



# *City of Huntington Beach*

## *Charter Review Commission*

### **AGENDA**

**Tues., Oct. 6, 2009, 6:00 PM**

**City Hall, Room B-7**

**(Please Note Room Change)**

**I. Roll Call: Bame, Bauer, Bixby, Brenden, Dettloff, Harlow, Hartnett, Johnson, Kutscher, Shaw, Silver, Sneddon, Stuart, Sullivan, 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. PowerPoint presentation on Elected Official and the City Charter – Raphe Sonenshein**

**IV. Discussion and possible Sections 300, 302, 304, 305, 306, 309, 310, 311, & 800 of the City Charter which relate to the city's elected offices. Potential action on the following:**

- **Review Section 300 to consider changing the the office of Mayor to directly elected**
- **Review Section 302 to consider changing the compensation for the Mayor and Council**
- **Review Sections 304-305 for possible changes in the proceedings of the Council or the duties of the Presiding Officer**
- **Review Section 306 for any potential changes in the designation or duties of the Mayor Pro Tempore**
- **Review section 300 to consider changing the office of City Clerk from elected to appointed**
- **Review Section 310 for potential changes in the qualifications, powers, and duties of the City Clerk**
- **Review section 300 to consider changing the office of City Treasurer from elected to appointed**
- **Review Section 311 for potential changes in the qualifications, powers, and duties of the City Treasurer**

- Review section 300 to consider changing the office of City Attorney from elected to appointed
  - Review Section 309 for potential changes in the qualifications, powers, and duties of the City Attorney.
  - Review Section 800 for potential changes that may be needed in transitioning the elective offices.
- V. **Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission**
- VI. **Adjourn to the next regular meeting scheduled for Tuesday, October 19 at 6 PM in Room B-8 of City Hall.**

**Attachments: \***

1. **Powerpoint presentation on Elected Officials and the City Charter**
2. **A spreadsheet providing data for other cities on the Mayor and Council**
3. **A spreadsheet providing data for other cities on their City Clerk, City Treasurer, and City Attorney**
4. **Information & Recommendations Provided by Commissioner Bixby**
5. **Information from City Attorney, Jennifer McGrath**

\* 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**

**Tues., Sept.1, 2009, 6:00 PM**

- I. Roll Call: Bame, Bauer, Bixby, Brenden, Dettloff, Harlow, Hartnett, Johnson, Kutscher, Shaw, Silver, Sneddon, Stuart, Sullivan, Whiteside  
(All present except Bame)

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.

Two speakers:

- Richare Hart spoke in opposition to amending Section 605 of the Charter. His letter was in the agenda packet.
- Jim Adams distributed information in support of including a prevailing wages provision in the City Charter.

III. Approval of Minutes August 18 (Bauer, Hartnett, Silver, & Stuart absent)

On motion from Dettloff and second from Sullivan the minutes were approved 14-0-1 as submitted.

IV. Review and Approval of the Charter Review Timeline

On motion from Shaw and second from Sneddon the Timeline schedule was approved as submitted.

V. Proposed Criteria for Charter Measures and Process for Public Meetings – Sonenshein

The facilitator, Raphe Sonenshein, provided background on the purpose of Charters and the criteria for charter measuers. No action was taken. Later in the meeting he provided recommendations on conduct of the Commission's public meetings.

VI. Review Charter Sections 303, 308, 312, 313, 500-503, 600-602, 605, 607-611, 615-616, and 802-803 for review and possible straw votes on recommended amendments - Sonenshein and City Staff

The commission reviewed the above sections of the charter and the following actions were taken:

**Section 303** Meetings and Location With regard to closed sessions, after discussion about the Brown Act and current city practice, a motion was made by Sullivan and seconded by Hartnet to keep this section as is except for language updates. The motion carried 14-0-1.

**Section 303** Meetings and Location With regard to publishing meeting notices, a motion was made by Silver, seconded by Sneddon to strike outdated references to publication of meetings through outdated sources such as telegram and radio and word it in such a way that it can be adapted with changes in technology. The motion carried 14-0-

**Section 303** Meetings and Location With regard to posting of agendas and minutes, following discussion of current city practice with regard to posting of the City Council agendas and minutes as well as those of the boards, commissions, and committees, a motion was made by Silver seconded by Shaw to rewrite the requirements for posting of agenda materials and minutes to require the broadest possible availability of these materials as practically possible. The motion carried 14-0-1.

**Section 308** Official Bonds Following discussion, a motion was made by Silver and seconded by Dettloff to keep this section as is except for language updates and to bring current with State Law. The motion carried 14-0-1.

**Section 312** Vacancies, Forfeitures and Replacement Following discussions about the meaning of moral turpitude and the intent of this section, a motion was made by Shaw and seconded by Silver from the following section “If an elected city officer is convicted of a crime involving moral turpitude or ceases to be an elector of the city, the office shall become vacant, make the following changes strike “is convicted of a crime involving moral turpitude” and replace them with language reflecting the following, “pleads no contest, is convicted of a felony, regardless of whether they file an appeal of the conviction,” The motion carried 14-0-1.

EXAMPLE:

“If an elected city officer ~~is convicted of a crime involving moral turpitude~~ *pleads no contest, is convicted of a felony, regardless of whether they file an appeal of the conviction,* or ceases to be an elector of the city, the office shall become vacant.

**Section 313(b)** Nepotism – After some discussion a motion was made by Silver and seconded by Kutscher to keep this section as is except for language updates. The motion carried 12-2-1 (Bixby, Shaw opposed)

**Section 500(a)** Regular Ordinances The City Clerk, Joan Flynn requested the Commission consider changing the requirement for a second reading by title. Ordinances would still be brought to the Council for Introduction and a second reading but no longer read by title at the second reading.

A motion was made by Shaw and seconded by Sneddon to strike the requirement that ordinances be read by title at their second reading. The motion carried 14-0-1.

EXAMPLE:

“Upon introduction ~~and second reading,~~ an ordinance shall be read by title only.”

**Section 500(c)** Publication of Ordinances Current language requires publication in a newspaper published and generally circulated in the city. The City Clerk requested a change in the publication requirements to allow for other forms of posting. A motion was made by Stuart and seconded by Kutscher to rewrite this section to allow posting of ordinances in a way that would provide the widest distribution possible. The motion carried 14-0-1.

**Section 501** Emergency Ordinance Following some discussion, a motion was made by Bixby and seconded by Sullivan to amend this section so that emergency ordinance would automatically be repealed after 120 days. The motion carried 14-0-1.

**Section 502** Resolutions After some discussion a motion was made by Silver and seconded by Sneddon to keep this section as is except for language updates.

**Sections 600** Fiscal Year The current Charter calls for a fiscal year of July 1 to June 30. The current function fiscal year is based on the State's fiscal year of October 1 to September 30. Staff requested that the Commission remove the dates and allow the fiscal year to be set by ordinance or resolution. A motion was made by Sneddon and seconded by Dettloff to remove the dates for the fiscal year and provide language to allow the City Council to set it by ordinance or resolution. The motion carried 14-0-1.

**Section 602** Annual Budget Preparation Staff requested the Commission amend the Charter to allow the budget to be submitted to the Council 30 rather than 60 days prior to the beginning of each fiscal year.

A motion was made by Sullivan and seconded by Hartnett to amend this section of the Charter to require that the budget be submitted to the City Council at least 30 days prior to the beginning of each fiscal year. The motion carried 14-0-1.

**Section 605** Annual Budget Appropriations - After some discussion a motion was made by Sullivan and seconded by Shaw to keep this section as is except for language updates.

**Sections 607, 608, 610, & 611** Taxes and Bonds. A motion was made by Sneddon and seconded by Brendan to continue these items to allow the City Attorney time to research current state legal requirements. No date was set for them to be brought back. The motion carried 14-0-1.

**Section 609** Real Estate Transfer Tax After some discussion a motion was made by Sullivan and seconded by Johnson to keep this section as is except for language updates.

**Section 615** Granting of Franchises (Commissioner Harlow recused himself from this discussion because of a possible conflict.) A motion was made by Bixby and seconded by Shaw to amend the Charter to require that franchises not exceed 25 years and always state a term. Concerns were raised by city staff that such a change would limit the city's ability to negotiate the best terms for the city. After some discussion, the motion failed 12-1-2 (Bixby opposed).

A second motion was made by Sneddon and seconded by Stuart to keep this section as is except for language updates. The motion carried 12-1-2 (Bixby opposed).

**Section 616** Independent Audit a motion was made by Stuart and seconded by Sullivan to keep this section as is except for language updates. The motion carried 14-0-1.

**Section 802** Violations A motion was made by Silver to eliminate the \$500 fine and allow it to be set by ordinance. Discussion ensued without a second. A second motion was made by Dettloff and seconded by Kutscher to strike the wording specifying a \$500 fine and imprisonment and leave only the following: "The violation of any provision of this Charter shall be a misdemeanor." The motion carried 14-0-1

Commissioner Stuart expressed a concern about the value of the Commission's work if it can be ignored. He suggested that the revised charter include a preamble stating its importance. It was also suggested that a requirement be included in the Charter for a set review period.

**Section 803** Property Rights Protection Measure a motion was made by Whiteside and seconded by Sneddon to keep this section as is except for language updates.

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

Commissioner Silver asked that there be discussion about city's reserve policy when the Commission addresses Section 617 (Infrastructure Fund) in February. He noted that there was a Council Study Session on Aug. 17 in which there was discussion about changing the distribution of unreserved/undesignated funds each year. These changes will be included in the city budget at the next Council meeting.

- VIII. Adjourn to the next scheduled meeting at 6 PM on Tues., September 15 in the City Council Chambers to take public testimony on Sections 300, 302, 304, 305, 306, 309, 310, 311, & 800 which relate to the city's elected office.



# *City of Huntington Beach*

## *Charter Review Commission*

### **ACTION MINUTES**

**Tues., Sept.15, 2009, 6:00 PM**  
**City Hall, City Council Chambers**

- I. **Roll Call:** Bame, Bauer, Bixby, Brenden, Dettloff, Harlow, Hartnett, Johnson, Kutscher, Shaw, Silver, Sneddon, Stuart, Sullivan, Whiteside

**All Present**

- II. **Public Comments –** The Commission has scheduled this public meeting to hear the public's thoughts on City Charter Sections 300, 302, 304, 305, 306, 309, 310, 311, & 800 which relate to the city's elected offices. Nonetheless, comments on any section of the Charter are welcome.

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.

**There were 13 Speakers:**

- Keith Bohr
- Richard Hart
- Clem Dominguez
- Robert Dettloff
- Julie Bixby
- Fred Speaker
- Ed Kerins
- Rich Meyer
- William O'Connell
- Shari Freidenrich
- Kreg Muller
- Joan Flynn
- Victor Leipzig

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

Commissioner Shaw requested that staff provide the cost for a charter amendment election and the cost for staff time to support the Commission's work. City Clerk, Joan Flynn, provided the estimated election costs.

- IV. **Adjourn to the next scheduled meeting at 6 PM on Tues., Oct. 6 to discuss Sections 300, 302, 304, 305, 306, 309, 310, 311, & 800 which relate to the city's elected offices.**

**Attachments: \***

**Information Items submitted by Mayor Keith Bohr**

1. **List of California Cities with a Directly Elected Mayor**
2. **List of the 25 Largest California Cities**

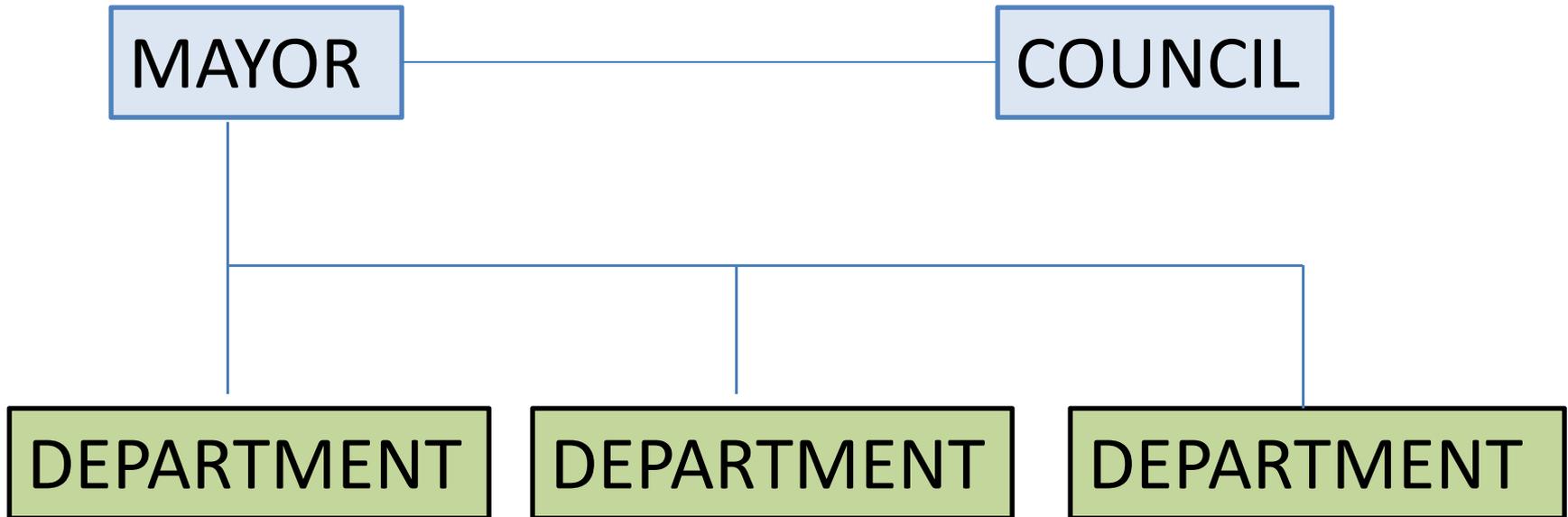
\* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

# Elected Officials and the Charter

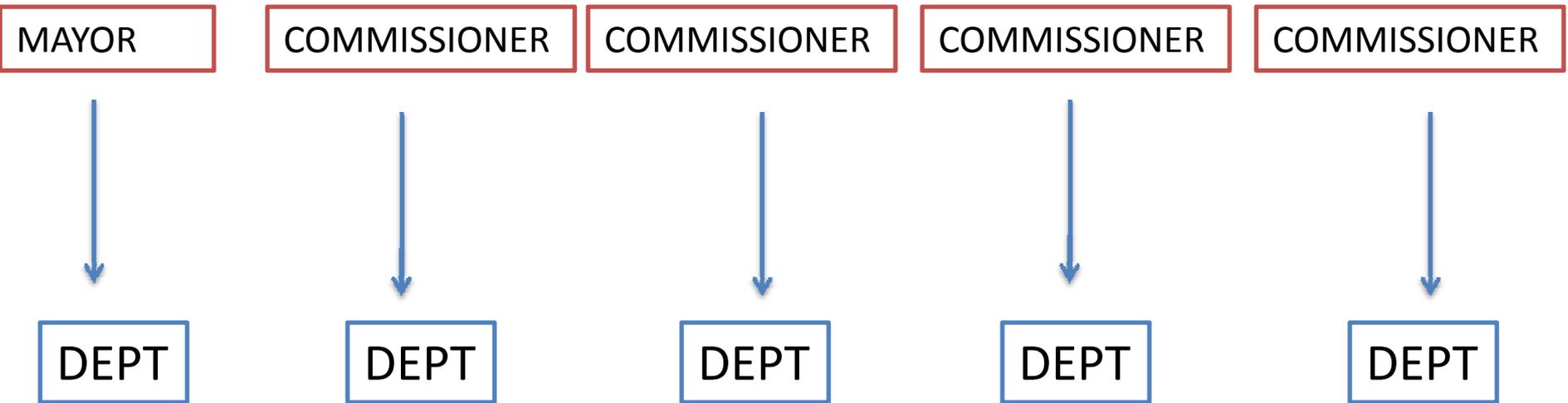
Prepared by Raphael J. Sonenshein,  
Consultant

For the Huntington Beach Charter Reform  
Commission Meeting, October 6, 2009

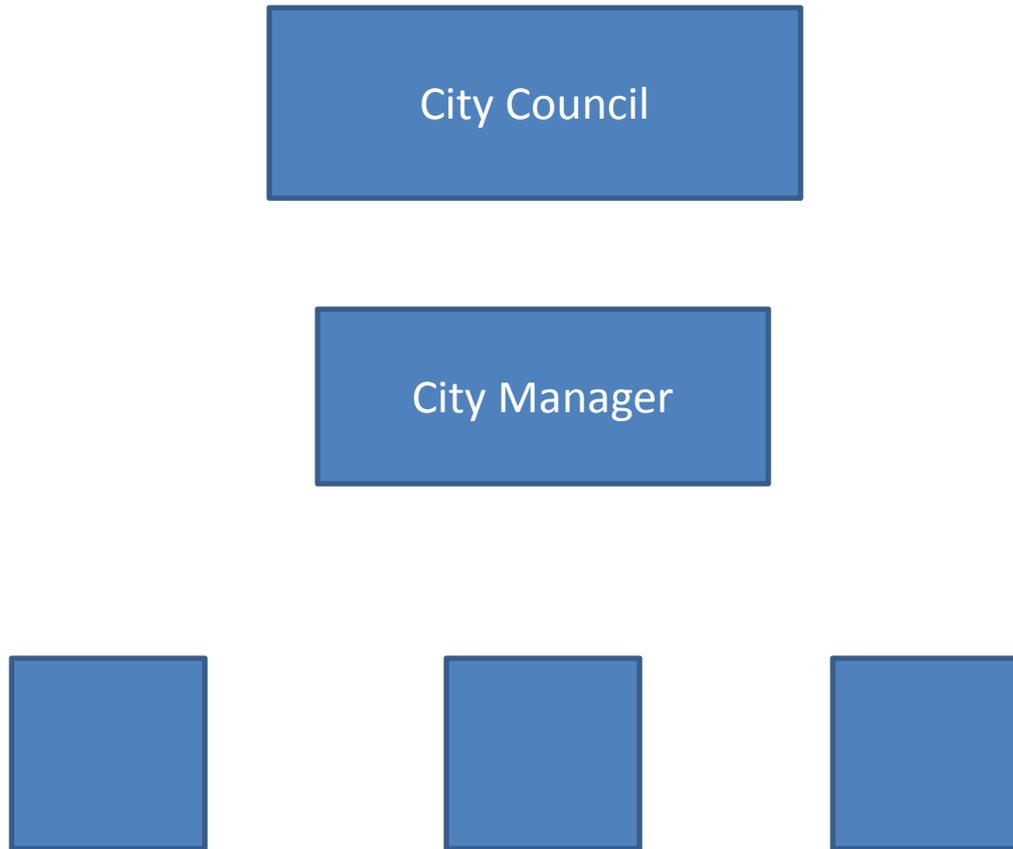
# The Strong Mayor Council System



# The Commission Plan



# The Council Manager



# Concessions by the systems

- Mayor council adds an administrator
- Council manager adds an elected mayor
- But...the administrator is usually not a city manager, and the elected mayor is usually not a strong mayor

# Attorney, Clerk, Treasurer

- Reformers tend to oppose election of all but council and mayor
- But voters often like to elect other offices
- Most common and oldest are clerk and treasurer at all city sizes
- Elected attorney rarer and more common on larger and middle sized cities

# How California Cities Do It: the Big 8

- Population range: 420,183 – 4,045,873
- Charter cities
- all have directly elected mayors
- most have strong mayors in mayor-council system
- half of all of California's elected city attorneys are in the Big 8 (5/11)
- few elected clerks and treasurers
- district elections for council are common

# How California Cities Do It: The Upper Middle

- 27 cities, population range 147,897 - 353,184
- charter cities: 18/27
- directly elected mayors: 20/27
- mayors with some powers beyond appointment of commissioners: Riverside and San Bernardino
- weak mayors directly elected: 18 elected
- city attorneys: 3/27 Big 8 and Upper Middle account for 8/11 of all elected city attorneys in the state
- elected clerks: 9/27; elected treasurers: 9/27, all in the same cities as the elected clerks

# How California Cities Do It: The Rest

- Number of cities: 437
- Population range: 95-147,428
- charter cities: 61
- directly elected mayors: 119
- elected city attorneys: 3
- elected city clerks: 138
- elected city treasurers: 164

# Observations

- Strong mayor system, as in Big 8 cities, is not relevant to HB deliberations
- If HB adopts directly elected mayor, the weak mayor model variant of council-manager system is more relevant
- Not much reform wisdom on the other offices; local experience decides. Long run likely to trend toward appointed but there is no rush.

