACTING CITY ADMINISTRATOR. During any temporary absence or disability of the City Administrator, the ~~Assistant-Deputy~~ City Administrator shall serve as Acting City Administrator. During any temporary absence or disability of both the City Administrator, and the ~~Assistant-Deputy~~ City Administrator, the City Administrator shall appoint one of the other officers or department heads of the City to serve as Acting City Administrator. In the event the City Administrator fails to make such appointment, such appointment may be made by the City Council.

Section 403. PERSONNEL. In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Administrator, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided.

The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Administrator, ~~Assistant-Deputy~~ City Administrator and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system, provided, however, that once included within the system, no officer or employee shall be withdrawn therefrom (unless the office or position is actually abolished or eliminated) without the approval of such withdrawal at a regular or special election by a majority of the voters voting on such proposition. The system shall comply with all other provisions of this Charter.

Section 404. RETIREMENT SYSTEM. The City shall participate in a retirement system.

Section 405. BOARDS, COMMISSIONS AND COMMITTEES. The City Council shall establish such boards, commissions and committees as are deemed necessary for the orderly functioning of the City. All such boards, commissions and committees shall report directly to the City Council.

**ARTICLE V
ORDINANCES AND RESOLUTIONS**

Section 500. REGULAR ORDINANCES. ENACTMENT, ADOPTION, PUBLICATION, AMENDMENT, WHEN EFFECTIVE AND CODIFICATION.

- (a) **Enactment.** In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance. The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:." No order for the payment of money shall be adopted or made at other than a regular or adjourned regular meeting. Upon introduction and second reading, an ordinance shall be read by title only. Unless a higher vote is required by other provisions of this Charter, the affirmative vote of at least four of the City Council shall be required for the enactment of any ordinance or for the making or approving of any order for the payment of money. All ordinances shall be signed by the Mayor and attested by the City Clerk.
- (b) **Adoption.** A regular ordinance shall be adopted only at a regular or adjourned regular meeting held no less than five days after its introduction. In the event that any ordinance is altered after its introduction, it shall be finally adopted only at a regular or adjourned regular meeting held no less than five days after the date it was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.
- (c) **Publication.** The City Clerk shall cause each ordinance to be posted in three places designated by the City Council within the City and to be published by title with a brief summary at least once within fifteen days after its adoption in a daily, semiweekly or weekly newspaper, published in the County or the City and circulated in the City, which is selected by the City Council for that purpose, and via current technology to ensure the widest dissemination.
- (d) **Amendment.** The amendment of any section or subsection of an ordinance may be accomplished solely by the re-enactment of such section or subsection at length, as amended.
- (e) **When Effective.** Every ordinance shall become effective thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:
 - (1) An ordinance calling or otherwise relating to an election;
 - (2) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto;
 - (3) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property.
 - (4) An emergency ordinance adopted in the manner provided in this Charter.
- (f) **Codification.** Detailed regulations pertaining to any subject and comprehensive codifications of valid ordinances may be adopted by reference, with the same effect as an ordinance, in the manner set forth herein; however, such regulations and codifications need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to adoption. Ordinances codified shall be repealed as of the effective date of the codification. Amendments to the code shall be enacted by ordinance.

Section 501. EMERGENCY ORDINANCES. Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health, or safety, and containing a statement of the reasons for its urgency, may be adopted in the manner provided in Section 500 except that such emergency ordinance may be introduced, enacted and adopted at one and the same regular

or special meeting and shall take effect immediately upon adoption if passed by at least five affirmative votes.

Section 502. RESOLUTIONS. The City Council may act by resolution or minute order in all actions not required by this Charter to be taken by ordinance.

Section 503. PUBLISHING OF LEGAL NOTICES. The City Council shall cause to be published all legal notices and other matters required to be published by law in a daily, semiweekly or weekly newspaper published in the County or the City and circulated in the City which is selected by the City Council for that purpose and via current technology. No defect or irregularity in proceedings taken under this section shall invalidate any publication where it is otherwise in conformity with this Charter or law or ordinance.

**ARTICLE VI
FISCAL ADMINISTRATION**

Section 600. FISCAL YEAR. The fiscal year of the City shall be ~~from July 1 to June 30 unless otherwise established by ordinance as set forth by resolution of the City Council.~~

Section 601. ANNUAL BUDGET, PREPARATION BY THE CITY ADMINISTRATOR. At such date as the City Administrator shall determine, each board or commission and each department head shall furnish to the City Administrator, personally, or through the Director of Finance, estimates of the department's, board's or commission's revenue and expenditures for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Administrator. In preparing the proposed budget, the City Administrator shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable.

