



AGENDA
CITIZENS INFRASTRUCTURE ADVISORY BOARD
CITY OF HUNTINGTON BEACH

Wednesday, July 15, 2015 – 4:00 PM
Civic Center, Council Chambers
2000 Main Street
Huntington Beach, CA 92648

A. PLEDGE OF ALLEGIANCE

ROLL CALL

Grant, Jackle, McGovern,
Schlosser, Schuetz, Urashima,

B. PRESENTATIONS-COMMENDATIONS

C. MINUTES

C-1. None

D. ORAL COMMUNICATIONS

Public Comments – the Citizens Infrastructure Advisory Board welcomes public comments on all items on this agenda or of community interest. **Three minutes per person**, time may not be donated to others. Board on this date can take no action on any item not on the agenda. This is the time to address Board regarding items of interest or agenda items other than public hearings. Communications on agenda items will be scheduled such that public comments may be received as close to 5:00 p.m. as possible.

E. DIRECTOR'S ITEMS

E-1. Welcome

F. INFORMATION ITEMS

F-1. Brown Act Overview- Michael Vigliotta will present a brief overview on the Brown Act.

F-2. Infrastructure Calculation- In accordance with City Charter Section 617 Infrastructure Fund, the City budget is required to maintain expenditures for infrastructure not less than 15% of general fund revenues. The Accounting Manager will present information including calculation and methodology.

AGENDA
Citizens Infrastructure Advisory Board
Wednesday, July 15, 2015
PAGE 2

G. ADMINISTRATIVE ITEMS

- G-1. Approve Infrastructure Fund Annual Report for Fiscal Year 2014/15- The City Charter requires an annual review and performance audit of the Infrastructure Fund, and a report of the findings to the City Council. This review covers the current fiscal year (FY) 2014/15.

Funding Source: Infrastructure Fund No. 314

Recommended Action: Motion to recommend to City Council approval of the Infrastructure Fund Annual Report.