**MAYORS' INFORMATION**

	CITY	POPULATION	MAYOR	CHARTER	MAYOR'S POWERS	COUNCIL ELECTED BY DISTRICT	NOMINATED BY DISTRICT/ ELECTED AT-LARGE
1	Los Angeles	4,045,873	elected	charter	strong mayor; appoint and remove CAO; veto; appointments; budget	Council by district	
2	San Diego	1,336,865	elected	charter	strong mayor; appoint and remove city manager; veto; appointments; budget; trial period 06-10	District	
3	San Jose	989,496	elected	charter	weak mayor; presides over council; nominates city manager for council approval	District	
4	San Francisco	824,525	elected	charter	strong mayor; veto; appointments; budget		
5	Long Beach	492,642	elected	charter	mayor presides over council; veto; shares in appointment and removal of city manager	District	
6	Fresno	489,171	elected	charter	mayor council system, but with city manager	District	
7	Sacramento	475,743	elected	charter	on ballot 2010 to consider strong mayor form of government	District	
8	Oakland	420,183	elected	charter	strong mayor; appoint and remove city administrator; appointments; budget	District	
9	Santa Ana	353,184	elected	charter	mayor serves as one council member; no special powers; city manager administers		nom by district; elect at large
10	Anaheim	346,823	elected	charter	mayor serves as one of five council members; no special powers; city manager administers		
11	Bakersfield	328,692	elected	charter	mayor serves on the council; no special powers; city manager administers	District	
12	Riverside	296,842	elected	charter	mayor presides over council; veto power; city manager administers	District	
13	Stockton	289,927	elected	charter	mayor presides over council; some limited appointment and budget roles; city manager administers		nom by district; elect at large
14	Chula Vista	231,305	elected	charter	mayor is a member of the council; no special powers; city manager administers		
15	Fremont	213,512	elected		mayor is a member of the council; city manager administers		
16	Modesto	209,936	elected	charter	mayor is on council; some limited powers similar to Stockton	District (2009)	
17	Irvine	209,806	elected	charter	mayor is on council; no special powers; city manager administers		
18	Glendale	207,157		charter	traditional council-manager government		
19	San Bernardino	205,493	elected	charter	mayor appoints city manager; veto power	District	
20	<b>Huntington Beach</b>	<b>201,993</b>		<b>charter</b>	<b>traditional council-manager government; council must approve appointment &amp; removal of dept heads</b>		
21	Oxnard	194,905	elected		mayor is a member of the council; no special powers; city manager administers		
22	Fontana	188,498	elected		mayor is a member of the council; no special powers; city manager administers		
23	Moreno Valley	183,860			mayor is a member of the council; no special powers; city manager administers	District	
24	Oceanside	178,806	elected		presiding officer, ceremonial head, no special powers		
25	Santa Clarita	177,045			traditional council-manager government		
26	Rancho Cucamonga	174,308			presiding officer, ceremonial head, no special powers		
27	Ontario	173,690	elected		presides over meetings, official head, no special powers		
28	Garden Grove	173,067			mayor serves as one of five council members; no special powers; city manager administers		
29	Pomona	163,405	elected	charter	mayor serves as one council member; ceremonial head; city manager administers	District	
30	Santa Rosa	159,981		charter	presides over meetings, w/mgr establishes the agenda, appoints council members to city, regional, & state bodies		
31	Salinas	150,898	elected	charter	presiding officer, official head, no special powers	District	
32	Hayward	149,205	elected	charter	presiding officer, voting member of Council, no special powers		
33	Torrance	148,965	elected	charter	presiding officer voting member of Council, signs contracts and warrants of the city		
34	Pasadena	148,126	elected	charter	presiding officer, official head, ceo of the city under the terms of general laws of the state	District	
35	Palmdale	147,897	elected		presiding officer, appoints all board & commission members w/ Council approval		
39	Orange	140,849	elected		presiding officer, voting member of Council, no special powers		
42	Fullerton	137,437			presiding officer, voting member of Council, no special powers		
77	Westminster	93,027	elected		presiding officer, voting member of Council, no special powers		
81	Santa Barbara	90,305	elected	charter	presiding officer, voting member of Council, no special powers		
88	Newport Beach	84,554		charter	presiding officer, voting member of Council, no special powers		nom by district; elect at large

	A	B	C	D	E	F	G
1		CITY	POPULATION	CHARTER?	CITY ATTORNEY	CITY CLERK	CITY TREASURER
2	1	Los Angeles	4,045,873	charter	elected		
3	2	San Diego	1,336,865	charter	elected		
4	3	San Jose	989,496	charter			
5	4	San Francisco	824,525	charter	elected		elected
6	5	Long Beach	492,642	charter	elected		
7	6	Fresno	489,171	charter			
8	7	Sacramento	475,743	charter			
9	8	Oakland	420,183	charter	elected		
10	9	Santa Ana	353,184	charter			
11	10	Anaheim	346,823	charter			
12	11	Bakersfield	328,692	charter			
13	12	Riverside	296,842	charter			
14	13	Stockton	289,927	charter			
15	14	Chula Vista	231,305	charter	elected		
16	15	Fremont	213,512				
17	16	Modesto	209,936	charter			
18	17	Irvine	209,806	charter			
19	18	Glendale	207,157	charter		elected	elected
20	19	San Bernardino	205,493	charter	elected	elected	elected
21	20	<b>Huntington Beach</b>	<b>201,993</b>	<b>charter</b>	<b>elected</b>	<b>elected</b>	<b>elected</b>
22	21	Oxnard	194,905			elected	elected
23	22	Fontana	188,498			elected	elected
24	23	Moreno Valley	183,860				
25	24	Oceanside	178,806			elected	elected
26	25	Santa Clarita	177,045				
27	26	Rancho Cucamonga	174,308			elected	elected
28	27	Ontario	173,690			elected	elected
29	28	Garden Grove	173,067				
30	29	Pomona	163,405	charter			
31	30	Santa Rosa	159,981	charter			
32	31	Salinas	150,898	charter			
33	32	Hayward	149,205	charter			
34	33	Torrance	148,965	charter		elected	elected
35	34	Pasadena	148,126	charter			
36	35	Palmdale	147,897				
37	39	Orange	140,849			elected	elected
38	42	Fullerton	137,437				
39	77	Westminster	93,027				
40	81	Santa Barbara	90,305	charter			
41	88	Newport Beach	84,554	charter			

## **COMMISSIONER BIXBY'S PROPOSALS:**

**Attached is information submitted by Commissioner Mark Bixby that relates to the Charter Sections scheduled for the Commission's October 6 Meeting.**

**The Charter Sections scheduled for October 6 are: 300, 302, 304, 305, 306, 309, 310, 311, & 800 which relate to the city's elected offices**

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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**SUBMITTED TO:** HB Charter Review Commission

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

**SUBJECT:** Amend charter section 300 (City Council, Attorney, Clerk and Treasurer Terms) to provide for appointed attorney and treasurer, but to retain an elected clerk.

**Statement of Issue:** Convert certain elected officers to appointed.

**Recommended Action: Motion to:**

Amend Huntington Beach charter section 300 as follows:

- Change city attorney to be appointed or removed by the city administrator subject to approval by the city council under existing charter section 401(a) but also subject to recall by a vote of the electors
- Change city treasurer to be appointed or removed by the city administrator subject to approval by the city council under existing charter section 401(a) but also subject to recall by a vote of the electors
- Keep city clerk as an elected officer
- Structure the charter revision ballot to split off all elected-to-appointed changes as separate ballot items

**Analysis:**

The city attorney and the city treasurer both serve city hall nearly exclusively rather than the public and thus should be converted from elected to appointed positions.

The city clerk however has evolved critically important public-facing responsibilities in addition to serving as council record keeper and so should remain an elected position answerable to the public served by the clerk. During the 10 years I have lived in Huntington Beach, the city clerk has been the biggest driver of municipal transparency and provides some of the best public customer

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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service of any city department. Key public-facing responsibilities of the city clerk currently include:

- Creation and distribution of city council agendas that surpass most other cities for detail and quality.
- Creation and distribution of city council minutes essential for retaining historical perspective.
- Internet publication of council agendas, minutes, audio, and video.
- Collection and distribution of campaign finance disclosure statements, and partial Internet publication of these statements.
- Collection and distribution of economic interest statements.
- Internet publication of nearly the entire city clerk historical record archive via the SIRE system.
- Serves as an impartial election official, with an unbiased approach to the candidacy process.
- Serves as an impartial office for individuals to file claims against the city, and for the serving of summons.
- Conducts public outreach efforts centering on education as to the public's right to access their records, election information, and voter registration.

Furthermore, the city clerk's department is willing to assist other city departments in migrating to the SIRE electronic document management system, which offers the possibility of even greater transparency to benefit the public.

If the city clerk were appointed rather than elected, changing priorities at city hall could be imposed on the city clerk resulting in lessened transparency that would be harmful to the public. The inherent politics of appointed positions could also result in reduced impartiality. Whereas if the city clerk continues to be an elected official, the clerk would have to answer directly to the public at election time for any lapses in transparency or impartiality. The public's leverage at election time is the last defense on behalf of transparency and impartiality. Thus it is my strong preference that the city clerk remains elected.

An examination of city election history from 1913 to present (see attached) shows that the topic of converting the elected attorney, clerk, and treasurer to appointed positions keeps coming up again and again and again. A sampling of associated ballot arguments (see attached) shows that the current and former councilmembers

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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at the time were often highly split over these measures. And every time these measures are submitted to the electors, they go down to defeat:

- Measures to convert the attorney have been defeated 7 times
- Measures to convert the clerk have been defeated 4 times
- Measures to convert the treasurer have been defeated 5 times

Clearly Huntington Beach voters have their minds set on this issue. And it is my opinion that the current extreme antipathy towards state and national politicians makes it extremely unlikely that the voters will change their minds in 2010 and relinquish electoral control over these three city offices.

So what should be done to improve the chances of success if the charter review commission (and the city council) wants to move forward with these conversions?

One idea that should be considered is that even though these may be converted to appointed positions, the public should be given the right of recall to still be able to exercise control if an appointment turned out badly. This was actually done in the 11/05/1968 election measure to convert the attorney to appointed, but still it was defeated. But this may simply have been due to voter fatigue, since just seven months earlier on 04/09/1968 there was yet another election at which the appointed attorney, clerk, and treasurer all went down to defeat. And four years earlier on 11/03/1964 yet another appointed attorney measure went down to defeat. So I suspect the voters were just tired and didn't want to deal with it any more.

My recommendation to the commission is that any conversions to appointed positions try again by making them subject to recall by the people in order to increase the chances for adoption.

But even providing for recall may not be enough to convert these positions to appointed, given the long electoral history of defeats. Including these conversions within a single charter revision measure that replaces the entire charter could likely prove to be a "poison pill" that would doom the entire charter revision to defeat.

Fortunately the historical record provides a solution for avoiding the "poison pill" problem. The 1978 charter revision effort largely revised the entire charter. But in recognition of the controversial nature of several amendments, including

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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converting the attorney, clerk, and treasurer to appointed, the ballot for the 06/06/1978 election (see attached) was very cleverly organized. The main measure on the ballot was for replacing the entire charter except for the controversial sections amended in subsequent measures on the same ballot. This proved to be a wise decision, because the main measure passed to revise nearly the entire charter, and all but one of the controversial auxiliary measures went down to defeat.

I strongly recommend that the commission adopt a similar ballot strategy for any controversial issues if possible.

## **Attachment(s):**

- City elections summary (1913 to present)
- 06/06/1978 ballot measures
- 06/06/1978 ballot arguments
- 11/06/1984 ballot arguments
- 03/26/1996 ballot arguments

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **City Election Summary**

**1913 to Present**

<b>Election</b>	<b>Type</b>	<b>Result</b>	<b>Summary</b>
7/15/1913	proposition	adopted	park/music/advertising tax
4/13/1914	proposition	adopted	board of trustees meeting pay
12/28/1915	proposition	adopted	bonded debt limit
4/10/1922	proposition	adopted	board of trustees monthly pay
8/21/1922	proposition	defeated	ordinance 209 amendment
4/12/1926	proposition	adopted	ordinance 209 amendment establishing business & residential districts
11/16/1926	proposition	adopted	ordinance 209 amendment
4/9/1928	proposition	adopted	city council monthly pay
4/14/1930	proposition	defeated	business district boundary change
4/14/1936	proposition	adopted	exceed 5% limit to construct a beach pavilion
4/14/1936	proposition	defeated	construct a beach bowl
4/14/1936	proposition	defeated	civil service for police & fire
4/14/1936	proposition	adopted	municipal water system
11/3/1936	initiative	canvass missing	business licensing
4/29/1937	proposition	adopted	charter adoption
4/29/1937	proposition	defeated	council districting
8/3/1937	proposition	adopted	elected city judge & city attorney
8/3/1937	proposition	adopted	elected police chief
4/12/1938	proposition	adopted	park construction debt
9/27/1939	proposition	defeated	municipal water system debt
11/21/1939	proposition	adopted	charter amendment to create board of education
4/14/1942	proposition	adopted	charter amendment - city council meetings
4/14/1942	proposition	adopted	charter amendment - appointee qualifications
4/14/1942	proposition	adopted	charter amendment - vacancy appointments
4/14/1942	proposition	adopted	charter amendment - public works contracting
4/14/1942	proposition	adopted	charter amendment - special taxes
4/14/1942	initiative	defeated	close dance halls between midnight and 8AM (resolution 898)
4/9/1946	proposition	adopted	charter amendment - public works contracting
4/13/1948	proposition	defeated	charter amendment - council-manager form of government
4/13/1948	proposition	adopted	charter amendment - general law
4/13/1948	proposition	adopted	charter amendment - canvassing
4/13/1948	proposition	adopted	charter amendment - city council meetings
4/13/1948	proposition	adopted	charter amendment - ordinance publication
4/13/1948	proposition	adopted	charter amendment - mayor vacancy
4/13/1948	proposition	adopted	charter amendment - public works contracting
4/13/1948	proposition	adopted	charter amendment - special taxes
4/13/1948	proposition	adopted	charter amendment - franchises
11/2/1948	proposition	defeated	charter amendment - department of public service
11/2/1948	proposition	adopted	charter amendment - appointed city judge
11/2/1948	proposition	adopted	repeal ordinance 396 (business license tax)
9/14/1954	proposition	adopted	water bond
4/8/1958	proposition	defeated	city council monthly pay
4/8/1958	proposition	defeated	appointed chief of police
4/8/1958	proposition	defeated	appointed city attorney
6/9/1959	referendum	defeated	ordinance 706 (zoning plan) [defeat of a referendum means the ordinance was not adopted]

4/10/1962	proposition	adopted	city council monthly pay
4/30/1963	proposition	adopted	water bond
11/3/1964	proposition	defeated	charter amendment - appointed city attorney
11/3/1964	proposition	defeated	charter amendment - appointed police chief
8/10/1965	proposition	defeated	charter amendment - districting and elected mayor
1/11/1966	proposition	adopted	new charter
4/9/1968	proposition	defeated	charter amendment - appointed city attorney
4/9/1968	proposition	defeated	charter amendment - appointed city treasurer
4/9/1968	proposition	defeated	charter amendment - appointed city clerk
11/5/1968	proposition	defeated	park bond
11/5/1968	proposition	defeated	library bond
11/5/1968	proposition	defeated	charter amendment - appointed city attorney with recall
6/3/1969	proposition	adopted	park bond
11/3/1970	proposition	defeated	charter amendment - elected mayor
11/3/1970	proposition	adopted	charter amendment - public works contracting
11/3/1970	proposition	adopted	charter amendment - general obligation bonds
11/3/1970	proposition	adopted	charter amendment - elections
6/6/1972	proposition	adopted	water fluoridation
6/6/1972	proposition	defeated	charter amendment - compensation for city council, city clerk, city treasurer
11/6/1973	proposition	defeated	charter amendment - appointed city attorney
11/6/1973	proposition	defeated	charter amendment - appointed city clerk
11/6/1973	proposition	defeated	charter amendment - appointed city treasurer
11/5/1974	proposition	canvass missing	replace real property transfer tax with monthly trash charge and increased utilities tax
5/27/1975	proposition	adopted	charter amendment - real property transfer tax to require voter approval
11/2/1976	proposition	adopted	charter amendment - city council 3/4 vote required to levy tax or fee (takes precedence due to larger number of votes)
11/2/1976	proposition	adopted	charter amendment - city council 5 votes required to enact tax or revenue raising measure
6/6/1978	proposition	adopted	new charter
6/6/1978	proposition	adopted	charter amendment - city council term limits
6/6/1978	proposition	defeated	charter amendment - city council compensation
6/6/1978	proposition	defeated	charter amendment - appointed city attorney
6/6/1978	proposition	defeated	charter amendment - appointed city clerk
6/6/1978	proposition	defeated	charter amendment - appointed city treasurer
6/3/1980	advisory	canvass missing	shall the state dedicate 2 cents of the 6 cent sales tax for local agencies?
11/2/1982	proposition	adopted	charter amendment - consolidate municipal general election with statewide elections in November
11/6/1984	proposition	defeated	charter amendment - remove term limits
11/6/1984	proposition	defeated	charter amendment - appointed city clerk
11/6/1984	proposition	defeated	charter amendment - appointed city treasurer
11/6/1984	proposition	adopted	charter amendment - city clerk additional minimum qualifications
11/6/1984	proposition	adopted	charter amendment - city treasurer additional minimum qualifications
11/8/1988	initiative	defeated	Citizen's Sensible Growth and Traffic Control Initiative
11/6/1990	initiative	adopted	charter amendment - Measure C park protections (takes precedence due to larger number of votes received)
11/6/1990	proposition	adopted	charter amendment - park/beach sale restrictions
3/26/1996	proposition	defeated	charter amendment - appointed city treasurer
3/26/1996	proposition	defeated	charter amendment - appointed city attorney
3/26/1996	advisory	defeated	park/beach/sports/senior parcel tax
11/5/1996	advisory	defeated	sports-related parcel tax

11/5/1996	proposition	defeated	Murdy Park enhancements
11/5/1996	proposition	adopted	Huntington Central Park sports complex
3/7/2000	initiative	defeated	build houses instead of WalMart at Crest View School site
3/7/2000	advisory	adopted	use WalMart sales tax to fund sports and other activities
11/7/2000	proposition	defeated	power plants (AES) to pay utility tax
11/7/2000	advisory	adopted	utility taxes paid by power plants to fund infrastructure improvements
3/5/2002	initiative	adopted	charter amendment - forbid rent control
3/5/2002	proposition	adopted	charter amendment - establish infrastructure fund
3/5/2002	advisory	adopted	power plant utility taxes directed to infrastructure fund
3/5/2002	proposition	defeated	repeal the Gas Tax exclusion for electric power plants
3/2/2004	initiative	defeated	charter amendment - city council districts
11/7/2006	proposition	adopted	senior center

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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## 06/06/1978 Ballot Measures

RESOLUTION NO. 4603

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH ORDERING, CALLING, PROVIDING FOR AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD IN SAID CITY ON JUNE 6, 1978 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF SAID CITY MEASURES CONCERNING A REVISED CHARTER AND CONSOLIDATING SAID ELECTION WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON SAID DATE

The City Council of the City of Huntington Beach does hereby resolve, declare, determine and order as follows:

SECTION 1. That a special election be held and the same is hereby called to be held in said city on June 6, 1978, for the purpose of submitting to the qualified voters of said city a proposition to appear on the ballot as follows:

Rest of page not used.