Section 602. ANNUAL BUDGET. SUBMISSION TO THE CITY COUNCIL. The City Administrator shall submit the proposed budget to the City Council at least ~~sixty~~thirty days prior to the beginning of each fiscal year. After reviewing the proposed budget and making such revisions as it may deem advisable, the City Council shall hold a public hearing thereon at least fifteen days prior to the beginning of each fiscal year and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 603. ANNUAL BUDGET. PUBLIC HEARING. At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 604. ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION. At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Administrator, Director of Finance, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 605. ANNUAL BUDGET APPROPRIATIONS. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named; provided, however, that the City Administrator may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative vote of at least a majority of the total members of the City Council.

Section 606. DETERMINATION OF CITY TAX RATE. The City Council shall prescribe by ordinance for the assessment, levy and collection of taxes upon property which is taxable for municipal purposes. If the City Council fails to fix the rate and levy taxes on or before August 31 in any year, the rate for the next

preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

Section 607. TAX LIMITS.

- (a) The City Council shall not levy a property tax for municipal purposes in excess of One Dollar annually on each One Hundred Dollars of the assessed value of taxable property in the City, except as otherwise provided in this section, unless authorized by the affirmative vote of a majority of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.
- (b) There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the above limitation, if no other provision for payment thereof is made:
 - 1. A tax sufficient to meet all liabilities of the City of principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and
 - 2. A tax sufficient to meet all obligations of the City for the retirement system in which the City participates, due and unpaid or to become due during the ensuing fiscal year.
- (c) Special levies, in addition to the above and not subject to the above limitation, may be made annually, based on City Council approved estimates, for the following specific purposes, but not to exceed the following respective limits for those purposes for which limits are herein set forth, to wit: parks and recreation and human services not to exceed \$0.20 per One Hundred Dollars; Libraries not to exceed \$0.15 per One Hundred Dollars; promotional interests and cultural affairs not to exceed \$0.07 per One Hundred Dollars; and civil defense and disaster preparedness not to exceed \$0.03 per One Hundred Dollars. The proceeds of any special levy shall be used for no other purpose than that specified.

Section 608. VOTE REQUIRED FOR TAX MEASURES. No tax, property tax, or other measure whose principal purpose is the raising of revenue, or any increase in the amount thereof, shall be levied, enacted or established except by ordinance adopted by the affirmative vote of at least five (5) members of the City Council; provided, however, that any tax levied or collected pursuant to Section 607(b) of this Charter shall be exempt from the minimum voting requirement of this section.

This section shall not apply to any license, permit, or any other fee or charge whose principal purpose is to pay or reimburse the City for the cost of performing any regulatory function of the City under its police power in connection with the City's duty to preserve or maintain the public peace, health, safety and welfare.

This section shall not apply to any user or service fee or charge provided such fee or charge is directly related to such use or service, is charged to the user or person receiving such service, and is to pay or reimburse the City for the costs of providing such use or service.

This section shall not apply to any fee or charge relating to any franchise or proprietary function of the City.

Section 609. REAL ESTATE TRANSFER TAX. The City Council shall not levy a tax on the transfer or conveyance of any interest in real property unless authorized by the affirmative vote of a majority of the electors voting on a proposition submitted to the electors to authorize such tax at a general or special election.

Section 610. BONDED DEBT LIMIT. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of 12 percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative vote of the majority required by law of the electors voting on such proposition at any election at which the question is submitted to the electors.

Section 611. REVENUE BONDS. Bonds which are payable only out of such revenues, other than taxes, as may be specified in such bonds, may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of the majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the registered voters of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund, and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special funds were established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

Section 612. PUBLIC UTILITIES AND PARKS AND BEACHES.

- (a) No public utility or park or beach or portion thereof now or hereafter owned or operated by the City shall be sold, leased, exchanged or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.
- (b) No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than \$100,000.00 may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.
- (c) Section 612(a) and 612(b) shall not apply;
 - (1) to libraries or piers;
 - (2) to any lease, franchise, concession agreement or other contract where;
 - the contract is to perform an act or provide a service in a public park or beach AND
 - such act was being performed or service provided at the same location prior to January 1, 1989AND
 - the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service.