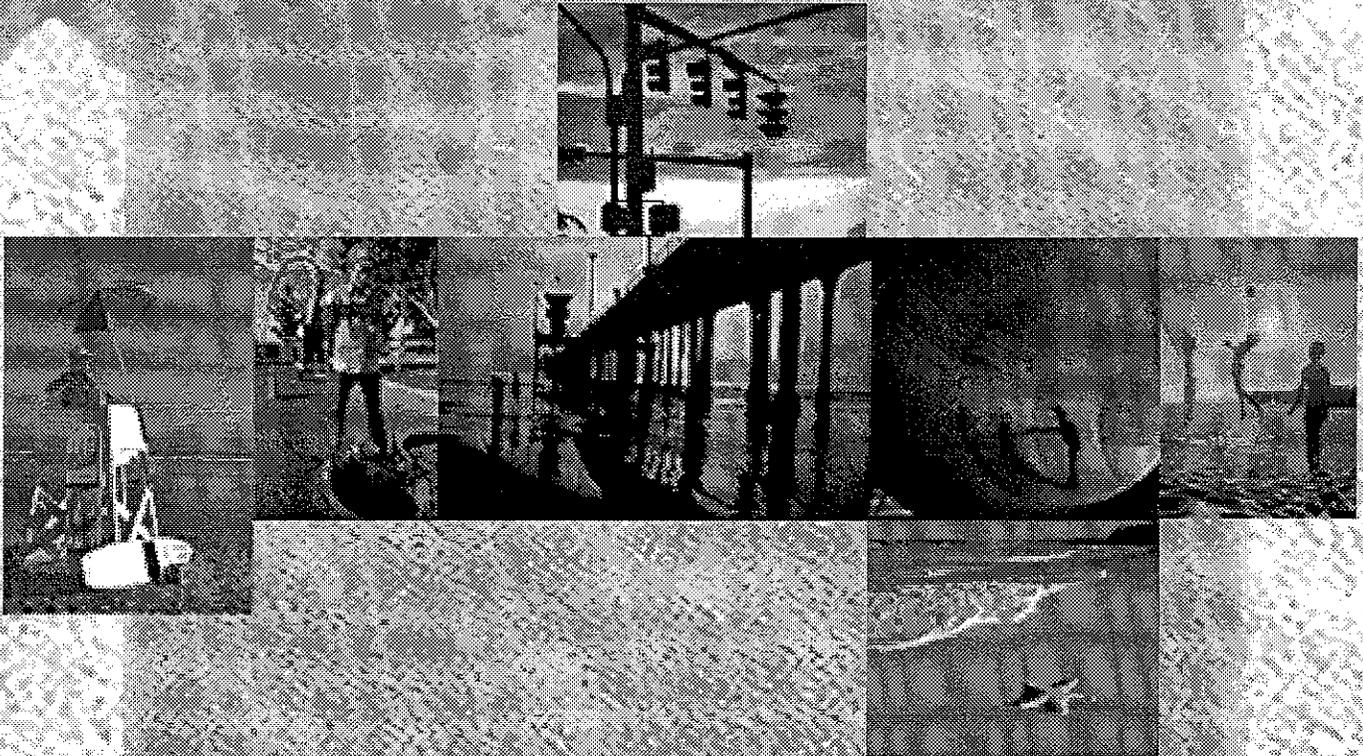
H. WRITTEN COMMUNICATIONS

I. COMMISSION AND STAFF COMMENTS

J. ADJOURNMENT

NEXT CITIZENS INFRASTRUCTURE ADVISORY BOARD MEETING
--

**THE CITY OF HUNTINGTON BEACH'S
INFRASTRUCTURE NEEDS**



Final Report

**Citizens' Infrastructure
Advisory Committee**

City of Huntington Beach

July 2000

The City of Huntington Beach's Infrastructure Needs

Final Report

Citizens' Infrastructure Advisory Committee

**City of Huntington Beach
July 2000**

Huntington Beach: A Tale of Two Cities

To the thousands of us who call it home - and the countless others who visit here - Huntington Beach is a storybook town. Its doorstep is the majestic Pacific Ocean, its culture the surfboard. Our city is a mecca for both the laid back and the enterprising; it welcomes those seeking sanctuary and profit. From its cottages and castles to the gleaming windows of its commercial centers, Huntington Beach breathes and lives all that embodies the prosperity and quality of life along the California coast.

But there is another tale to tell of Huntington Beach - a true story written over time, seldom told and more often unheard. It is about the side of our fine city in decline and ravaged by time. It is the side few see and even fewer think about, but which profoundly influences our economy, our environment, our safety and our health. In the rigid language of civil engineering, it is called infrastructure. Most, however, will recognize infrastructure as sewer systems, streets and highways, curbs and sidewalks, storm drains and flood control facilities. It is the lights that control our intersections and illuminate our parks, the medians and parkways that give character to our streets, the buildings that give our town personality and life.

It is this side of Huntington Beach, the tale of its infrastructure and the critical state of decline it is in, that threatens our storybook town and picturesque way of life.

This report, compiled and submitted by the Citizens' Infrastructure Advisory Committee (IAC), is the true tale of two cities and how the decline of one is quietly eroding the vitality of the other. It specifies the advancing erosion of Huntington Beach's infrastructure, the catalysts behind its disrepair, and the threat it poses to our quality of life if left unchecked. Most important, it offers multiple ideas, recommendations and solutions to reverse the slide and rewrite the tale.

Here is a summary of what can be found in each of the sections of the full Final Report of the IAC:

Section 1 - Introduction: Background on Huntington Beach's infrastructure issues; definition of infrastructure; and the national, state and regional perspectives related to infrastructure.

Section 2 - Conditions and Statement of Need: History of Huntington Beach development and how it relates to current infrastructure needs; a description of unique physical conditions affecting the city's infrastructure; an inventory and description of all of the components of the city's infrastructure; and a prioritization of the city's infrastructure needs.