MEASURES SUBMITTED TO VOTE OF VOTERS

PROPOSED CHARTER AMENDMENTS

A	Shall the existing charter, with the exception of the provisions mentioned in Propositions B through F on this ballot, of the City of Huntington Beach be repealed and in place thereof shall the proposed charter provisions approved by the City Council on January 30, 1978, be adopted?	YES	
		NO	

B	Shall Section 500 of the existing city charter be amended to provide that no person shall be elected to the Council for more than two consecutive terms?	YES	
		NO	

C	Shall Section 502 of the existing city charter be amended to provide that the compensation for the Mayor and the City Council members be set in accordance with a sliding scale based upon the population of the city so that compensation may vary from a minimum of \$400 per month to a maximum of \$600 per month, and further providing for reimbursement of certain specified expenses in addition to such monthly compensation?	YES	
		NO	

D	Shall Sections 500 and 703 of the existing city charter, which now provide for the election of the City Attorney by the qualified voters of	YES	
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the city at large, be amended to provide that the City Attorney be appointed by the City Administrator with the approval of the City Council?	NO		
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E	Shall Sections 500 and 704 of the existing city charter, which now provide for the election of the City Clerk by the qualified voters of the city at large, be amended to provide that the City Clerk be appointed by the City Administrator with the approval of the City Council?	YES		
		NO		

F	Shall Sections 500 and 705 of the existing city charter, which now provide for the election of the City Treasurer by the qualified voters of the city at large, be amended to provide that the City Treasurer be appointed by the City Administrator with the approval of the City Council?	YES		
		NO		

additional notice of said election in time, form and manner as required by law.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution; shall enter the same in the book of original resolutions of said city; and shall make a minute passage and adoption thereof in the records of the proceedings of the City Council of said city, in the minutes of the meeting at which the same is passed and adopted.

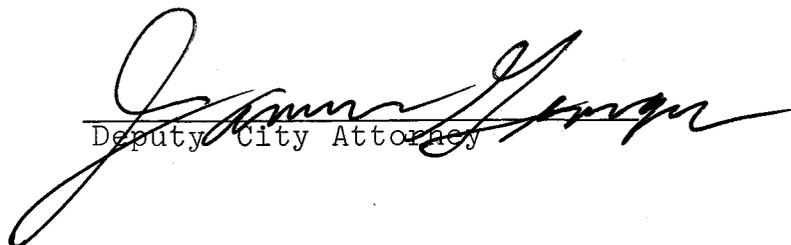
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at an adjourned regular meeting held on the 13th day of March, 1978.

  
\_\_\_\_\_  
Mayor Pro Tempore

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy City Attorney

REVIEWED AND APPROVED:

  
\_\_\_\_\_  
Asst. City Administrator

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, ALICIA M. WENTWORTH, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of more than a majority of all the members of said City Council at a regular adjourned meeting thereof held on the 13th day of March, 19 78, by the following vote:

AYES: Councilmen:  
Bartlett, Coen, Gibbs, Shenkman

NOES: Councilmen:  
Siebert

ABSENT: Councilmen:  
Wieder, Pattinson

*Alicia M. Wentworth*

City Clerk and ex-officio Clerk  
of the City Council of the City  
of Huntington Beach, California

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **06/06/1978 Ballot Arguments**

## ARGUMENT IN FAVOR OF PROPOSITION F

As part of our report to the City Council, the Charter Revision Committee recommended that the City Charter be amended to increase the monthly compensation of Members of the City Council from \$175.00 to \$400.00 and to eliminate the past practice of fixed monthly expense repayments of \$125.00 per month which was established by Ordinance. Our committee felt that an increase in the compensation was warranted by (1) the increase in the time now required by the work of the members of the city council, and (2) a 92.3% increase in the cost of living since the charter provision on compensation was last amended in 1966. The city has grown from a population of 40,000 to over 160,000 today. The council members are now virtually required by their workload to function in the same manner as a board of directors would manage a large corporation, with a \$53,000,000 budget, 2,171 employees and administering a substantial number of projects funded by Federal, State and other governmental agencies.

In order to provide that the council member's compensation could be increased as the duties and demands of the position increase, our Committee felt that tying the compensation to the increase in population size was a good compromise between unlimited authority to set salaries by the council itself and a fixed salary too low to attract qualified candidates for the council.

Our Committee believed the council members should be reimbursed for their legitimate out-of-pocket expenses incurred while on city business. The amendment would permit reimbursement for actual expenditures upon presentation of the appropriate vouchers.

The Charter Revision Committee recommends a "Yes" vote on Proposition F.

HAROLD S. BAUMAN  
Chairman, Charter Revision Committee

## ARGUMENT AGAINST PROPOSITION F

(None Filed)

## PROPOSITION G

Section 500. CITY COUNCIL, ATTORNEYCLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, and 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 five 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, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than sixty (60) nor more than ninety (90) days after the effective date of this Charter to elect two additional members of the City Council for the remainder of the terms expiring in April, 1970.

Subject to the provisions of this Charter, the City Clerk, and 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 April, 1968, and each fourth year thereafter. ~~A City Attorney shall be elected in April, 1966, and each fourth year thereafter.~~

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

Section 703-1. CITY ATTORNEY. There shall be a City Attorney appointed by the City Administrator with the approval of the City Council.

Section 703-2. 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 election or appointment.~~ The City Attorney shall have the ~~power~~responsibility 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;
- (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 city employment or by reason of official capacity;
- (d) Attend all regular meetings of the City Council, unless excused, and give 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 the form of all contracts made by and all bonds and insurance given to the City, endorsing 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 the 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 successor~~ all books, papers, files, and documents pertaining to the City's affairs to a duly qualified successor.

**CITY ATTORNEY'S IMPARTIAL ANALYSIS  
OF PROPOSITION G**

The existing City Charter provides for the election of the City Attorney by the qualified voters of the City at large. The proposed amendment would provide for the appointment of the City Attorney by the City Administrator with the approval of the City Council.

<b>G</b>	Shall Sections 500 and 703 of the existing city charter, which now provide for the election of the City Attorney by the qualified voters of the city at large, be amended to provide that the City Attorney be appointed by the City Administrator with the approval of the City Council?	<b>YES</b>	
		<b>NO</b>	

## ARGUMENT IN FAVOR OF PROPOSITION G

Efficient government requires a YES vote on Proposition G. The City Charter should be amended to provide for the appointment, rather than the election, of the City Attorney to ensure that the most highly qualified applicant gets the job.

The City of Huntington Beach has a council-administrator form of government. This system combines the political leadership of elected officials in the City Council with the managerial experience of the City Administrator. The Council sets policy and hires the Administrator and supervises his performance; the Administrator recruits and hires the City's staff, and carries out the Council's policies.

The City Attorney is a department head responsible for giving legal advice to the City Administrator and City Council; this position should, therefore, be appointed by the City Administrator with Council approval, through merit system procedures (advertising, applications, interviews) as are other department heads. The City Attorney is not a policy making position and should not be an elected official. Only through the appointment procedure can the City be assured of having a competent legal advisor. The vast majority of City Attorneys in California are appointed; Huntington Beach is one of the few cities left in California to have this outdated elective office.

An election does not measure an attorney's technical knowledge or competence; it only measures his ability to run a successful campaign. In addition, an election gives the incumbent four years of "tenure" in which he cannot be dismissed for incompetence, as can other appointed employees when cause is shown.

In conclusion, it is in the best interests of the taxpayers of Huntington Beach to vote YES on Proposition G so that the most highly qualified attorney will be giving legal advice to your government officials.

City Council:

ALVIN M. COEN  
TED W. BARTLETT

RON SHENKMAN  
NORMA BRANDEL GIBBS

## REBUTTAL TO ARGUMENT AGAINST PROPOSITION G

Proposition G: City Attorney

The City Attorney is NOT a "watchdog." His purpose is to provide legal advice to your City officials. You elect the City Council to represent you and be the "watchdog" of governmental affairs, not the City Attorney.

It is impossible for a City Attorney to be a "rubber stamp." He cannot be told to write a legal opinion supporting a particular point of view; the law and legal precedents are fact and cannot be changed. The Council does not want a biased report when it requests a legal opinion; the Council wants the truth so the City will not end up in court with costly lawsuits.

The Council does NOT want a "yes man" as City Attorney. The Council only wants to ensure that the Attorney will be capable of giving good, sound, correct legal advice to the Council and staff.

All City offices are open to the public, whether the department head is appointed or elected. The City Council wants it that way and State law requires that it be that way.

Of the 417 incorporated cities in California, less than 10 still have elected City Attorneys. Let's modernize our City and make sure we have an expert City Attorney. Vote YES on Proposition G.

Councilman ALVIN M. COEN  
Councilman TED W. BARTLETT  
Councilman RON SHENKMAN  
Councilwoman NORMA BRANDEL GIBBS

## ARGUMENT AGAINST PROPOSITION G

\*This proposition was soundly trounced at the polls FOUR times because you knew it was bad. Why is the city council trying again?

\*You have the RIGHT to elect your City Attorney. An elected City Attorney is responsible to the people, but if the city council is allowed to appoint its own "yes man" or "yes woman," it would disrupt our American system of checks and balances, and invite abuse of power.

\*The City Attorney is the WATCHDOG. Is it reasonable to have the watchdog controlled by those he is watching?

\*Do you want another bureaucrat? An elected City Attorney is responsible and responsive to you, the electorate. An appointed City Attorney becomes a bureaucrat, loyal and responsible to the city council. He becomes a RUBBER STAMP for the council. Is that what you want?

\*The City Attorney must be INDEPENDENT in order to give OBJECTIVE legal advice to the council. If he is the PUPPET of the council, he may only give the advice the council wants to hear. And that may NOT be in the peoples' best interest!

\*An elected City Attorney keeps an OPEN OFFICE. He is always concerned with your inquiries and problems. His door will always be open to you. If the City Attorney is an appointed bureaucrat, he will not have time for you.

\*The city council wants a CLOSED city hall. It wants CONTROL of the City Attorney as well as the City Treasurer and City Clerk you now have.

VOTE NO TO THIS FIFTH ATTEMPT TO REMOVE YOUR RIGHT TO VOTE FOR A RESPONSIVE CITY ATTORNEY.

KEEP THE HUNTINGTON BEACH OFFICE OF CITY ATTORNEY ELECTIVE.

VOTE NO ON PROPOSITION G.

COMMITTEE TO PRESERVE AND  
PROTECT ELECTED GOVERNMENT

WARREN G. HALL  
ROBERT L. SMITH  
DECATUR DILDAY  
MARY ARLEEN MATHEIS  
DON P. BONFA

## REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION G

DON'T BE DECEIVED.

VOTE "NO" ON PROPOSITION G.

Eighteen months ago, the City Council appointed seven men and women, all volunteers, to a Charter Revision Committee. The Committee was charged with the responsibility of drafting a new Charter which would be submitted to the voters for adoption.

The Committee worked diligently for one year. They studied the elected versus appointed City Attorney issue in depth and their final recommendation was to retain the City Attorney as an elected official. The Committee's reasons were:

1. To guarantee the independence and objectivity of the City Attorney;
2. Because they understood the need for the City Attorney to act as a check and balance to the City Council as a means of protecting the rights of the people; and
3. To preserve an independent voice in the city hall who could stand up for the people against possible arbitrary and illegal actions of the City Council.

When the Committee's recommendations came before the Council, it took the Council thirty seconds to reject the Committee's proposal.

Why??

Because the City Council wants to control the City Attorney and make him their "rubber stamp." If this happens, you will lose the protection you now have by an independent and uncontrolled City Attorney, and you will have gained another appointed bureaucrat.

DON'T BE DECEIVED.

VOTE "NO" ON PROPOSITION G.

COMMITTEE TO PRESERVE AND  
PROTECT ELECTED GOVERNMENT

ROBERT L. SMITH  
MARY AILEEN MATHEIS  
WARREN G. HALL  
DECATUR DILDAY  
DON P. BONFA

## PROPOSITION H

Section 500. 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~~ 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 five 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, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than sixty (60) nor more than ninety (90) days after the effective date of this Charter to elect two additional members of the City Council for the remainder of the terms expiring in April, 1970.

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~~ City Treasurer shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter. A City Attorney shall be elected in April, 1966, and each fourth year thereafter.

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

Section 704-1. CITY CLERK. There shall be a City Clerk appointed by the City Administrator with the approval of the City Council.

Section 704-2. 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 title 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 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;

(h) ~~Have charge~~ Be responsible for the conduct 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~~ or act for ~~him~~ the City Clerk, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

**CITY ATTORNEY'S IMPARTIAL ANALYSIS  
OF PROPOSITION H**

The existing City Charter provides for the election of the City Clerk by the qualified voters of the City at large. The proposed amendment would provide for the appointment of the City Clerk by the City Administrator with the approval of the City Council.

<b>H</b> Shall Sections 500 and 704 of the existing city charter, which now provide for the election of the City Clerk by the qualified voters of the city at large, be amended to provide that the City Clerk be appointed by the City Administrator with the approval of the City Council?	<b>YES</b>	
	<b>NO</b>	

**ARGUMENT IN FAVOR OF PROPOSITION H**

Again, the best way to ensure that a competent individual holds the position is to vote YES on Proposition H which would require that the City Clerk be appointed rather than elected.

The City Clerk is responsible for maintaining the official records of the City and is not in a policy making position. As a department head, the City Clerk should be appointed by the City Administrator with Council approval, through merit system procedures (advertising, applications, interviews) as are other department heads. Only through the appointment procedure can the City be assured of having a competent City Clerk.

The current City Clerk supports the change from elected to appointed because she feels a state wide search for the most highly qualified candidate is the only efficient way of ensuring that the position is filled by a competent, experienced individual. When the position is filled by election, "applicants" are limited to registered voters in Huntington Beach, very few of whom have any experience in this field. An elected City Clerk who is not able to handle the job cannot be dismissed, as can other City employees.

The creation and maintenance of public records would be handled no differently under an appointed clerk, but Huntington Beach residents would be assured that a competent City Clerk would be in charge. More than two-thirds of the City Clerks in Orange County are appointed officials.

In addition, by State law the City Clerk is responsible for conducting elections, and it puts the incumbent Clerk in a somewhat awkward position to be managing the election and running for office at the same time.

If you want to make sure that the records of the City are maintained properly and that elections are run properly, vote YES on Proposition H.

City Council:

ALVIN M COEN  
TED W. BARTLETT

RON SHENKMAN  
NORMA BRANDEL GIBBS

## ARGUMENT AGAINST PROPOSITION H

The City Clerk must remain elected.

For the fourth time in ten years you, the people, are being asked to make your City Clerk just another bureaucrat.

It has been turned down by you voters the previous three times and we think you should make it four times.

Why should you turn it down the fourth time?

1. Your elected City Clerk knows who the boss is and knows that information in that office must be readily available to you the public — NO SECRETS OR "LOST" INFORMATION.
2. Your elected City Clerk will always run an open, efficient office and conduct elections on a straight forward basis, impervious to council or administration pressures.
3. Your elected City Clerk must come to you every four years for reelection. An appointed Clerk is a lifetime bureaucrat.

The really big question here is why the administrators and city councils keep on trying to get the Clerk made appointive and erode away your precious few remaining elective officials still responsive only to the people. They want the last measure of control left to you — the elected Clerk, Attorney and Treasurer.

For the fourth time in ten years, say NO to this attempt to make the Clerk's office appointed.

VOTE NO ON CHARTER AMENDMENT PROPOSITION H.

COMMITTEE TO PRESERVE AND  
PROTECT ELECTED GOVERNMENT  
WARREN G. HALL  
ROBERT L. SMITH  
DECATUR DILDAY  
MARY ARLEEN MATHEIS  
DON P. BONFA

## PROPOSITION J

Section 500. CITY COUNCIL, ATTORNEY, AND 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 five 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, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than sixty (60) nor more than ninety (90) days after the effective date of this Charter to elect two additional members of the City Council for the remainder of the terms expiring in April, 1970.

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 April, 1968, and each fourth year thereafter. A City Attorney shall be elected in April, 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 election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 705-1. CITY TREASURER. There shall be a City Treasurer appointed by the City Administrator with the approval of the City Council.

Section 705-2. **CITY TREASURER. POWERS AND DUTIES.** The City Treasurer shall have the ~~power~~responsibility 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 Government, 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~~the City Treasurer's 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,~~ be selected by the bidding process 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;

(b) Countersign all city checks;

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

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

**CITY ATTORNEY'S IMPARTIAL ANALYSIS  
OF PROPOSITION J**

The existing City Charter provides for the election of the City Treasurer by the qualified voters of the City at large. The proposed amendment would provide for the appointment of the City Treasurer by the City Administrator with the approval of the City Council.

J	Shall Sections 500 and 705 of the existing city charter, which now provide for the election of the City Treasurer by the qualified voters of the city at large, be amended to provide that the City Treasurer be appointed by the City Administrator with the approval of the City Council?	YES	
		NO	

## ARGUMENT IN FAVOR OF PROPOSITION J

Our Council-Administrator plan of government provides that Council members shall be elected to represent the public and make policy while the City Administrator hires staff and carries out the Council's policies. Since the City Treasurer is not a policy-making position, a YES vote on Proposition J will ensure that the position of City Treasurer be filled by appointment of the most highly qualified candidate. Appointment to the position will be made by the City Administrator with Council approval, through merit system procedures (advertising, applications, interviews) as are other department heads. Only through the appointment procedure can the City of Huntington Beach be assured of having a competent City Treasurer.

The current City Treasurer is highly qualified for the position, but the possibility exists that a person could be elected to the office with little or no knowledge of financial matters. An elected City Treasurer has "tenure" for four years and cannot be dismissed for incompetence. By providing that the Treasurer be appointed as other department heads are, we can be assured that the position will be filled by a person with expertise in this field.

One of the reasons for having a City Treasurer is to make sure there is a system of checks and balances. This system will still exist if the office is made appointive. Many City Treasurers in the State are appointed and they are just as effective in being a "watchdog" of City finances. In many cases, appointed Treasurers are probably more effective because the person filling the position has been chosen through merit system procedures and has the necessary expertise.