- (d) If any section, subsection, part, subpart, paragraph, clause or phrase of this amendment, or any amendment or revision of this amendment, is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, parts, subparts, paragraphs, clauses or phrases shall not be affected but shall remain in full force and effect. (12/7/90)

Section 613. EXECUTION OF CONTRACTS. Except as hereinafter provided, the City shall be bound by a contract only if it is made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by a City officer designated by the City Council and only upon the direction of the City Council. Exceptions to this procedure are as follows:

- (a) By ordinance or resolution the City Council may authorize the City Administrator or other officer to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.
- (b) By ordinance or resolution, the City Council may provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.
- (c) Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Administrator upon forms approved by the City Administrator and at rates fixed by the City Council.

Section 614. CONTRACTS ON PUBLIC WORKS. Except as hereinafter expressly provided, every contract involving an expenditure of more than Twenty-five Thousand Dollars (\$25,000) for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum of Twenty-five Thousand Dollars (\$25,000), shall be let to the lowest responsible bidder after notice by publication in accordance with Section 503 by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is less than Twenty-five Thousand Dollars (\$25,000), the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section.

All public works contracts exceeding the sum of Twenty-five Thousand Dollars (\$25,000) may be let and purchases exceeding the sum of Twenty-five Thousand Dollars (\$25,000) may be made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health, or property and shall be authorized by at least five affirmative votes of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council.

Section 615. GRANTING OF FRANCHISES. The City Council shall by ordinance regulate the granting of franchises for the City.

Section 616. INDEPENDENT AUDIT. The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member. Additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

Section 617. INFRASTRUCTURE FUND.

- (a) All revenue raised by vote of the electors or imposed by vote of the City Council on or after March 5, 2002, by a measure which states that the revenue to be raised is for the purpose of infrastructure, as said term is defined in this paragraph, shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include storm drains, storm water pump stations, alleys, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, parks, beach facilities, playgrounds, traffic signals, streetlights, block walls along arterial highways, and all public buildings and public ways. Interest earned on monies in the Infrastructure Fund shall accrue to that account. Monies in said Fund shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration and property acquisition. Monies in said Fund shall not be transferred, loaned or otherwise encumbered for any other purpose.
- (b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five- (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average.
- (c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget.

**ARTICLE VIII
MISCELLANEOUS**

Section 800. TRANSITION. Elective officers and elective officers whose offices are made appointive of the City shall continue to hold such offices until the completion of their current terms and the election or appointment and qualification of their respective successors under this Charter. All boards, commissions and committees presently in existence shall continue to act in accordance with their original grant of authority until such time as the City Council adopts appropriate ordinances pertaining to their activities or for one year, whichever occurs first. All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California.
- (e) The masculine includes the feminine and the feminine includes the masculine.
- (f) The singular includes the plural and the plural the singular.
- (g) "Person" includes firm and corporation.

Section 802. VIOLATIONS. The violation of any provision of this Charter shall be a misdemeanor and shall be punishable upon conviction by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment as set forth by resolution of the City Council, and each day that any such violation continues shall constitute a separate violation.

Section 803. PROPERTY RIGHTS PROTECTION MEASURE.

- (a) The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.
- (b) The word "mandates" as used in subsection (a) includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls on the price or other terms on which real property in the city may be offered, sold, leased, rented, exchanged or otherwise transferred by its owner. The words "real property" as used in subsection (a) refer to any parcel of land or site, either improved or unimproved, on which a dwelling unit or residential accommodation is or may be situated for use as a home, residence or sleeping place.

(c) This Section 803 shall not apply to:

- (1) any real property which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a civil or criminal citation has been issued by the City and remains unabated for six months or longer;
- (2) any real property owned by a public entity, and real property where the owner has agreed by contract with the public entity, including the City and any of its related agencies, to accept a financial contribution or other tangible benefit including without limitation, assistance under the Community Redevelopment Law;
- (3) any planning or zoning power of the City as relates to the use, occupancy or improvement of real property and to any real property which the City or any of its related agencies may acquire by eminent domain, purchase, grant or donation;
- (4) any power of the City to require a business license for the sale or rental of real property, whether for regulation or general revenue purposes;
- (5) any dwelling unit or accommodation in any hotel, motel or other facility when the transient occupancy of that dwelling unit or accommodation is subject to a transient occupancy tax; or
- (6) to impair the obligation of any contract entered into prior to the enactment of this Section 803 or otherwise required by State law.