Section 3 - City's Financial Resources: An overview of the City's finances, revenue sources, budget and expenditures.

Section 4 - Current Infrastructure Policies, Practices & Standards: An explanation of the various policies and practices that determine infrastructure needs and respond to those needs, including excerpts from the General Plan related to infrastructure.

Section 5 - Community Influences Impacting Infrastructure Programs: A discussion of the changing landscape in which infrastructure decisions must be made, including political influences, economic conditions, technology, regulations and shifting tax revenues.

Section 6 - Financing/Funding Methods: An introduction to financing and funding methods, a comparative analysis of the various methods, and recommendations for methods to use for Huntington Beach's infrastructure needs.

Section 7 - Findings of Fact and Recommendations: This section discusses the findings related to the previous sections, and includes recommendations related to each section of this report.

Section 8 - Implementation Plan: This section identifies five categories into which action items have been organized, and indicates who should do what and when to ensure the completion of the committee's recommendations.

Ultimately, how this story ends rests with the people of Huntington Beach.

Where the story begins...

The seeds of the IAC's extensive two-year examination of Huntington Beach's decaying civil infrastructure - its findings and recommendations form the substance of this report - trace back to 1995. At the time, aging municipalities across the nation were confronting a looming specter. On the one hand, the symptoms of municipal infrastructure needs were revealing the eroding effects of time, development, population growth and obsolescence on sewer and water systems, highways, public walkways, flood control facilities and public buildings.

On the other hand, many of the nation's cities found themselves cloaked in a growing and prevailing public sentiment for "smaller government", lower taxes and, as a result, a preference for revenue-driven development that could shore up cities' dwindling financial resources.

These competing challenges were emblematic of the looming infrastructure needs the Huntington Beach City Council had already begun examining. Indeed, in 1995 the city launched a comprehensive initiative to survey our current and long-term infrastructure needs over the next 20 years, and to take an accounting of the funding necessary to meet the improvement needs it identified. The city's extensive review - the product of an alliance of the Huntington Beach Public Works Department, the Public Works Commission and the Finance Board - unearthed a troubling litany of infrastructure problems. Worse, the extent of the infrastructure's decline suggested needed improvements that far outstripped available funding to carry them out. These conclusions were first detailed by City staff in 1996 in the city's Integrated Infrastructure Management Program (IIMP), a comprehensive, forward-looking study of the city's infrastructure needs over the next twenty years.

Seeking citizen input...

Cognizant of the public mood sweeping many cities throughout the U.S. - one that showed little favor for increased taxes for infrastructure improvements - the Huntington Beach City Council sought to both confirm the findings of the IIMP and seek broad public consensus through a citizen review of the IIMP.

In 1998, the council conceived the Citizens' Infrastructure Advisory Committee, a 58-member body comprised of private citizens and representatives of various community organizations, associations and interests.

Over the course of the next two years, the IAC conducted a number of field studies and participated in hundreds of hours of meetings with city staff, public works officials and consultants. The scope of the committee's work was comprehensive, encompassing briefings of the city's infrastructure needs, field inspections, public awareness programs, city budget and revenue allocation reviews, the development of infrastructure improvement priorities, and the evaluation of financing and funding methods.

"The first task the committee members will be asked to undertake is to educate themselves about the city's Integrated Infrastructure Management Program (IIMP). The second task the Committee will be asked to undertake will be to guide the implementation of a Public Awareness Program that will explain to the local citizens the content of the IIMP and the choices the public and the City Council will need to make regarding methods of financing the IIMP."

-excerpt from Mayor Ralph Bauer's letter of November 19, 1997 to IAC members, soliciting their participation on the committee.

The work of the IAC, and the conclusions it reached, are generally illuminated in this executive summary, and discussed in significant detail within the IAC report.

The unfolding tale...