In keeping with the policy that all department heads should be appointed to ensure that a well qualified person holds the position, we urge a YES vote on Proposition J.

City Council:

ALVIN M COEN  
TED W. BARTLETT

RON SHENKMAN  
NORMA BRANDEL GIBBS

## ARGUMENT AGAINST PROPOSITON J

### The Treasurer must remain elected.

This is the fourth time in the past ten years that you, the people, have been asked to make your City Treasurer just another appointed bureaucrat. You have already turned it down the previous three times.

Why do we ask you to turn it down again?

1. Your elected Treasurer knows he has to work for your interest — reviewing expenditures and earning maximum interest with your money.
2. Your elected Treasurer will always be responsive to your inquiries and problems within the city.
3. Your elected Treasurer will enforce the rules as he knows he must be accountable to you every four years.

NOTE: The big question here is why the administrations and city councils continue to try to get you to erode and give away some of the few remaining responsive elected officials you still have in your city. They want the control of the Treasurer as well as the City Clerk and City Attorney that you now have.

Vote NO to this fourth attempt to remove your right to vote for a responsive City Treasurer.

An elected official is responsive to you — an appointed official must answer only to the city council and to council-appointed administration.

Keep the Huntington Beach City Treasurer elective. Vote No on Charter Amendment Proposition J.

COMMITTEE TO PRESERVE AND  
PROTECT ELECTED GOVERNMENT  
DON P. BONFA  
WARREN G. HALL  
ROBERT L. SMITH  
DECATUR DILDAY  
MARY ARLEEN MATHEIS

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **11/06/1984 Ballot Arguments**

**E** Shall existing City Charter Section 310 be repealed, and Sections 300 and 403, which provide for an elected City Clerk, be amended to permit the appointment of the City Clerk by the City Administrator, subject to approval of the City Council, with duties and powers prescribed by ordinance?

<b>YES</b>	
<b>NO</b>	

**MEASURE E**  
**PROPOSED CHARTER AMENDMENT**

The Charter of the City of Huntington Beach is hereby amended by repealing section 310, and amending sections 300 and 403 to read as follows:

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 five 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, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 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.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than sixty (60) nor more than ninety (90) days after the effective date of this Charter to elect two additional members of the City Council for the remainder of the terms expiring in April, 1970.

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 April, 1968, and each fourth year thereafter. A City Attorney shall be elected in April, 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 election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 3 ~~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 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.~~

(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 or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

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 officers, 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 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.

**CITY ATTORNEY'S IMPARTIAL  
ANALYSIS OF MEASURE E**

The existing City Charter provides for the election of the City Clerk by the qualified voters of the City at large. The proposed amendment would provide for the appointment of the City Clerk by the City Administrator with the approval of the City Council with duties and powers prescribed by ordinance.

## GUMENT IN FAVOR OF MEASURE E

The City Clerk's position has been an elected position since we were a small beach community. Since the early part of this century, business affairs have become vastly more technical and complicated. Today, the Clerk must be professionally competent in order to serve the public satisfactorily.

The City Clerk's position is responsible for keeping official records; this includes records of City Council actions, ordinances, resolutions, and official minutes. This position serves the City Council who is elected by you. The responsibility of the Clerk is clerical in nature. It is important that the Clerk be a true professional with proper skills in the area of record retention and retrieval. To ensure that the residents' expectations for excellence are achieved, it is imperative that the individual who holds the position possesses those skills and knowledge to do the job. Continuing the practice of an elected official could shortchange the citizenry by electing someone who may not have the proper qualifications or skills. Once elected into the position an individual can rest easy knowing that their next evaluation is four years away at the next election. In the meantime, the City Clerk could easily run a poor or mediocre operation being responsible to no one. Elections are costly and raising political war chests should not be a Clerk's duty!

An appointed Clerk enables the City Council and Administrator to test for professional and skilled management in the Clerk's operation. An appointed Clerk is subject to evaluation and scrutiny by the City Administrator and the City Council on a regular basis.

Let's bring Huntington Beach into the 1980's by voting for an appointed City Clerk position based upon sound business-like practices and demand that the individual possesses the necessary skills to do the job. Vote yes!

DON MacALLISTER  
Councilman  
City of Huntington Beach

## **REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE E**

The public has always voted to keep the City Clerk elected. The fact that only nine City Clerk's have been elected in 75 years says a lot for the elected profession.

In the State of California, 50% of the 426 City Clerks are elected, including cities both large and small.

In keeping your City clerk elected, the City clerk is first obligated to the public and acts to maintain proper integrity in keeping records available.

A City Clerk in Huntington Beach has never been elected by having to raise political war chests, but on merit alone.

By having well trained personnel in the City Clerk's Office, the electorate is assured that qualified persons are capable of fulfilling the City Clerk's responsibilities as set forth in the City Charter.

Protect your right to elect your City Clerk.

Vote NO on Measure E.

**ALICIA M. WENTWORTH**  
City Clerk

## **ARGUMENT AGAINST MEASURE E**

The City Clerk in Huntington Beach has been an elected position since the incorporation of the City of 1909. In 75 years, there have been a total of 9 City Clerks.

The measure has been put on the ballot to be made appointive not less than four times in the past years and soundly voted down each time by the electorate.

The one conflict that formerly existed is that of conducting the elections which has been eliminated by the electorates' vote to consolidate with the County in November of even numbered years. The County voting precincts are used and tabulation is conducted and certified by the County.

Your Elected City Clerk is responsible for maintaining the official records of the City and is not in a policy making position. The creation and maintenance of public records would be handled by your Elected City Clerk and Huntington Beach residents would be assured that a competent City Clerk would be in charge.

Your Elected City Clerk will always run an open, efficient office on a straight forward basis, impervious to internal pressures.

Your Elected City clerk must come to you every four years for reelection. The information in the City Clerk's Office must be readily available to you — The Voting Public.

**VOTE NO ON MEASURE E**

**ALICIA M. WENTWORTH**  
Your City Clerk with  
23 years Experience

Shall existing City Charter Section 311 be repealed, and Sections 300 and 403, which provide for an elected City Treasurer, be amended to permit the appointment of the City Treasurer by the City Administrator, subject to approval of the City Council, with duties and powers prescribed by ordinance?

**YES**

**NO**

**MEASURE F  
PROPOSED CHARTER AMENDMENT**

The Charter of the City of Huntington Beach is hereby amended by repealing Section 311, and amending Sections 300 and 403 to read as follows:

Section 300. CITY COUNCIL, ATTORNEY, AND 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 five 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, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 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.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than sixty (60) nor more than ninety (90) days after the effective date of this Charter to elect two additional members of the City council for the remainder of the terms expiring in April, 1970.

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 April, 1968, and each fourth year thereafter. A City Attorney shall be elected in April, 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 election. Ties in voting among candidates for office shall be settled by the casting of lots.

Sect. 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 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 or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

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 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. Tordinance 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.

**CITY ATTORNEY'S IMPARTIAL  
ANALYSIS OF MEASURE F**

The existing City Charter provides for the election of the City Treasurer by the qualified voters of the City at large. The proposed amendment would provide for the appointment of the City Treasurer by the City Administrator with the approval of the City Council with duties and powers prescribed by ordinance.

## ARGUMENT IN FAVOR OF MEASURE F

The elected City Treasurer's position is a holdover from the days when our city was a much smaller and less complex beach community. Today, we are the 10th largest California city with annual revenues which run into \$10's of millions. Technology has had major impacts. It is the responsibility of the Treasurer to invest public monies to yield the highest return on our tax dollars. Investment practices in the public sector are complex and important. Such responsibility needs to be entrusted to a person knowledgeable and experienced in fiscal affairs and not left to someone who, by chance, may get elected. He should not be obligated to anyone except the public, Elections cost money, and this position should be free of such obligations. Spokespersons for keeping the position elected may say that not having an elected Treasurer would remove the control of the public. Don't be fooled! This is definitely not the case. The voters do have direct control of the municipal government through their City Council who have the responsibility to ensure that community affairs are managed properly. The City Council is ultimately responsible to see that individuals are employed who possess the professional knowledge and experience necessary to manage the investments of the city for the public and not for anyone's individual political whims which could cost the city millions. The question that must be asked is, "Do we take the risk of electing someone with little experience and training to be responsible for investing our tax dollars?" Other department heads are appointed, and our city operates professionally and business like. I urge each voter to seriously consider making the Treasurer's position an appointed position responsible to the City Administrator and to your elected City Council. Protect the taxpayers' monies. Vote yes!

DON MacALLISTER  
Councilman  
City of Huntington Beach

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE F

The election of Public Fund Treasurers works in California.

Huntington Beach is in good company.

The Treasurer of California is elected.

The Treasurer of San Francisco is Elected.

The Treasurer of Orange County is Elected.

The Treasurers of 112 California cities are Elected, including:

Alameda

Baldwin Park

Burbank

Corona

Glendale

Huntington Beach

Inglewood

National City

Orange

Oxnard

San Bernardino

West Covina

and 100 more.

Earlier this year the Treasurer of San Jose lost approximately \$170,000,000 by gambling in the Bond Futures Market. He was appointed and was fired along with the Finance Director and Deputy City Administrator and there are threats of recall against the City Council. City Council control doesn't always work, even when they are full time, let alone just meeting two night a month.

Vote NO and keep Huntington Beach's Treasurer elected.

WARREN HALL  
City Treasurer

**ARGUMENT AGAINST MEASURE F**

You the people want your City Treasurer elected.

This is the 5th time in the past 16 years that you the voters have been asked to make the City Treasurer appointive, not elected.

You are asked to turn it down again as you have 4 times before.

Why?

Your elected City Treasurer knows he has to work for your interest, reviewing expenditures and earning maximum interest with your available tax funds.

Your elected City Treasurer is responsive to your inquiries and problems with the City.

Your elected City Treasurer enforces the rules, because he must face you for re-election every 4 years, instead of having a "lifetime, safe job."

A question for you to answer for yourself; why do the City Councils and City Administrators continuously try to get you to eliminate the elected City Treasurer position?

Vote "NO" on this fifth attempt to remove your right to vote for a responsive elected City Treasurer.

**WARREN G. HALL**  
Your Responsive City Treasurer  
for over 16 years

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **03/26/1996 Ballot Arguments**

# SAMPLE BALLOT

**E**

## OFFICIAL BALLOT

NONPARTISAN BALLOT  
**COUNTY OF ORANGE**

March 26, 1996

This ballot stub shall be torn off by precinct board member and handed to the voter.

### MEASURES SUBMITTED TO VOTE OF VOTERS

#### STATE

**202** **ATTORNEYS' CONTINGENT FEES. LIMITS. INITIATIVE STATUTE.** Limits plaintiff's contingency fee arrangements in tort cases. Requires demand be made against defendants and permits prompt settlement offer response. If accepted, limits fees to 15% of offer. If not accepted, larger fees can be collected only on amounts in excess of prompt settlement offer. Fiscal Impact: Unknown net fiscal impact on state and local governments.

Yes	+
No	+

**203** **PUBLIC EDUCATION FACILITIES BOND ACT OF 1996.** This three billion dollar school construction bond would help upgrade and construct classrooms, libraries, and other needed facilities in California's public schools, community colleges, and state universities. Funds will be used to make current classrooms safer in the event of earthquakes, equip classrooms for the computer technology of the 21st century, reduce class size and meet enrollment growth. These bonds may be used only for approved school construction projects.

Yes	+
No	+

#### COUNTY OF ORANGE

**S** **INITIATIVE TO AMEND GENERAL PLAN: MARINE CORPS AIR STATION EL TORO.** Shall the initiative measure entitled 'The El Toro Responsible Economic Development Initiative,' which would repeal Measure A, abolish the El Toro Airport Citizens Advisory Commission, and which states the highest and best civilian use for Marine Corps Air Station El Toro is not a civilian airport, be approved?

Yes	+
No	+

**T** **MEASURE TO ADOPT ORANGE COUNTY PROPOSED CHARTER.** Shall the measure entitled 'Orange County Proposed Charter' which would result in Orange County becoming a charter county be adopted?

Yes	+
No	+

**U** **MEASURE TO AMEND THE ORANGE COUNTY PROPOSED CHARTER TO INCREASE MEMBERS OF BOARD OF SUPERVISORS FROM FIVE TO NINE.** Shall the measure entitled 'Proposed Amendment To Orange County Proposed Charter To Increase Members of Board of Supervisors From Five To Nine' be adopted?

Yes	+
No	+

30-E801

**E**

VOTE BOTH SIDES

I HAVE VOTED—HAVE YOU?

### CITY OF HUNTINGTON BEACH

**EE** Shall proposed Charter Amendment No. 1, amending Sections 300 and 311 of the Charter of the City of Huntington Beach changing the City Treasurer from an elective office to a position screened by a citizens' committee and appointed by the City Administrator with the approval of the City Council, be approved?

Yes	+
No	+

**FF** Shall proposed Charter Amendment No. 2, amending Sections 300 and 309 of the Charter of the City of Huntington Beach changing the City Attorney from an elective office to a position screened by a citizens' committee and appointed by the City Administrator with the approval of the City Council, be approved?

Yes	+
No	+

**GG** **ADVISORY VOTE ONLY.** Should City of Huntington Beach acquire, develop, improve, maintain sports fields for soccer, football, softball, baseball, and other sports; replace restrooms, bicycle/pedestrian trails, lighting, and showers on city beach; acquire senior center site; develop swim complex; and improve neighborhood parks and tot lots by establishing a citywide assessment district not to exceed thirty years or a cost of: \$12 annually per mobile home unit; \$24 annually per apartment unit; \$36 annually per residential, commercial and industrial unit?

Yes	+
No	+

30-E806

**E**

VOTE BOTH SIDES



FULL TEXT OF MEASURE EE  
CITY OF HUNTINGTON BEACH

PROPOSED CHARTER AMENDMENT NO. 1

Section 300 of the Charter of the City of Huntington Beach is hereby amended to read as follows:

Section 300. CITY COUNCIL, ATTORNEY, AND 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 election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 311 of the Charter of the City of Huntington Beach is hereby amended to read as follows:

Section 311. CITY TREASURER. POWERS AND DUTIES. The City Treasurer shall be appointed or removed by the City Administrator, with the approval of the City Council, pursuant to Section 401(a) of the City Charter. 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 or her 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 or act for him or her, 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: to include the following:

1. Bachelor's degree in Business Administration, Accounting, Public Administration, or a related field;

2. Six years professional experience in government or private sector financial management, to include responsibility for the investment and protection of funds;
3. Extensive management experience in making the receipt, disbursement, banking, protection and custody of funds, securities and financial investments.

The selection process for the City Treasurer shall include the following:

Applicants for City Treasurer shall be reviewed by a screening committee at least one half of which shall be made up of citizens who are registered voters in the City of Huntington Beach and the balance of the committee shall be persons with current municipal investment experience.

The City Administrator shall appoint the Treasurer from candidates recommended by the screening committee, subject to approval by a majority vote of the City Council.



**IMPARTIAL ANALYSIS BY CITY ATTORNEY  
MEASURE EE**

If adopted by a majority of the voters voting in the election, this measure would amend the Huntington Beach City Charter to provide for the appointment of the City Treasurer, rather than for his or her election, as is the current practice.

The measure would, if adopted, provide for the appointment of the Treasurer by the City Administrator, after applicants for the position are screened by a committee, at least half of which are registered voters of the City of Huntington Beach, with the remaining members being persons with current municipal investment experience. The City Administrator would be required to appoint the Treasurer from candidates recommended by the screening committee. The appointment is subject to approval by a majority of the members of the full City Council.

Similarly, the Treasurer could be removed by the City Administrator with the approval of a majority of the City Council.

In addition, the measure would, if adopted, add additional qualifications for the City Treasurer. The Charter currently requires a combination of education and experience in an area relative to fiscal management. If adopted the Treasurer would also be required to have a Bachelor's degree in Business Administration, Accounting, Public Administration, or a related field; have six years professional experience in government or private sector financial management, including responsibility for the investment and protection of funds; and extensive management experience in making the receipt, disbursement, banking, protection and custody of funds, securities and financial investments.

If adopted, the appointed City Treasurer would not be required to be an elector and resident of the City of Huntington Beach, as is currently required.

Under the City Charter, the current City Treasurer would serve the remainder of his term, regardless of whether the measure is approved.

**ARGUMENT IN FAVOR OF MEASURE EE**

**As your former elected City Treasurers for the past 27 years, we recommend the position be changed from elected to appointed. The position requires professional, technical and managerial skills that cannot be properly evaluated in the elective process.**

The Orange County bankruptcy highlighted the need for accountability and authority at the executive level. By making the position appointed, the City Administrator will have executive responsibility for this key function, as he does for other key departments.

City government needs to run effectively and efficiently. Departments need to work together as a team, with the City Administrator, to accomplish the goals established by the City Council. This is not the way the City of Huntington Beach is organized. No private sector business would organize this way. To be responsible you must have authority.

Appointment of the City Treasurer would be similar to filling other department head positions. This would include professional recruitment; **screening by a citizens board**; selection by the City Administrator; and approval by the City Council.

A key advantage of this process is that the pool of candidates is expanded nationwide. The screening process can verify that candidates skills and experience are applicable to Huntington Beach.

**The office will continue as a reviewer of financial transactions; collector of funds; and manager of investments. Its independence will remain by charter and by law. Only the selection of Treasurer is being changed.**

Outside auditors, advisory boards, concerned citizens, employees and City Council will review actions and operations for their correctness.

The performance of departments and managers need to be evaluated by someone familiar with the daily operation and work product. This is not easily done by the voters every four years.

**Make government more effective; more efficient; more professional; and more accountable by changing this position from elected to appointed.**

s/ Warren Hall  
Former Treasurer 1968-1987

s/ Don Watson  
Former Treasurer 1987-1995

**NO ARGUMENT AGAINST THIS MEASURE  
WAS SUBMITTED**



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FULL TEXT OF MEASURE FF  
CITY OF HUNTINGTON BEACH

PROPOSED CHARTER AMENDMENT NO. 2

Section 300 of the Charter of the City of Huntington Beach is hereby amended to read as follows:

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, and 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, and 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, and the City Treasurer and the City Attorney shall commence on the first Monday following his election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 309 of the Charter of the City of Huntington Beach is hereby amended to read as follows:

Section 309. CITY ATTORNEY. POWERS AND DUTIES. **The City Attorney shall be appointed or removed by the City Administrator, with the approval of the City Council, pursuant to Section 401(a) of the City Charter.** 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 **six (6) years of increasingly responsible experience in municipal or government law and have been engaged in the practice of law in this State for at least three years prior to his or her 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.
- (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 employment or by reason of his official capacity.
- (d) Attend all regular meetings of the City Council, unless excused, and give his or her 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 the form of all contracts made by and all bonds and insurance given to the City, endorsing his or her 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 the his 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 or her successor all books, papers, files, and documents pertaining to the City's affairs.

**The selection process for the City Attorney shall include the following:**

**Applicants for City Attorney shall be reviewed by a screening committee at least one half of which shall be made up of citizens who are registered voters in the City of Huntington Beach and the balance of the committee shall be persons with current municipal legal experience.**

**The City Administrator shall appoint the City Attorney from candidates reviewed by the screening committee, subject to approval by a majority vote of the City Council.**

Section 2. The City Council hereby finds and determines that although proposed Charter Amendment No. 1 and proposed Charter Amendment No. 2 are to be separately voted upon, and although each amends Section 300 of the Charter of the City of Huntington Beach in a different manner, they are not inconsistent, and should they both be approved by the electors, the proposition with the greater number of affirmative votes shall not supersede the other proposition, but instead Section 300 shall be amended to read as follows:

Section 300. CITY COUNCIL, ATTORNEY, AND CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, and 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 his or her respective terms and the qualification of their his or her 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, and the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following his or her election. Ties in voting among candidates for office shall be settled by the casting of lots.