ATTACHMENT #8

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 02/02/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add charter language to give greater public oversight of long-duration contracts

Statement of Issue: To create greater public oversight over city contracts by requiring contracts of duration greater than ten years to be approved by ordinance subject to referendum, and requiring contracts of duration greater than twenty five years to be approved by a majority of electors of the city.

Recommended Action: Motion to:

Add new Huntington Beach charter language as follows:

No contract or lease or extension thereof for a longer period than ten years shall be valid unless said contract, lease or extension be made or approved by ordinance which shall be subject to referendum. The City Council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than twenty-five years unless said contract, lease or extension be approved by a majority of the qualified electors of the City voting on such question at any election. A contract, lease or extension for a longer period than twenty-five years shall be valid without such elector approval if it provides for the acquisition by the City at the end of such period of the real or personal property so leased or contracted for. This Section shall not apply to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.

Alternative Action(s):

1. Increase the threshold for requiring contract approval by ordinance to something greater than ten years.
2. Increase the threshold for requiring contract approval by the electors to something greater than twenty five years.

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 02/02/2010

Analysis:

Long-duration contracts warrant extra oversight by the public to help ensure that such contracts are in the best economic interest of the city and its taxpayers.

Downey charter section 518 requires that contracts greater than ten years in duration be approved by ordinance so that the public can have the right of referendum to overturn contracts that are not in the best interest of the city.

Newport Beach charter section 420 requires that contracts greater than twenty five years in duration be approved by a majority of the electors of the city.

My proposal is a “mashup” of both of these charter sections, and retains the exclusions for franchise contracts and public utility contracts. Franchise and utility contracts tend to be the contracts with the longest durations, and thus excluding these contracts from my proposal greatly reduces the number of contracts subject to these restrictions.

I am willing to consider alternative duration thresholds. It is my intent that the ordinance-required threshold be triggered infrequently, and the election-required threshold be triggered rarely.

References:

- Downey charter section 518 (ten year threshold) - http://www.downeyca.org/city_charter.pdf
- Newport Beach charter section 420 (twenty five year threshold) - <http://www.codepublishing.com/CA/NewportBeach/html/NewportBeachCH.html#04.420>

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 02/02/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add new charter language allowing the city council to establish by ordinance local preference and prevailing wage requirements for contracts

Statement of Issue: Local preference and prevailing wage can be important tools for boosting the local Huntington Beach economy. I propose modifying the charter to allow (not require) the city council to establish local preference and prevailing wage requirements by ordinance.

Recommended Action: Motion to:

Add new Huntington Beach charter language as follows:

The city council may by ordinance adopt prevailing wage, geographic boundaries and other guidelines and restrictions, including local bidding preference, governing public works and other city contracts.

Analysis:

Local preference and prevailing wage can be important contracting tools for boosting the local Huntington Beach economy, so I propose modifying the charter to give the city council the option to specify such requirements by ordinance.

Huntington Beach municipal code section 3.02.180 (http://www.huntingtonbeachca.gov/files/users/city_clerk/MC0302.pdf) already provides for local preference for goods & service contracts. However, charter section 614 requires public works contracts to be awarded to the “lowest responsible bidder”, which precludes local preference requirements similar to HBMC 3.02.180. My proposal will allow the city council to implement similar local preference requirements for public works contracts.

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 02/02/2010

Current city practice is to pay prevailing wage for non-maintenance contracts. My proposal will allow the status quo to continue, and provides for a greater degree of policy formalization through the ordinance process.

My proposal is derived from Lindsay charter section 8.11(K) nearly word for word, differing from the Lindsay language in only providing for such requirements by ordinance, and not also by resolution as is done in Lindsay. I prefer the greater formality of the ordinance process because it also gives the public a chance to exercise the right of referendum.

Given the dire fiscal challenges facing the city in the years ahead, I am not comfortable with requiring the city to adopt local preference and prevailing wage. I want to ensure that the city has maximum flexibility to meet these challenges, and so my proposal only allows the city to optionally adopt such an ordinance. Implementing local preference and prevailing wage by ordinance will allow the city to make adjustments given changing fiscal realities, up to and including suspension or repeal if the fiscal situation becomes sufficiently dire.

References:

- Lindsay charter section 8.11(K) - <http://www.bixby.org/charter/charters/Lindsay.pdf>