IMPARTIAL ANALYSIS BY CITY CLERK  
MEASURE FF

The existing City Charter provides that the City Attorney shall be elected by the voters.

The proposed City Charter amendment would change the City Attorney from an elective office to an appointed department head.

The City Attorney would be appointed, promoted, demoted, suspended or removed by the City Administrator. A City Attorney could not be appointed or removed until the City Administrator had first reviewed such appointment or removal with the City Council and had received approval for such appointment or removal by a majority vote of the full City Council.

The proposed City Charter amendment would add a requirement of six years of increasingly responsible experience in municipal or government law.

The proposed City Charter amendment would require that the selection process for City Attorney shall include the provision that applicants for City Attorney shall be reviewed by a screening committee. The proposed amendment does not provide how such members are to be chosen or provide the number of persons who shall serve on such committee. At least one half of the members shall be made up of citizens who are registered voters in the City of Huntington Beach. The balance of the committee shall be persons with current municipal legal experience but need not necessarily be citizens or registered voters in the City of Huntington Beach.

The proposed City Charter amendment would require that the City Administrator shall appoint the City Attorney from candidates reviewed by the screening committee, subject to approval by a majority vote of the full City Council.

The proposed City Charter amendment requires the screening committee to review candidates but does not require the screening committee to make recommendations for the appointment.



**ARGUMENT IN FAVOR OF MEASURE FF**

**THE CITY ATTORNEY OF HUNTINGTON BEACH SHOULD BE APPOINTED RATHER THAN ELECTED.**

Did you know that 407 of 417 California cities appoint rather than elect City Attorneys?

Selection on merit! Accountability! No campaign financing!

**Currently we are unable to select the most qualified person for City Attorney.**

Candidates for elected City Attorney must live in Huntington Beach, greatly limiting selection. An appointed City Attorney could live outside Huntington Beach. Many more qualified candidates will be available from which to choose.

**Neither municipal nor government law experience is a job requirement for an elected City Attorney.**

The minimum experience required is only three years of law practice in California in any field. In contrast, an appointed City Attorney would need six years of increasingly responsible experience in municipal or government law.

**An appointed City Attorney selected by in-depth investigation rather than by special interest campaign financing makes the most sense.**

A screening committee of citizens and experts shall examine the qualifications of each applicant for appointment. The City Administrator with the approval of the City Council will then appoint the City Attorney.

**An elected City Attorney is not accountable to the City Council or City Administrator.**

Lack of accountability fueled Orange County's bankruptcy debacle. You wouldn't manage your own affairs or run your business without accountability. Why run Huntington Beach that way?

**Holding the job of appointed City Attorney will require acceptable job performance.**

Failing that, the City Administrator, with the approval of the City Council, can remove the City Attorney.

**Voters will have control.**

An appointed City Attorney will be accountable to the City Administrator in contrast to being unaccountable to anyone in City government. The City Council appoints and removes the City Administrator. Every two years the voters elect City Council members.

**Vote for higher standards.**

**We need the best. Vote YES.**

The Huntington Beach Good Government Committee

- s/ Tom Livengood, Co-Chair
- s/ Grace Winchell, Co-Chair and Former Mayor
- s/ Alvin Coen, Former Mayor
- s/ Ruth Finley, Former Mayor
- s/ Norma Brandel Gibbs, Former Mayor

**REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE FF**

The proponents of Measure FF have forgotten that it is the voters, not the bureaucrats, who reform government. Your access to City Hall is through the doors of your elected officials. Relinquish your elected City Attorney and you forfeit your access to, and the independence of, your City Attorney.

Every suggestion that the proponents of Measure FF seek to secure could be accomplished without surrendering our elected City Attorney. The City Council has the power to hire outside attorneys for legal work. The City Council has the power to seek a charter amendment to increase the necessary qualifications of any office holder. But most importantly, City Council members have the power, and the duty, to alert the public to perceived problems with any elected official. We who oppose Measure FF remind you that no current elected official is a signatory to ballot arguments in favor of Measure FF.

Appointed City Attorneys and Treasurers have no better track record than elected City Attorneys or Treasurers, they are just more expensive. As the Los Angeles Times recently reported, the appointed Treasurer of L.A. County is being singled out as the "chief architect" of that county's financial woes. Contrary to what the proponents of Measure FF would have you believe, the financial woes of government are not the exclusive domain of elected officials.

The needed re-engineering of our City's bureaucracy does not include relinquishment of your right to vote for crucial city officials. Vote NO on Measure FF.

s/ Debbie Cook, Save Our Parks

s/ David P. Garofalo, Councilman, City of Huntington Beach

s/ Gail Hutton, City Attorney, City of Huntington Beach

s/ Kathy Van Der Pol, V.P., major local bank

s/ Dave Sullivan, Mayor, City of Huntington Beach

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## ARGUMENT AGAINST MEASURE FF

There are only three individuals at city hall who offer independent oversight of the activities of BOTH the City Council and the City Administrator: the City Attorney, City Clerk, and City Treasurer. Proposed Measure FF is the sixth attempt to eliminate that oversight by changing the elected City Attorney to an appointed City Attorney. The voters of Huntington Beach have consistently and overwhelmingly voted against appointed cronies.

Proponents of Measure FF confuse the personality of the office holder with the potential of that office. The potential of an elected City Attorney is impartiality and independence, without fear of job retaliation. The potential of an appointed City Attorney is no better than that of a rubber stamp.

The proponents of Measure FF think they are in pursuit of "good government" but are rather in pursuit of easy government. The result would be to silence independent thinking inside city hall thus making it easier to accomplish the agenda of the bureaucrats rather than the agenda of the majority of voters. If the City Attorney is answerable to the bureaucracy, rather than the voter, then legal opinions will be issued with a predetermined bias.

Some of the proponents of this measure want an appointed City Attorney so they can always get the legal opinions that they want.

In 1990, the citizen group "Save Our Parks" led the Measure C Charter Amendment which successfully defended city-owned parks and beaches. Had our City not had an independent City Attorney and City Clerk, the measure would have been blocked through legal maneuvering and the withholding of information.

The dynamic mix of a democratic form of government requires a healthy dose of independence. Keep your independence, vote NO on Measure FF.

s/ Debbie Cook  
Save Our Parks

s/ David P. Garofalo  
Newspaper Publisher  
Huntington Beach City Council Member

s/ Gail Hutton  
City Attorney  
City of Huntington Beach

s/ Kathy Van Der Pol  
Vice President  
Major Local Bank

s/ Dave Sullivan  
Orthodontist  
Mayor  
City of Huntington Beach

## REBUTTAL TO ARGUMENT AGAINST MEASURE FF

The so-called independence of the elected city attorney is a myth. The controlling factor is getting elected and re-elected!

In the devastating Orange County bankruptcy, we saw how integrity and the courage to make difficult decisions can fall victim to the need to get elected.

A position that should be filled by the most qualified person, chosen after a wide search and with thorough assessment and screening, is caught up in the campaign financing and special interests of the political arena. The City Attorney must be free of political pressures, experienced in municipal law, and qualified to manage the Huntington Beach legal department with efficiency and economy.

Because the average voter has little contact with the operation of the Huntington Beach legal department, assessing an incumbent's performance is difficult. Even faced with obvious incompetence, the voters must wait four years for an election or go through the difficult process of recall.

This charter change is directed at future appointments and tightens the selection process by:

- increasing the required years of experience in municipal law
- drawing applicants from a pool of qualified attorneys that is not limited by geographic boundaries
- establishing a citizen review committee

The appointment of the City Attorney must be ratified by a majority vote of the full City Council. YOU elect the City Council.

Campaign signs, expensive mailings and powerful political cronies do not guarantee the best choice. Take politics out of the City Attorney selection. Vote YES for appointment of the most qualified City Attorney.

s/ Ralph Bauer, Councilmember and Retired Businessman  
s/ Tom Livengood, Co-Chairman The Huntington Beach  
Good Government Committee

s/ Steve Gullage, President Huntington Beach  
Mobile Home Owners Association

s/ Shirley S. Dettloff, Councilmember and Small Business Owner  
s/ Mark Porter, Former Planning Commissioner and  
Business Manager



# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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**SUBMITTED TO:** HB Charter Review Commission

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

**SUBJECT:** Amend section 302 (Compensation) regarding compensation of councilmembers.

**Statement of Issue:** Increase transparency and accountability as well as reduce self-interest by making councilmember compensation conform more closely to California Government Code pertaining to general law cities.

**Recommended Action: Motion to:**

Amend Huntington Beach charter section 302 as follows:

~~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. Compensation for the members of the City Council shall be established by ordinance in accordance with provisions of Section 36516 the State of California Government Code as such provisions now exist or may thereafter be amended. Total compensation amounts in effect at the time this charter is adopted shall remain in effect until changed by subsequent ordinance pursuant to this charter section. The mayor shall be paid additional compensation of no greater than thirty-five percent of councilmember compensation. Compensation changes enacted by ordinance shall not apply to councilmembers during their terms of office.~~ 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.~~

**Alternative Action(s):**

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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- Increase or decrease the mayoral compensation differential (35% is the current differential as computed below in the analysis)
- Alter the general law 5% increase limit to be no greater than CPI.
- Remove the grandfather clause and reset total compensation to some new value.
- Use some percentage of household income to automatically index council compensation and/or to set a compensation ceiling.

## Analysis:

Charter section 302 currently provides for a direct councilmember salary of \$175 per month, plus reimbursement for itemized official expenses, plus an expense allowance that is “deemed to be reimbursement to them of other routine and ordinary expenses”. This latter expense allowance does not require itemized reimbursement requests, and is paid unconditionally to councilmembers regardless of their actual expenses. The relevant municipal code section elaborates:

**2.28.010 Expense allowance.** It is deemed reasonable and adequate that in reimbursement of the ordinary and routine expenses, losses and costs imposed upon them by virtue of their serving the city in their official capacity, each Council Member shall receive monthly, during his term of office the sum of \$698 per month, and the mayor shall receive the sum of \$936 per month, such sums to be adjusted annually by the consumer price index for all urban consumers, all items, 1982-84 equals 100, published by the United States Department of Labor, Bureau of Labor Statistics, for the Los Angeles/Anaheim/ Riverside Metropolitan Area. Further, such expense allowance need not be accounted for by the recipient.

Depending on the city’s budget situation, the CPI increase isn’t always applied. According to the City Council Member Information Handbook, the expense allowance rates for FY 2008/09 are \$1,354.45 per month for councilmembers and \$1899.49 per month for the mayor. These rates were reduced by 10% in the adopted FY 2009/10 budget, to \$1,219.01 per month for councilmembers and \$1,709.54 for the mayor.

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

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Given that this expense allowance is paid without regard to actual expenses, it should be considered a second salary. Therefore total councilmember salary is currently \$1,394.01 per month or \$16,728.12 per year, and total mayoral salary is currently \$1,884.54 per month or \$22,614.48 per year. The mayoral total is approximately 35% greater than the councilmember total.

This second salary setup has been in effect at least since the adoption of the 1966 charter (I have not checked farther back than that). The current charter section 302 language survives nearly unchanged (except for pluralizing “amount”) from the city council portion of the corresponding 1966 charter section:

Section 502. 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 account therefor. In addition, members shall receive such reasonable and adequate amount as may be established by ordinance, which amount 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.

The City Clerk and City Treasurer shall each receive a compensation for their services as such to be fixed by ordinance, which compensation for such services shall not be increased or diminished after their election or during their respective terms of office.

The first expense allowance ordinance provided for by the 1966 charter was ordinance 1346 adopted on 09/05/1967 which created a non-itemized expense allowance of \$125 per month for councilmembers and the mayor.

On 06/06/1972, a charter amendment was submitted to the voters to alter councilmember compensation to follow general law, but it went down to crushing defeat by a 3-1 margin:

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

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502. COMPENSATION. Compensation for members of the City Council, City Clerk, and City Treasurer, shall be paid as in general law cities in the State of California in accordance with the provisions of Sections 36515, 36516 and 36517 of the Government Code of the State of California as the same now exist or hereafter may be amended. 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 account therefor. In addition, members shall receive such reasonable and adequate amount as may be established by ordinance, which amount 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.

Ordinance 2079 was adopted on 07/19/1976 which kept the non-itemized expense allowance at \$125 per month, but clarified that additional itemized expense reimbursements were allowed, and provided department head fringe benefits for councilmembers and the mayor.

On 06/06/1978, another charter amendment was submitted to the voters to alter councilmember compensation, but it also went down to defeat, this time by an approximate 3-2 margin (sorry, the detailed charter language eludes me on this one, so the ballot summary will have to do):

Shall Section 502 of the existing city charter be amended to provide that the compensation for the Mayor and the City Council members be set in accordance with a sliding scale based upon the population of the city so that compensation may vary from a minimum of \$400 per month to a maximum of \$600 per month, and further providing for reimbursement of certain specified expenses in addition to such monthly compensation?

Ordinance 2566 was adopted on 07/19/1982 which raised the allowance to \$290 per month for councilmembers and \$390 per month for the mayor, and pegged future increases to 75% of inflation. Note that this was right at the end of the “stagflation” era which featured several years of abnormally high inflation (the highest inflation in the past 50 years).

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

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Ordinance 2997 was adopted on 05/01/1989 and raised the allowance to \$698 per month for councilmembers and \$936 per month for the mayor, and changed the indexing to 100% of inflation as measured by CPI-U for the Los Angeles / Anaheim / Riverside metropolitan area. This was the most recent modification to HBMC 2.28.010.

My survey of the council compensation practices of all California charter cities reveals that the vast majority of such cities rely on general law in whole or in part when setting compensation. 10 cities including Huntington Beach provide for “deemed reimbursement” expense allowances (aka second salaries) established by ordinance, and 8 cities (some of California’s biggest cities) use special commissions to set compensation.

There are a smattering of alternative compensation schemes, ranging from token salaries (\$1 per month by the city of Needles), to nominal salaries of a few hundred dollars per month, to salaries indexed to CPI, to salaries indexed to judges’ salaries. One of the most intriguing alternative schemes is to tie compensation to area household income. Inglewood (Article V, Section 4) reset their councilmember salaries to be no greater than the average household income of Los Angeles County as determined by the U.S. Census. Santa Barbara (Section 502) pegs their councilmember and mayor salaries to 80% and 100% respectively of the annual Area Median Income of Santa Barbara County as determined by the U.S. Department of Housing and Urban Development.

The key elements of general law compensation from Government Code Section 36516 are:

- Population-based compensation ceilings.
- The council may increase compensation beyond these ceilings by submitting a measure to the electors for their approval.
- The council may by ordinance increase compensation beyond these ceilings by not more than 5% per year since the previous adjustment.
- Ordinances that provide for automatic future compensation increases are prohibited.

It is my opinion that Government Code Section 36516 is an improvement over current city practice, and so my recommended action uses Section 36516 as the

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

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template. However, since our current councilmember compensation is way over the Section 36516 ceiling for our population size, my proposal grandfathers in the current compensation amounts. Given the current state of the economy, plus strong antipathy towards politicians at the national and state levels, I feel that the new charter should not immediately increase councilmember compensation beyond current levels (any such increase could very well turn into a “poison pill” that would cause the new charter to be defeated at the polls). I also feel that a salary decrease is not warranted either, since the city budget has so far managed to avoid staff salary cuts despite a very challenging fiscal environment. So my goal is to stay compensation-neutral.

Following general law on compensation still allows the city council direct control over compensation, as long as the year-to-year increases don't exceed 5%. Anything greater than 5% will require voter approval, which provides for accountability.

My recommended action recognizes the extra responsibilities of the mayor compared to the rest of the council, and allows the current compensation differential to continue.

Self-interest is reduced by preventing compensation increases from taking effect during a councilmember's term. If you are going to vote yourself a compensation increase by ordinance, you won't benefit from it unless you win re-election; this applies to mayoral compensation as well. Note that if the council wishes to increase compensation immediately, such a measure can be put to the electors for approval.

Transparency is increased by doing away with the “deemed reimbursement” expense allowance. As implemented by Huntington Beach and the other cities, these unitemized reimbursements are really nothing more than a loophole to get around charter compensation limits. I would much rather see forthright, upfront discussions about councilmember compensation in Huntington Beach.

One alternative action worth further discussion is whether or not to use some percentage of household income to index council compensation or to set a hard compensation ceiling. Such an index or ceiling would in effect constitute private sector style “pay for performance”. If the council manages the city in such a way that the local economy grows and salaries increase, then the council should deserve

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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increased pay for a job well done. On the other hand, if the council makes poor decisions that harm the local economy through impeding economic growth or only growing low-wage service sector jobs, then the council should see their own pay reduced.

Of course, household income is subject to larger economic factors well beyond the council's control, but having council compensation tied to the larger economy would allow the council to demonstrate empathy with city residents who are subject to the same economic forces.

One problem with indexing to household income is the availability of reliable, current data. U.S. Census American Community Survey (ACS) data lags behind by one to two years (2008 is the most recent year that is currently available), and U.S. HUD data does not appear to be collected at the city level for Huntington Beach. So finding up-to-date city-level data may be difficult based on a few hours of web searching that I did. Thus council compensation tied to household income would tend to lag a bit behind the events that impacted household income.

Since the voters have defeated compensation charter amendments twice before, it would be undesirable to have compensation act as a "poison pill" that would prevent adoption of other charter reforms.

Fortunately the historical record provides a solution for avoiding the "poison pill" problem. The 1978 charter revision effort largely revised the entire charter. But in recognition of the controversial nature of several amendments, including council compensation, the ballot for the 06/06/1978 election was very cleverly organized. The main measure on the ballot was for replacing the entire charter except for the controversial sections amended in subsequent measures on the same ballot. This proved to be a wise decision, because the main measure passed to revise nearly the entire charter, and all but one of the controversial auxiliary measures went down to defeat.

I strongly recommend that the commission adopt a similar ballot strategy for any controversial issues if possible.

## **References:**

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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- Inglewood charter -  
[http://www.cityofinglewood.org/depts/cityclerks/city\\_charter.asp](http://www.cityofinglewood.org/depts/cityclerks/city_charter.asp)
- Santa Barbara charter -  
<http://www.santabarbaraca.gov/Government/Ordinances/Charter/>

## **Attachments:**

- California Government Code Section 36516
- City of Huntington Beach ordinances 1346, 2079, 2566, 2997

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 10/06/2009, 10/20/2009

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## California Government Code Section 36516

36516. (a) A city council may enact an ordinance providing that each member of the city council shall receive a salary, the amount of which shall be determined by the following schedule:

(1) In cities up to and including 35,000 in population, up to and including three hundred dollars (\$300) per month;

(2) In cities over 35,000 up to and including 50,000 in population, up to and including four hundred dollars (\$400) per month;

(3) In cities over 50,000 up to and including 75,000 in population, up to and including five hundred dollars (\$500) per month.

(4) In cities over 75,000 up to and including 150,000 in population, up to and including six hundred dollars (\$600) per month.

(5) In cities over 150,000 up to and including 250,000 in population, up to and including eight hundred dollars (\$800) per month.

(6) In cities over 250,000 population, up to and including one thousand dollars (\$1,000) per month.

For the purposes of this section the population shall be determined by the last preceding federal census, or a subsequent census, or estimate validated by the Department of Finance.

(b) At any municipal election, the question of whether city council members shall receive compensation for services, and the amount of compensation, may be submitted to the electors. If a majority of the electors voting at the election favor it, all of the council members shall receive the compensation specified in the election call. Compensation of council members may be increased beyond the amount provided in this section or decreased below the amount in the same manner.

(c) Compensation of council members may be increased beyond the amount provided in this section by an ordinance or by an amendment to an ordinance but the amount of the increase may not exceed an amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted. No salary ordinance shall be enacted or amended which provides for automatic future increases in salary.

(d) Unless specifically authorized by another statute, a city council may not enact an ordinance providing for compensation to city council members in excess of that authorized by the procedures described in subdivisions (a) to (c), inclusive. For the purposes of this section, compensation includes payment for service by a city council member on a commission, committee, board, authority, or similar body on which the city council member serves. If the other statute that authorizes the compensation does not specify the amount of compensation, the maximum amount shall be one hundred fifty

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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dollars (\$150) per month for each commission, committee, board, authority, or similar body.

(e) Any amounts paid by a city for retirement, health and welfare, and federal social security benefits shall not be included for purposes of determining salary under this section provided the same benefits are available and paid by the city for its employees.

(f) Any amounts paid by a city to reimburse a council member for actual and necessary expenses pursuant to Section 36514.5 shall not be included for purposes of determining salary pursuant to this section.

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **Huntington Beach Ordinance 1346**

ORDINANCE No. 1346

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH; AMENDING THE HUNTINGTON BEACH ORDINANCE CODE BY ADDING CHAPTER 11, ARTICLE 111 AND SECTION 1111 RELATING TO EXPENSE ALLOWANCE FOR CITY COUNCILMEN.

The City Council of the City of Huntington Beach does ordain as follows:

Section 1. That Chapter 11 is hereby added to the Huntington Beach Ordinance Code to read in words and figures as follows:

CHAPTER 11

COUNCIL

Section 2. That Article 111 is hereby added to the Huntington Beach Ordinance Code to read in words and figures as follows:

ARTICLE 111

COMPENSATION

Section 3. That Section 1111 is hereby added to Article 111 of the Huntington Beach Ordinance Code to read in words and figures as follows:

Section 1111. Expense Allowance for City Councilmen. There shall be allowed to each member of the City Council the sum of One Hundred Twenty-five Dollars (\$125.00) per month. Said allowance is authorized to reimburse said members of the City Council for expense of attending meetings, traveling to and from their usual place of business to said meetings, traveling to and from property under consideration for action by the City Council, and all other expenses of their duties as Council-

men. The expense authorized hereunder need not be accounted for by the recipients, but no other expenses shall be allowed except upon specific authorization therefor by the City Council.

Section 4, The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published by one insertion in the Huntington Beach News, a weekly newspaper, printed, published and circulated in the City of Huntington Beach, California, and thirty (30) days after the adoption thereof, the same shall take effect and be in force.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach, at a regular meeting held on the 5th day of September, 1967.

Donald D. Shipley  
Mayor

ATTEST:

Paul C. Jones  
City Clerk

APPROVED AS TO FORM:

Lou Ann Marshall  
LOU ANN MARSHALL,  
Asst. City Attorney

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, PAUL C. JONES, the duly elected, qualified, and acting City Clerk of the City of Huntington Beach and ex-officio Clerk of the City Council of the said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 21st day of August, 1967, and was again read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 5th day of September, 1967, and was passed and adopted by the affirmative vote of more than a majority of all the members of said City Council.

AYES: Councilmen:

Coen, Bartlett, Gisler, Green, Shipley

NOES: Councilmen:

None

ABSENT: Councilmen:

Kaufman, Stewart

Paul C. Jones  
City Clerk and ex-officio Clerk  
of the City Council of the City  
of Huntington Beach, California

I, PAUL C. JONES, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that this ordinance has been published in the Huntington Beach News on September 7, 1967.  
In accordance with the City Charter of said City.  
Ernestina D. Faber City Clerk  
Deputy City Clerk

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **Huntington Beach Ordinance 2079**

157 7

ORDINANCE NO. 2079

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH  
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE  
BY AMENDING SECTION 2.28.010 THEREOF AND ADDING  
SECTION 2.28.020 THERETO, PERTAINING TO EXPENSE  
ALLOWANCE AND FRINGE BENEFITS OF COUNCIL MEMBERS

The City Council of the City of Huntington Beach does ordain as follows:

SECTION 1. The Huntington Beach Municipal Code is hereby amended by amending Section 2.28.010 to read as follows:

2.28.010 Expense Allowance. It is deemed reasonable and adequate that in reimbursement of the ordinary and routine expenses, losses and costs imposed upon them by virtue of their serving the city in their official capacity, each council member, including the mayor, shall receive monthly, during their term of office, the below-listed amount as an expense allowance, which allowance need not be accounted for by the recipients:

Each Council Member, including Mayor	\$125
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In addition thereto, each member of the city council, including the mayor, 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 account therefor. A summary listing of such itemized expenses for each month shall be presented to the council for approval at the first regular meeting of the following month. This section is intended to meet the requirements of Section 502 of the City Charter.

SECTION 2. The Huntington Beach Municipal Code is hereby amended by adding Section 2.28.020 thereto to read as follows:

2.28.020 Fringe benefits. Each member of the city council shall receive all fringe benefits which are granted, and in the future shall be granted, to the department heads of the City of Huntington Beach, and the cost of such fringe benefits shall be included in the annual budget.

SECTION 3. This ordinance shall take effect thirty days after its adoption. The City Clerk shall certify to the passage of this ordinance and cause same to be published within

fifteen days after adoption in the Huntington Beach News, a weekly newspaper of general circulation, printed and published in Huntington Beach, California.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 19th day of July, 1976.

*Harriet M. Weaver*

\_\_\_\_\_  
Mayor

ATTEST:

*Alicia M. Wentworth*

\_\_\_\_\_  
City Clerk

APPROVED AS TO CONTENT:

*Floyd H. Balato*  
\_\_\_\_\_  
City Administrator

APPROVED AS TO FORM:

*D. P. Boy*  
\_\_\_\_\_  
City Attorney

APPROVED BY INITIATING DEPARTMENT:

*Floyd H. Balato*  
\_\_\_\_\_

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, ALICIA M. WENTWORTH, the duly elected, qualified City Clerk of the City of Huntington Beach and ex-officio Clerk of the City Council of the said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 6 day of July 1976, and was again read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 19 day of July, 1976, and was passed and adopted by the affirmative vote of more than a majority of all the members of said City Council.

AYES: Councilmen:  
Bartlett, Pattinaon, Coen, Gibbs, Siebert, Shenkman, Wieder

NOES: Councilmen:  
None

ABSENT: Councilmen:  
None

*Alicia M. Wentworth*

City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach, California

I, Alicia M. Wentworth CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that this ordinance has been published in the Huntington Beach News on July 22, 1976. In accordance with the City Charter of said City.  
ALICIA M. WENTWORTH  
*Stephanie Blasergane*  
City Clerk  
Deputy City Clerk

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **Huntington Beach Ordinance 2566**

1276

ORDINANCE NO. 2566

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH  
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE  
BY AMENDING SECTION 2.28.010 RELATING TO EX-  
PENSE ALLOWANCES FOR CITY COUNCILPERSONS

The City Council of the City of Huntington Beach does ordain  
as follows:

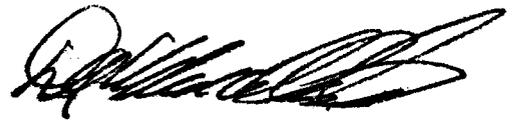
SECTION 1. The Huntington Beach Municipal Code is hereby  
amended by amending section 2.28.010 to read as follows:

2.28.010 Expense allowance. It is deemed reasonable and  
adequate that in reimbursement of the ordinary and routine ex-  
penses, losses and costs imposed upon them by virtue of their  
serving the city in their official capacity, each council mem-  
ber shall receive monthly, during his term of office the sum of  
\$290 per month, and the mayor shall receive the sum of \$390 per  
month, such sums to be adjusted annually at 75 percent of the  
consumer price index for the previous year. Further, such  
expense allowance need not be accounted for by the recipient.

In addition thereto, each member of the city council, in-  
cluding the mayor, shall receive reimbursement on order of the  
city council for council-authorized travel and other expenses  
when on official duty upon submission of itemized expense account  
therefor, and pursuant to administrative regulations pertaining  
to the payment thereof. A summary listing of such itemized ex-  
penses for each month shall be presented to the council for ap-  
proval at the first regular meeting of the following month. This  
section is intended to meet the requirements of section 302  
of the city Charter. Appropriations for the allowance and other  
expenses provided for herein shall be included in the annual bud-  
get, approved by the city council.

SECTION 2. This ordinance shall take effect thirty days  
after its adoption.

PASSED AND ADOPTED by the City Council of the City of  
Huntington Beach at a regular meeting thereof held on the 19th  
day of July, 1982.



Mayor Pro Tem

ATTEST:

APPROVED AS TO FORM:



City Clerk



Acting City Attorney

INITIATED AND APPROVED:



City Administrator

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, ALICIA M. WENTWORTH, the duly elected, qualified City Clerk of the City of Huntington Beach and ex-officio Clerk of the City Council of the said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 6th day of July 19 82, and was again read to said City Council at a regular \_\_\_\_\_ meeting thereof held on the 19th day of July, 19 82, and was passed and adopted by the affirmative vote of more than a majority of all the members of said City Council.

AYES: Councilmen:  
Pattinson, Thomas, MacAllister, Bailey, Kelly

NOES: Councilmen:  
Finley

ABSENT: Councilmen:  
Mandic

*Alicia M. Wentworth*  
City Clerk and ex-officio Clerk  
of the City Council of the City  
of Huntington Beach, California

I, Alicia M. Wentworth CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Huntington Beach Independent on July 29, 1982 in accordance with the City Charter of said City.  
Alicia M. Wentworth  
City Clerk  
Ja Smith  
Deputy City Clerk

# **REQUEST FOR CHARTER REVIEW COMMISSION ACTION**

**MEETING DATE(S): 10/06/2009, 10/20/2009**

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## **Huntington Beach Ordinance 2997**

ORDINANCE NO. 2997

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH  
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE  
BY AMENDING SECTION 2.28.010 RELATING TO  
EXPENSE ALLOWANCES FOR CITY COUNCILPERSONS

The City Council of the City of Huntington Beach does ordain as follows:

SECTION 1. The Huntington Beach Municipal Code is hereby amended by amending section 2.28.010 to read as follows:

2.28.010 Expense allowance. It is deemed reasonable and adequate that in reimbursement of the ordinary and routine expenses, losses and costs imposed upon them by virtue of their serving the city in their official capacity, each council member shall receive monthly, during his term of office the sum of \$698 per month, and the mayor shall receive the sum of \$936 per month, such sums to be adjusted annually by the consumer price index for all urban consumers, all items, 1982-84 equals 100, published by the United States Department of Labor, Bureau of Labor Statistics, for the Los Angeles/Anaheim/Riverside Metropolitan Area. Further, such expense allowance need not be accounted for by the recipient.

In addition thereto, each member of the city council, including the mayor, shall be reimbursed pursuant to the city's business expense policy for council authorized travel and other expenses when on official duty upon submission of itemized expense account therefor. This section is intended to meet the requirements of section 302 of the city Charter. Appropriations for the allowance and other expenses provided for herein

shall be included in the annual budget approved by the city council.

SECTION 2. This ordinance shall take effect thirty days after its adoption.

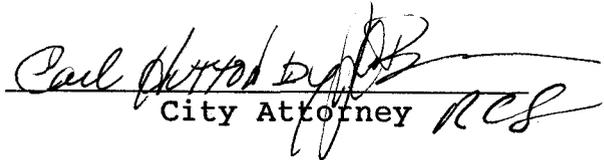
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 1st day of May, 1989.

  
Mayor

ATTEST:

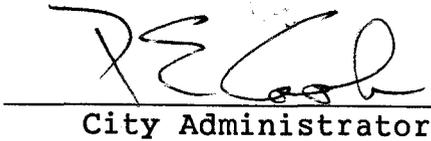
APPROVED AS TO FORM:

  
City Clerk

  
City Attorney

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

  
City Administrator

\_\_\_\_\_

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, CONNIE BROCKWAY, the duly elected, qualified City Clerk of the City of Huntington Beach and ex-officio Clerk of the City Council of the said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular meeting thereof held on the 17th day of April 1989, and was again read to said City Council at a regular meeting thereof held on the 1st day of May, 1989, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Councilmembers:  
MacAllister, Bannister, Mays, Silva, Erskine

NOES: Councilmembers:  
Green, Winchell

ABSENT: Councilmembers:  
None

I, Connie Brockway, CITY Clerk of the City of Huntington Beach and ex-officio Clerk of the City Council do hereby certify that a synopsis of this ordinance was published in the Daily Pilot on May 8, 1989 in accordance with the City Charter of said City.  
Connie Brockway  
City Clerk  
Maebria L. Etcherson  
Deputy City Clerk

Connie Brockway  
City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach, California

# Office of City Attorney

**The City Attorney's Office represents and advises the City Council and all City officers in all matters of law pertaining to their offices.**

**Advisory Division**

**Litigation Division**

Jennifer McGrath  
City Attorney

Paul D'Alessandro  
Assistant City Attorney - Advisory

Scott Field  
Assistant City Attorney - Litigation

Leonie Mulvihill  
Senior Deputy City Attorney

Neal Moore  
Senior Deputy City Attorney

Dan Ohi  
Deputy City Attorney

John Fujii  
Senior Deputy City Attorney

Mike Vigliotta  
Deputy City Attorney

Sarah Sutton  
Deputy City Attorney

Bobby Dominguez  
Investigator

Anita Balkee  
Administrative Assistant

Joan Giguere  
Law Office Manager

Karen Copeland  
Legal Assistant

Chris Leonhard  
Legal Assistant

Joan Naideth  
Legal Assistant

Thuy Vi  
Legal Assistant

## Charter 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 election or appointment. . . .

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

*\*Multiple Clients - City Council, City Administrator, Department Heads, and City staff (not citizenry)*

*\*No advice for anything outside the scope of work – e.g. divorce, small claims, conflict of interest*

*\*Obligation to defend taxpayer money even when City Council feels differently; e.g. invocation; mobile home park conversion ordinance*

**(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.**

*\*Neither City Council nor staff can direct regarding criminal prosecution.*

*\*City Attorney is not the District Attorney.*

*\*Public Nuisance Task Force (1998)*

*\*Administrative Citation Program (1998)*

**(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 employment or by reason of his official capacity.**

*\*Multiple Clients - Council? Staff? Retiree? Scope of Work?*

*\*Litigation – slip-and-fall; auto accidents; excessive force; writs, labor, breach of contract*

**(d) Attend all regular meetings of the City Council, unless excused, and give his 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.**

*\*Regular Council Meetings*

*\*Special/Closed Session Meetings*

*\*Planning Commission Meetings*

**(e) Approve the form of all contracts made by and all bonds and insurance given to the City, endorsing his approval thereon in writing.**

*\*Contract Process*

*\*Insurance & Indemnification Waivers*

*\*Bonds & Leases*

**(f) Prepare any and all proposed ordinances  
and City Council resolutions and  
amendments thereto.**

*\*Nudity Ordinance*

*\*Campaign Contribution Reform*

*\*Business License Regulations*

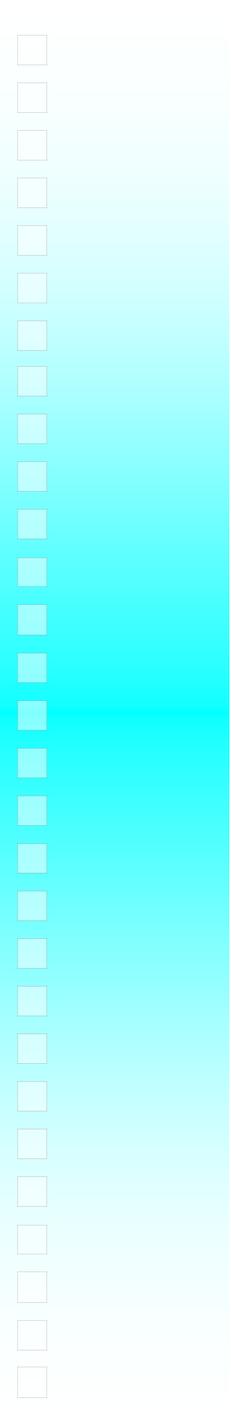
*\*Recreational Vehicle Ordinance*

*\*Medical Marijuana Dispensary Regulation*

**(g) Devote such time to the duties of his 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 successor all books, papers, files, and documents pertaining to the City's affairs.**



# My Philosophy

**Participate in the daily operations of the City to proactively provide legal guidance throughout the process while acknowledging that there is always more than one way to achieve an objective.**



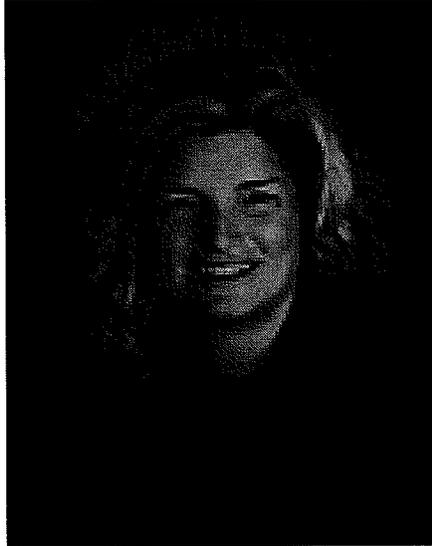
# OFFICE OF THE CITY ATTORNEY CITY OF HUNTINGTON BEACH 2008 ANNUAL REPORT

JENNIFER McGRATH  
City Attorney

Office of the City Attorney  
2000 Main Street, 4<sup>th</sup> Floor  
Huntington Beach, CA 92648  
Phone: (714) 536-5555  
Fax: (714) 374-1590  
[www.surfcity-hb.org](http://www.surfcity-hb.org)

Mayor Keith Bohr  
Councilmember Joe Carchio  
Councilmember Gil Coerper  
Councilmember Devin Dwyer  
Councilmember Cathy Green  
Councilmember Don Hansen  
Councilmember Jill Hardy

## Message from City Attorney Jennifer McGrath



Jennifer McGrath, City Attorney

I am proud to have served Huntington Beach as the elected City Attorney during the previous six years. I am pleased to present the 2008 Annual Report of the Huntington Beach City Attorney's Office.

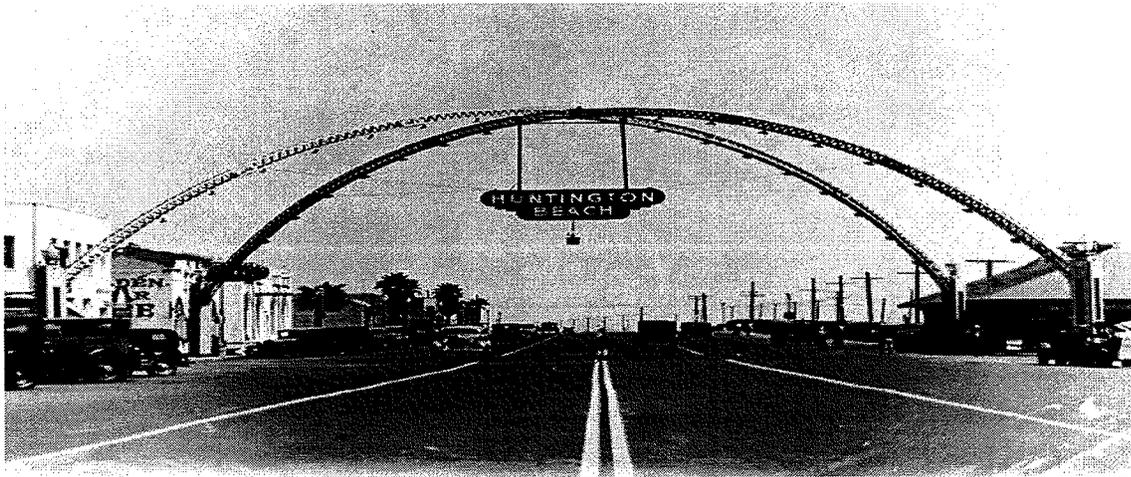
The mission of the City Attorney's Office is to provide the best possible representation to the City in all lawsuits and administrative matters; to provide excellent legal advice and services to the City Council and to all City officers and employees; and to prosecute, in the name of the People, all violations of the City Charter and Municipal Code.

The Huntington Beach City Attorney's Office is rightly considered to be one the finest, most comprehensive municipal law offices in the State of California. The 2008 Annual Report reflects on the many accomplishments of our office during this past year.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer McGrath". The signature is written in dark ink on a white background.

Jennifer McGrath  
City Attorney



The City Charter specifies the City Attorney's powers and duties as follows:

#### 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 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.
- (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 employment or by reason of his official capacity.
- (d) Attend all regular meetings of the City Council, unless excused, and give his 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 the form of all contracts made by and all bonds and insurance given to the City, 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 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 successor all books, papers, files, and documents pertaining to the City's affairs.

### **City Attorney's Roles and Clients**

The City Attorney's principal role is to serve as legal counsel and provide legal advice and representation to her clients. The City Attorney's clients are the Mayor and City Council acting as a body, in addition to those persons or entities empowered by the City Council, the City Charter, or state law to act on the City's behalf—for example, the City Administrator and City staff.

The Mayor and City Council represent the residents of Huntington Beach. Therefore, when the City Attorney's Office advises and represents the Mayor and City Council, the residents benefit directly and indirectly from that advice and representation.

Frequently, members of the public contact the City Attorney's Office requesting legal assistance or representation, believing they are entitled to such legal services as residents of the city. But, as discussed above, the City Charter specifies the City Attorney's clients, and thus prohibits the City Attorney from advising and representing all others, including city residents. However, the City Attorney staff welcomes inquiries from citizens regarding City laws and legal problems.

### **City Attorney's Budget**

The City Attorney's Office adopted budget for fiscal year 2007-2008 was \$2,950,536 for operations and nonrisk litigation expenses. This does not include the general liability reserve. Approximately 84% of the budget was for personnel costs of 17 full-time positions, including two (2) assistant city attorneys, six (6) deputy city attorneys, a law office manager, an investigator, an administrative assistant, four (4) legal assistants, and an office specialist.

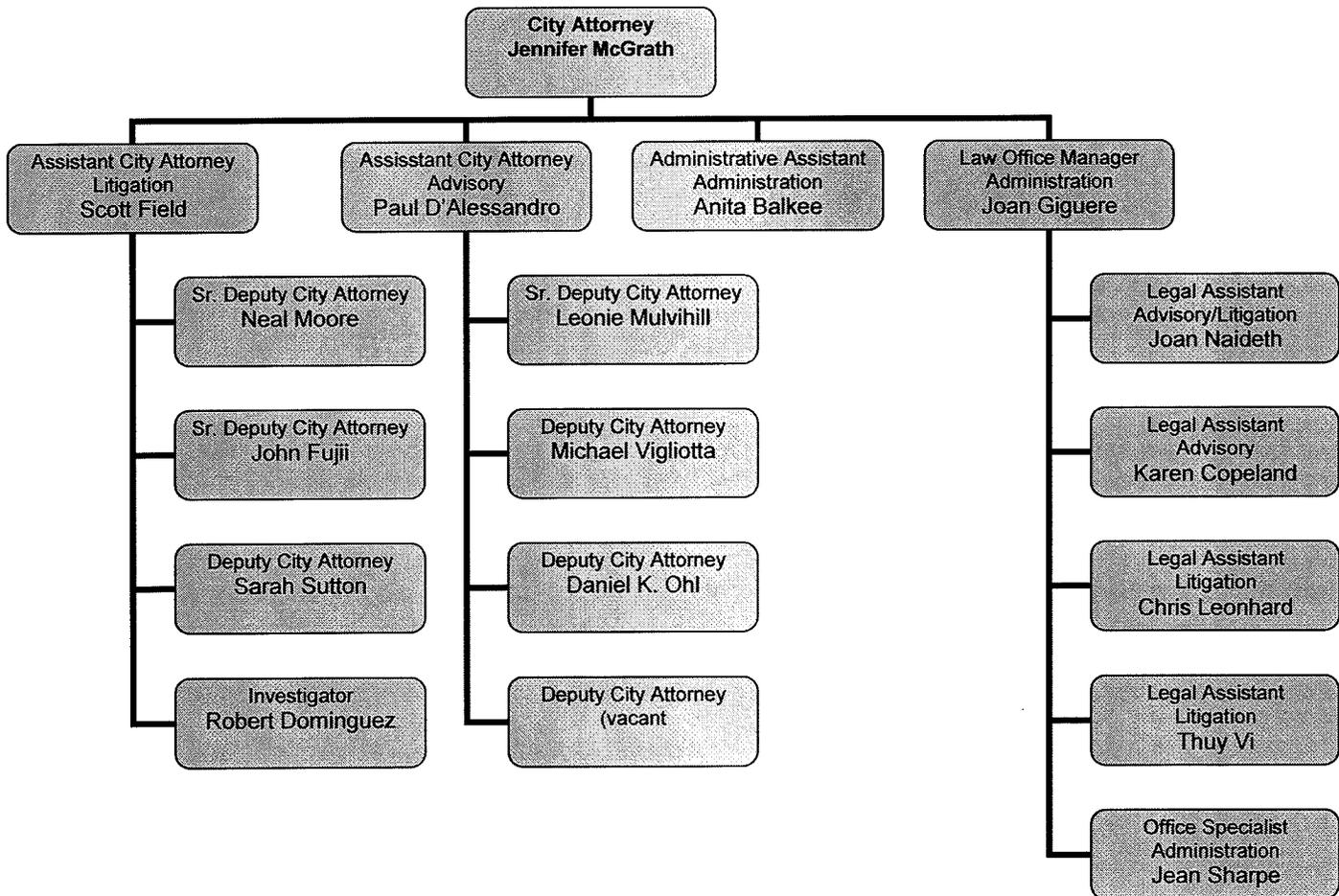


City Attorney employee Thuy Vi, recipient of the Mayor's Award



Office Retreat July 30, 2008

## OFFICE OF THE CITY ATTORNEY ORGANIZATION CHART





## Administration Division

The administration and support functions are performed under the supervision of the City Attorney. These functions include personnel, clerical, financial, technology, training and development, and records management support. These functions also include attendance at regular Council meetings as parliamentarian and advisor, and active participation in the executive management team to promote the strategic goals of the City Council.

The Administration Team—consisting of the City Attorney Jennifer McGrath; Assistant City Attorneys Paul D’Alessandro and Scott Field; Senior Deputy City Attorneys Neal Moore, Leonie Mulvihill, and John Fujii; Law Office Manager Joan Giguere; Administrative Assistant to the City Attorney, Anita Balkee and Office Specialist Jean Sharpe—provides excellent administrative, organizational and managerial oversight of the office, in addition to their other duties.



Significant projects for the Administration Division include:

- Comprehensive training program for City staff on a wide variety of topics, including ethics, Form 700 workshops, Brown Act Roundtable with Commission Liaisons, and AB 1825 (Sexual Harassment) Training.
- Monthly and quarterly reports to City departments and City Council.
- Installation of new mobile shelving unit
- Maintaining complete electronic files on every case and matter in the office’s document management software.
- Established performance benchmarks to increase routine processes and set achievement goals.



## Advisory Division

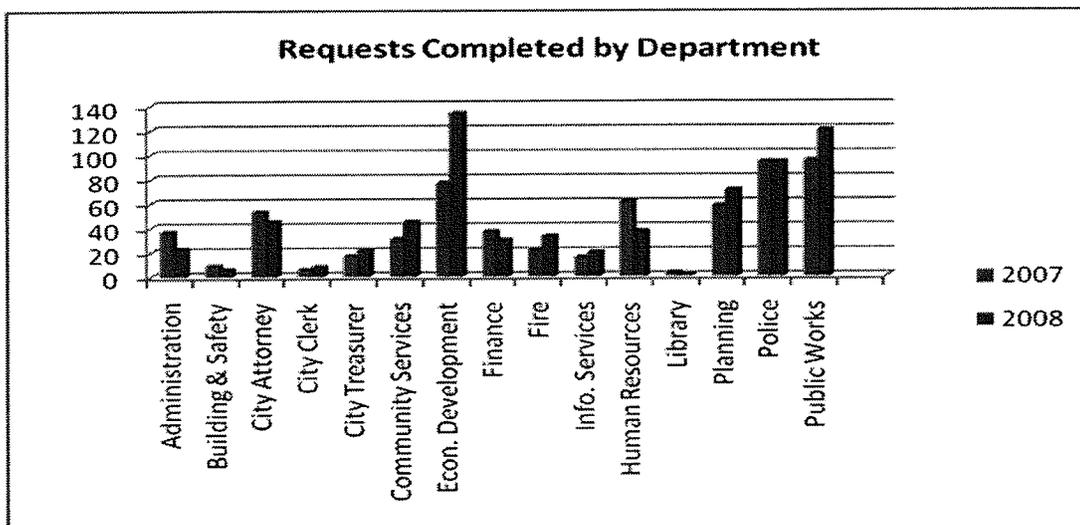
### OVERVIEW

The Advisory Division is supervised by Assistant City Attorney Paul D'Alessandro, and is comprised of Sr. Deputy City Attorney Leonie Mulvihill; Deputy City Attorneys Michael Vigliotta and Dan Ohl; and Legal Assistants Karen Copeland and Joan Naideth.

The goal of the Advisory Division is to provide daily legal advice and support to the fourteen City departments and the Redevelopment Agency. The Advisory staff attorneys provide superior internal customer service to ensure that staff can accomplish their goals with little, if any, risk of litigation.

### CUSTOMER SERVICE

The Advisory staff attorneys touch upon virtually all aspects of City business and perform a broad spectrum of legal services, including preparing legislation; negotiating and drafting contracts and other transactional documents; providing legal representation and advice at meetings of the City Council, City Council Committees, and City boards and commissions; prosecuting code violations; providing timely legal advice and assistance to City staff; improving contracting practices and updating form agreements; and informing the City Council and City staff of the changes in the law that directly impact the City.



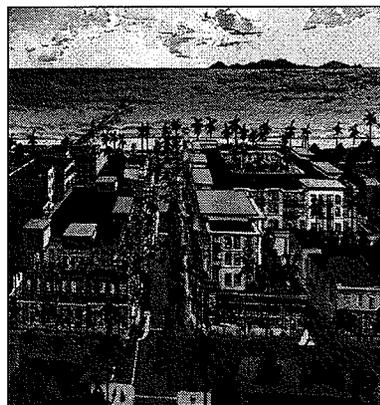
In calendar year 2008, the Advisory Division received **638** requests for legal assistance and completed **687** requests.

2008 RLS		2007 RLS		2006 RLS	
Received	638	Received	629	Received	618
Closed	687	Closed	626	Closed	520

Requests Completed by Matter Types						
	Advice Memo & Opinion	Documents & Contracts	Public Records & Citizen Inquiry Requests	Criminal Pitchess & Hearings	Resolution & Ordinance	Projects
2008	99	336	29	64	93	42
2007	94	286	51	68	85	37

Additionally, the Advisory Division provided assistance with labor negotiations, made **173** appearances on criminal matters, and provided ongoing advice related to the following:

- Affordable Housing
- Cape Ann/Promenade
- Parking Fee Update
- Acquisition of Surplus School Property
- RipCurl/Village at Bella Terra
- Charter Section 311
- CIM/Huntington LLC
- Auto Dealer’s Readerboard Legislation
- Huntington Harbour Yacht Club
- Major development projects within the City including Pacific City, Bella Terra, The Strand, and the proposed Senior Center

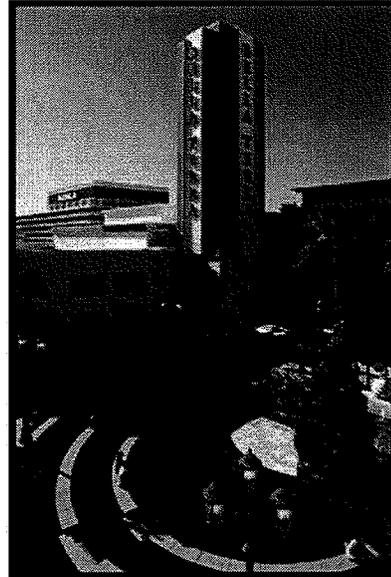


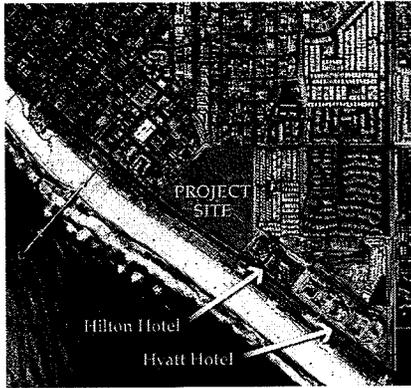
The Strand

## HIGHLIGHTS

Significant projects for the Advisory Division include:

1. Worked with City Council subcommittee on campaign reform.
2. Prepared 400 public hearing notices for condominium conversion restitution fund distribution.
3. Prepared spay and neuter ordinance.
4. Assisted the Downtown Business Improvement District in modifying their organizational structure to comply with the changing dynamics of the downtown area as well as to comply with State law.
5. Worked with finance department in refinancing outstanding bonds.
6. Participated in contract negotiations with Huntington Beach Fire Department, which led to a successful resolution of their Memorandum of Understanding.
7. Negotiated a Memorandum of Understanding with the Friends of Dog Beach for the first time, to memorialize the Friends' obligations, as well as set parameters for their operation on City property.
8. Prepared Special Legislation for introduction in the California Senate relating to the Auto Dealers Readerboard.
9. Assisted staff in response to discovery request relating to the Strand project.
10. Provided staff with direction on implementing SB 698 by providing a pamphlet on condemnation noticing procedures.
11. Advised City Treasurer on disbursement procedures for Bella Terra CFD.
12. Prepared deed restrictions, promissory notes and related agreements to facilitate transfers of affordable housing units.
13. Prepared TEFRA resolutions and loan commitment documents to facilitate the rehabilitation of multifamily affordable housing units.





14. Assisted, advised and prepared supporting documentation relating to the certification of the EIR for the Senior Center.
15. Prepared modifications to the City's local coastal program as recommend by the Coastal Commission.
16. Prepared Caltrans FTA Section 5310 Program Grant.
17. Revised standard documents to comply with AB 886.
18. Prepared agreements for the 2008 Pier Plaza Presents Concert Series.
19. Prepared 2008 Affordable Housing Fee Update.
20. Assisted, advised and prepared the ordinance to amend the Municipal Code to add a requirement for owners abutting drainage channels to properly maintain landscape materials.
21. Assisted Public Works for update to the Water Management Plan.
22. Prepared revisions to the telecommunications utility user tax ordinance to protect tax revenue.
23. Prepared Surf City Nights management agreement.
24. Prepared lease transfer documents for Meadowlark Golf Course.
25. Prepared sponsorship agreement for Adopt-A-Highway for trash receptacle.
26. Prepared production agreement for Ocean Force TV Show.
27. Actively participated with Ad Hoc Committee regarding temporary uses in the downtown area.
28. Negotiated the extension to the Development and Disposition Agreement with Mayer Financial L.P.
29. Negotiated the proposed Sixth Implementation Agreement to the Development and Disposition Agreement with CIM/Huntington LLC.
30. Assisted with the development of the Senior Center and responded to PRA requests for information relating to the Senior Center.

31. Prepared an extensive amendment to the City's Sign Code in response to litigation.
32. Negotiated and approved estoppel agreements for the CVS Pharmacy location in The Strand.
33. Assisted Planning Department in processing entitlements for various development projects, including The RipCurl and the Village at Bella Terra.
34. Negotiated and approved issuance of multifamily revenue bonds for affordable housing project.
35. Advised City staff on the Education Code requirements relating to the acquisition of surplus school property.
36. Prepared the Memorandum and Ordinance regarding Business License Tax Exemption of real estate salespersons and brokers.
37. Reviewed AES reciprocal easements and other land-use agreements.
38. Reviewed Hotels Audit of TOT revenues, including TOT/zoning issues.
39. Provided legal advice regarding oil operation on City-acquired real property.
40. Reviewed and approved SCE "Energy Efficiency Partnership Program."
41. Prepared fee resolution for the Strand parking structure.
42. Reviewed and advised staff regarding Affordable Housing Program policies and procedures.
43. Provided legal advice to the Police Department regarding recovery of jail booking fees.
44. Negotiated CIM/Strand license and maintenance agreement, CCRs, operating agreement and other regulatory documentation.
45. Reviewed and advised staff regarding Supplemental Retirement and Retiree Medical Plans
46. Responded to Public Records Act requests for information on Pacific City, Senior Center and The Strand.



47. Prepared amended regulatory agreement for Pierside Pavilion.
48. Prepared Agency documents for acquisition and rehabilitation for four different multifamily housing projects.
49. Prepared regulatory documents required by Conditions of Approval for various development projects.
50. Negotiated financing documents for The Strand.
51. Advised staff regarding information of special assessment districts.
52. Reviewed and negotiated amendments to regulatory documents for the Waterfront project.
53. Advised staff on issues related to vacation of City easements.
54. Negotiated and drafted nonexclusive franchise agreement to provide pedicab services.



*Major development projects often need extensive legal assistance and/or defense against legal challenges.*

## Litigation Division

The Litigation Division is supervised by Assistant City Attorney Scott Field and is, comprised of Sr. Deputy City Attorneys Neal Moore and John Fujii; Deputy City Attorney Sarah Sutton; and Legal Assistants Thuy Vi, Chris Leonhard and Joan Naideth. The Litigation Division handles all civil matters on behalf of the City and its employees and officials. All cases are handled by the in-house staff unless there is a conflict in representation or the outside counsel is paid by a third party.



## OVERVIEW

A critical element of the City Attorney's legal counsel role is to defend against the lawsuits and claims brought annually against the City. Typical areas of litigation include civil rights, tort and other damage claims, subrogation, eminent domain, collections, writ, contract, and employment matters and administrative hearings concerning personnel, and labor arbitrations and hearings.

## SIGNIFICANT SAVINGS TO CITY

Since 2002, the Litigation Division decreased the City's reliance on outside litigation attorneys. By ensuring that the Litigation Division attorneys have both the genuine desire and the requisite experience to succeed in the litigation arena, the City has consistently experienced a record of successful resolution of litigation. Over the last seven years, the number of cases sent to outside counsel has steadily decreased.

*Number of cases retained by office vs. referred to outside counsel for past seven years (risk cases only)*

Year	Risk Cases	In-House Risk Cases	Outside Attorney – Risk Cases
2002	23	18	5
2003	21	19	2
2004	25	25	0
2005	18	18	0
2006	19	19	0
2007	18	18	0
2008	17	17	0

Although using more experienced attorneys in the Litigation Division has minimally increased labor costs within the office, annual surveys of the hourly rates charged by outside counsel, compared to the effective cost of an hour's work by a Deputy City Attorney, clearly establish that work performed in-house saves hundreds to thousands of dollars on every litigated matter. With 69 active and closed litigation cases handled in-house this year, cost savings to the City during the year are quite substantial.

*Hourly Attorney Rates*

Outside Counsel	Redevelopment	Tort	Labor
	\$160 - \$268	\$140 - \$160	\$235 - \$260

In-house Counsel	Redevelopment/Tort/Labor
	\$91.00 (fully burden rate)

By hiring only one additional in-house attorney since 2002 and keeping most litigation and redevelopment matters in-house, there has been a 77% reduction in all outside counsel expenses in comparison to the 03/04 budget.

*City Attorney Budget for Professional Services*

BUDGET	2003/04		2004/05		2005/06		2006/07		2007/08	
	Adopted	Actual	Adopted	Actual	Adopted	Actual	Adopted	Actual	Adopted	Actual
Professional Services	1,245,000	1,004,744	1,165,488	281,937	417,101	94,699	300,000	134,328	175,000	156,407
Redevelopment Prof. Services	500,000	105,827	500,000	77,879	250,000	40,940	150,000	87,597	150,000	97,751

**CLAIMS REVIEW PROCESS**

In 2007, the City Attorney's Office initiated a procedure that every claim filed with the City involving a potential damage exposure in excess of \$25,000, or any claim involving the Police Department, is forwarded to and reviewed by Sr. Deputy City Attorney Neal Moore, for his input and suggestions for handling. Mr. Moore has over 35 years of experience in defending public entities and public employees. Mr. Moore was employed by the Los Angeles County Counsel's Office in the 1970s, and he supervised the claim administration program for the County of Los Angeles. This new procedure will maximize the benefit of Mr. Moore's years of experience in the handling and investigation of such claims.

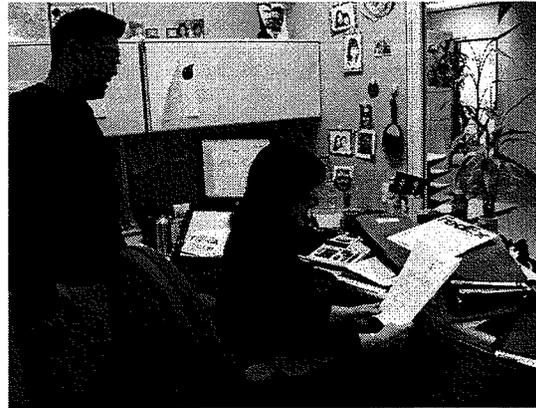


More importantly, of the 17 damage suits closed during the 2008 fiscal year, 9 were resolved without the payment of any money (i.e., 53%). While the members of the Litigation Division have enjoyed success in handling their cases, this number is a point of particular pride, as it clearly shows the quality of the services being performed. Although the success

of the litigation work performed in other areas is harder to quantify, this high percentage of damage cases resolved without the payment of money evidences both the quality and tenacity with which the Litigation Division attorneys perform their work to reach favorable results for their clients.

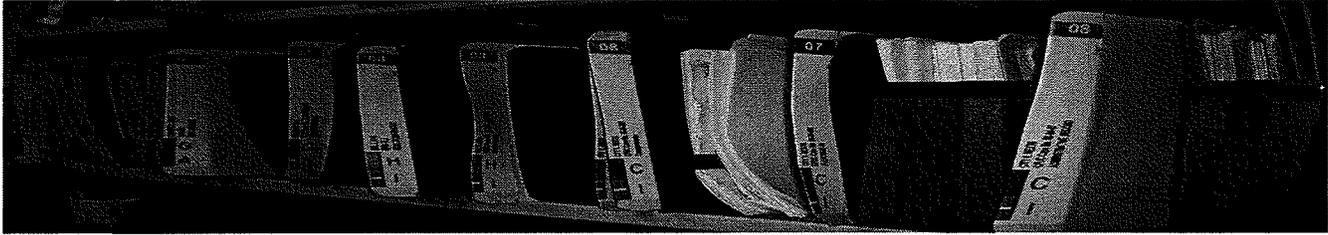
## HIGHLIGHTS

As indicated above, the Litigation Division had significant success in handling its cases this year, resolving 53% of damage cases without payment of money. This is a result of litigation attorneys aggressively pursuing all available, meritorious causes of action or defenses, aggressively pursuing indemnity against culpable co-defendants, and equally aggressively pursuing discovery responses so that opposing litigants recognize both the weakness of their case as well as the strength of the City's case. These are some examples of their successes:



A sampling of the cases the Litigation Division resolved during 2008 with no monies paid to plaintiffs include the following:

1. Beachgoer drowned at City beach.
2. Plaintiff claimed false arrest, excessive force, failure to provide medical treatment, and denial of bail arising from Plaintiff's arrest during a domestic disturbance.
3. Complaint for civil rights violations arising out of a domestic violence call for service.
4. A mother and her two children were struck while crossing Slater Avenue.

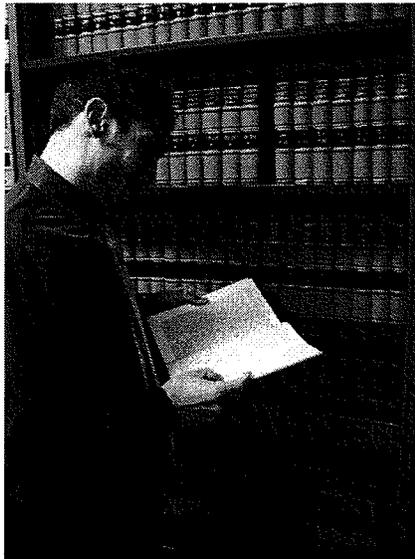


5. Verizon Wireless sued the City over the denial of its application to attach a cellular antenna to a utility pole.
6. Plaintiff alleged that Hanson Recycling Center is a misuse of public lands on City park property and that the lease agreement between the City and Hanson is illegal.
7. City's denial of a CUP for development of property as a floating 4-dock marina.
8. Action to recover medical marijuana seized by the Huntington Beach Police Department.
9. Bicyclist slipped and crashed causing various injuries and a broken foot.
10. State lawsuit alleging inverse condemnation based on City's delay in processing of entitlement application.
11. During the course of a DUI arrest, a Police Officer sustained a wrist fracture. The individual sued, and the Police Officer counter-sued, and City to defend the cross-complaint.
12. Issue of the "park fee" that the subdivider of Pacific City owed the City.
13. A student was physically restrained by school teachers in a special education class.
14. HBPD Officer involved in auto accident and had pending third-party claim.
15. Construction company excavated land for City with a back hoe equipment and damaged underground electrical facilities owned and operated by Edison.
16. Subcontractor demanded payment from contractor and City for construction modifications at fire stations.
17. Complaint for personal injury arising out of 8/8/05 incident where police officers transported Plaintiff to a facility for medical and psychiatric observation.

18. Plaintiff claims was not paid by City for engineering services.

Some of the more significant cases resolved in 2008 where monies were paid include the following:

1. Plaintiff tripped and fell on the curb/sidewalk adjacent to the skate park on Main Street.
2. Automobile accident involving City police vehicle.
3. Police Officer alleges harassment and discrimination within the City's police department.
4. Personal injury action arising out of rear-end collision involving three cars. City employee driving City vehicle hit Plaintiff's vehicle, propelling it into third vehicle.
5. Plaintiff alleged that City trees damaged and lifted a driveway causing Plaintiff to fall and resulted in bodily injury.
6. HBPD Officer injured in a traffic accident. He pursued a claim against the driver and City sought reimbursement of workers' compensation benefits paid to him.
7. Branch from a City tree fell on insured vehicle.
8. Plaintiff alleged that excessive force was used when the City's police officers arrested him in a trailer park.



## Community Outreach Activities



Youth in Government Day

City Attorney Jennifer McGrath is currently serving on The League of California Cities as an editor for the Municipal Law Handbook. Also, she is an active member in the Huntington Beach Kiwanis Club and Soroptomists Club of Huntington Beach.

Assistant City Attorney Scott Field is a volunteer Temporary Judge for the Orange County Superior Court. His work typically involves conducting settlement conferences.

Senior Deputy City Attorney Neal Moore was appointed by the State Bar Board of Governors to serve on the Executive Committee for the Litigation Section of the State Bar of California. This Committee concerns itself with the policy, education, and organizational issues for the Litigation Section of the State Bar.

Mr. Moore served again this year as the attorney-coach for the Marina High School Mock Trial Team. This team competes against other high schools in Orange County in simulated trial competitions.

Senior Deputy City Attorney Leonie Mulvihill was a guest speaker along with representatives of the OC Coastkeepers and the Surfrider Foundation on a panel discussion on environmental law and land development at Whittier Law School.

Leonie Mulvihill is also the chair of the Parents Advisory Committee for the West County YMCA for Hawes School in Huntington Beach.

Senior Deputy City Attorney John Fujii volunteers every week through the Rodgers Seniors' Center in its Senior Visitor Program.

Deputy City Attorney Sarah Sutton and her husband went on a faith-based restoration/charity trip to work on homes hit by the 2001 Katrina hurricane.

Several staff members of the City Attorney's Office volunteered their Saturdays decorating the Surf City's Float for the Tournament of Roses.

Law Office Manager Joan Giguere and her son volunteered to help clean up the City Beach as part of Earth Day. They also volunteered over the holidays with "Project Christmas Child."



## Attorney Bios

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### PAUL D'ALESSANDRO

#### **Practice Areas, Background and Experience**

Mr. D'Alessandro presently serves as the Assistant City Attorney supervising the Advisory Division of the City Attorney's Office. He provides legal assistance on all areas of municipal law, including land use, redevelopment, affordable housing, public works, community services, public meetings (Brown Act), public records, elections, conflicts of interest, and business transactions.

Mr. D'Alessandro joined the City Attorney's Office as a Deputy City Attorney in 1988. As a Deputy City Attorney, Mr. D'Alessandro had extensive litigation and transactional practice. He served as legal advisor to the Huntington Beach Planning Commission, and handled numerous trials, appeals, arbitrations and administrative hearings in virtually all areas of municipal litigation practice, including eminent domain, inverse condemnation, civil rights, tort defense, land use, labor, and criminal prosecutions.

#### **Professional Affiliations**

Mr. D'Alessandro is admitted to practice law in California and the District of Columbia, and before the United States District Courts for the Central and Southern Districts of California, and the Ninth Circuit Court of Appeal.

#### **Education**

Mr. D'Alessandro is a graduate of Loyola Law School (J.D.), where he was a staff member on the Loyola of Los Angeles Law Review, and the University of California, Riverside (B.A., English and History).

### SCOTT FIELD

#### **Practice Areas, Background and Experience**

Mr. Field presently serves as the Assistant City Attorney supervising the Litigation Division of the City Attorney's Office. The Litigation Division handles all phases of all civil litigation matters involving the City and Redevelopment Agency, including pretrial discovery, law and motion, trial, and appeals.

Mr. Field joined the City Attorney's Office as a Deputy City Attorney in 1995. Prior to joining the City Attorney's Office, Mr. Field was a partner at Burke, Williams & Sorensen, a law firm specializing in the representation of public agencies throughout California, where he served as City Attorney for the Cities of Temecula (1989-94) and Mission Viejo (1988-90).

#### **Professional Affiliations**

Mr. Field is admitted to practice law in California, and before the United States

District Courts for the Central and Southern Districts of California, and the Ninth Circuit Court of Appeal.

### **Education**

Mr. Field is a graduate of UCLA School of Law (J.D.), and the University of California, Berkeley (B.A., Economics).

## **JOHN FUJII**

### **Practice Areas, Background and Experience**

Mr. Fujii presently serves as a Senior Deputy City Attorney in the Litigation Division of the City Attorney's Office. He primarily practices in state and federal trial and appellate courts, litigating cases involving civil rights, land use, torts, construction and environmental law.

Prior to joining the City Attorney's Office, Mr. Fujii was an associate at the law firms of Jeffer, Mangels, Butler & Marmaro in Century City and at Brobeck, Phleger & Harrison in San Francisco. From 2002 to 2005, Mr. Fujii taught legal research and writing as an adjunct professor at Chapman University School of Law.

### **Professional Affiliations**

Mr. Fujii is admitted to practice law in California and before the United States District Courts for the Central and Northern Districts, and the Ninth Circuit Court of Appeal.

### **Education**

Mr. Fujii is a graduate of the Boalt Hall School of Law at U.C. Berkeley (J.D.), and U.C. Davis (B.S., Animal Physiology).

## **JENNIFER MCGRATH**

### **Practice Areas, Background and Experience**

In 1996, Ms. McGrath began her career with Huntington Beach as a Deputy City Attorney. While at that position, Jennifer established relationships with city residents and officials that allowed her to improve service levels to the City Council. In November of 2000, the people of Huntington Beach elected Jennifer McGrath as their City Attorney.

### **Professional Affiliations**

Ms. McGrath is admitted to practice law in California and before the United States District Courts for the Central and Northern Districts, and the Ninth Circuit Court of Appeal.

**Education**

Ms. McGrath is a graduate of McGeorge School of Law (J.D.), and the University of California at Los Angeles, (B.A., Political Science)

**NEAL MOORE****Practice Areas, Background and Experience**

Mr. Moore presently serves as the Senior Deputy City Attorney in the Litigation Division of the City Attorney's Office. Mr. Moore is the senior trial attorney in the City Attorney's Office, and handles a wide range of civil litigation matters involving the City and Redevelopment Agency.

Mr. Moore joined the City Attorney's Office in 2004. From 1976 to 2004, Mr. Moore was in private practice, specializing in the defense of public entities and public employees. He has completed approximately 100 civil jury trials. From 1971 to 1976, Mr. Moore was employed by the County of Los Angeles as a Deputy County Counsel. He holds the rank of Advocate from the American Board of Trial Advocates, and is a member of the Executive Committee for the Litigation Section of the State Bar of California.

**Professional Affiliations**

Mr. Moore is admitted to practice law in California, and before the United States District Court for the Central District of California, the Ninth Circuit Court of Appeal, and the United States Supreme Court.

**Education**

Mr. Moore is a graduate of the University of Southern California School of Law (J.D.), and the University of Southern California (B.A., History).

**LEONIE MULVIHILL****Practice Areas, Background and Experience**

Ms. Mulvihill presently serves as the Senior Deputy City Attorney in the Advisory Division of the City Attorney's Office. She primarily practices in the area of land-use and redevelopment law and advises the Planning and Economic Development Departments of the City on issues relating to zoning, planning, real estate, housing, municipal finance, redevelopment, and environmental law. She negotiates complex financial transactions on behalf of the City and Redevelopment Agency. She also currently serves as legal counsel to the Huntington Beach Planning Commission. Prior to her assignment to the Advisory Division, Ms. Mulvihill represented the City in numerous complex civil litigation matters.

Prior to joining the Huntington Beach City Attorney's Office in 2001, Ms. Mulvihill was a senior associate at a private law firm specializing in the representation of public school districts and water agencies throughout California. Ms. Mulvihill

was also previously employed by the City of Austin, Texas, as an Assistant City Attorney, where she prosecuted criminal matters including zoning compliance and environmental violations.

**Professional Affiliations**

Ms. Mulvihill is admitted to practice law in the states of California and Texas, and the United States District Court for the Central District of California.

**Education**

Ms. Mulvihill is a graduate of the California Western School of Law (J.D.) and the University of California, San Diego (B.A., Economics).

**DANIEL K. OHL**

**Practice Areas, Background and Experience**

Mr. Ohl presently serves as a Deputy City Attorney in the advisory division of the City Attorney's Office. He practices primarily in the areas of police legal advisor, "Pitchess" motions, code enforcement, building and public works, and public records. Mr. Ohl also prosecutes violations of the City's municipal code.

Prior to joining the City Attorney's Office, Mr. Ohl was a Deputy City Attorney with the City of Newport Beach from 1994-2007. He handled all phases of civil litigation, including pretrial discovery, law and motion, trial and appeal. He provided advisory services to the police and fire departments, city lifeguards, code enforcement, building, planning, community services and general services departments.

**Professional Affiliations**

Mr. Ohl is admitted to practice law in California, the United States District Courts for the Southern, Central, Eastern and Northern Districts, and the Ninth Circuit Court of Appeal.

**Education**

Mr. Ohl is a graduate of McGeorge School of Law (J.D.) and California State University at Long Beach (B.A., Political Science).

**SARAH SUTTON**

**Practice Areas, Background and Experience**

Ms. Sutton presently serves as a Deputy City Attorney in the Litigation Division of the City Attorney's Office. She primarily practices in the area of tort defense and has taken to verdict over 50 jury trials. Prior to her assignment to the Litigation Division, Ms. Sutton was assigned to the Advisory Division, where she served as the City's police legal advisor. She has also practiced in the areas of land use, public works, public records, public meetings (Brown Act), and conflict of interest law.

Prior to joining the Huntington City Attorney's office in 1989, Ms. Sutton was a Deputy City Prosecutor for the City of Long Beach.

#### **Professional Affiliations**

Ms. Sutton is admitted to practice law in California, and before the United States District Court for the Central District of California.

#### **Education**

Ms. Sutton is a graduate of the University of San Francisco School of Law (J.D.) and the University of California, Berkeley (B.A., Political Science); and is also certified in Mexican law from the Universidad Pano Americana in Mexico City, Mexico.

### **MIKE VIGLIOTTA**

#### **Practice Areas, Background and Experience**

Mr. Vigliotta presently serves as a Deputy City Attorney in the Advisory Division of the City Attorney's Office. He primarily practices in the area of labor and employment law and advises all city departments on issues relating to employee discipline, discrimination, harassment, wages and hours, family and medical leave, disability, and labor law. He is responsible for prosecuting employee disciplinary appeals on behalf of the City before the Personnel Board and representing the City before the Unemployment Appeals Board. He also participates in the negotiation of memorandums of understanding with employee unions, as well as the drafting of employee contracts, city resolutions, ordinances, processes and policies. He provides training on various employment-related issues to city management and staff.

Prior to joining the City Attorney's office in 2005, Mr. Vigliotta was employed by the City of Santa Ana as a Deputy City Attorney. In Santa Ana, Mr. Vigliotta provided general counsel to various city departments on such issues as utility user and hotel visitor tax and fees, election matters, open meeting laws, conflict of interest and ethics regulations. In addition, Mr. Vigliotta prosecuted code enforcement matters and provided litigation support regarding law and motion for specialized litigation matters.

#### **Professional Affiliations**

Mr. Vigliotta is admitted to practice law in California and before the United States District Court for the Central District of California, and the Ninth Circuit Court of Appeal.

#### **Education**

Mr. Vigliotta is a graduate of the Chapman University School of Law (J.D.) and Gannon University (B.A., Political Science).