The unfolding tale contained within the IAC's work paints a picture of a city blessed with an enviable climate and location, buoyed by a strong economy, and inhabited by a people of diverse talents and interests. Likewise, it reveals a city whose infrastructure - burdened by the demands of unprecedented growth, age and deferred maintenance - is stretched beyond the capacity of its original design.

Since 1960, Huntington Beach's population has expanded more than twentyfold. Between 1960 and 1980 alone, the city's population ballooned from 10,000 to 170,000 people. Slowly, but just as surely, the effects of this explosive growth have begun to overwhelm Huntington Beach's civil infrastructure, much of which was designed and constructed 40 years ago. The coming of age of the infrastructure that was built at that time to support the city's new residents is our present challenge. In addition to the aging of the city, we are faced with higher, costlier construction standards, an accumulation of needed improvements brought on by deferred maintenance, and, thankfully, technological innovations that are forging new infrastructure solutions.



Neighborhood flooding problem requires a new storm drain system.



Tree damage to sidewalk, curb, gutter and pavement requiring major repair

The result is clear. Huntington Beach's sewer system, storm drain and flood control facilities, streets, sidewalks, curbs and gutters are simply not designed nor engineered to manage the contemporary demands of its citizens. The clearest manifestation of this reality surfaces periodically during winter storms. We have all experienced the effect of living in a low-lying area. Whether in our homes or when driving the flood-prone streets of Huntington Beach, the occasional reminder of our need for flood protection can be more than a mere annoyance. The flood control system is just one example of a well engineered, but deficient system in need of improvement to ensure the health and safety of our citizens. The persistent and ongoing contamination of local ocean water is yet another reminder—in this case, of a regional requirement—to update infrastructure to accommodate the area's current needs.

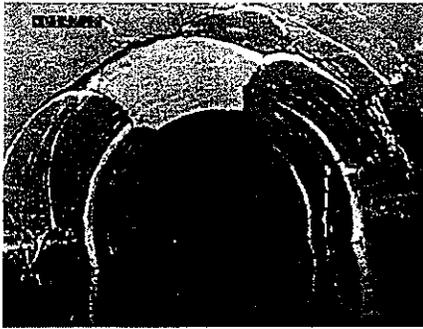
Aside from this well-publicized symptom, it is clear to the IAC that the total extent of disrepair of the city's infrastructure poses significant public health, safety, liability, property damage, economic, environmental and quality of life implications if the citizens, with City Council leadership, do not pursue near- and long-term remedies.

Setting and assessing priorities...

The Public Works Department's examination of the city's infrastructure in the IIMP was comprehensive and exhaustive. The two-year study by the IAC began with examination of the IIMP, and confirmed its findings through inspection of the city's infrastructure facilities. The committee reviewed the IIMP's assessment of the city's 1,060 miles of curbs and gutters; its 1,050 miles of sidewalks; its 575 miles of sewer mains; and its 414 miles of local streets; arterial highways and public alleys. As well, committee members inspected the city's 117 signalized intersections; its 28 sewer lift stations and its 15 storm water pump stations.

In every major infrastructure component examined by the IAC, the Public Works Department's assessment of condition and need as stated in the IIMP was confirmed.

In fact, Huntington Beach's infrastructure decline is so extensive the committee immediately recognized the need to set priorities for correction. The IAC constructed a weighted point system for prioritizing the city's infrastructure ills, assigning up to 100 points in nine distinct categories. The highest priority weightings were assigned to infrastructure deficiencies directly impacting public health, safety, liability and property. Lesser priority weightings were given to



Aged, deteriorated sewer main requiring rehabilitation



Slip lining (new technology) of existing deteriorated sewer main



Sewage lift station over 30 years old in need of full replacement

infrastructure problems directly impacting regulatory compliance, property values, the local economy, quality of life and blight.

Based upon the IAC's weighting system, the entire gamut of the city's infrastructure problems were then evaluated as to their effects in each of these categories with respect to deferred maintenance, repair or improvements.

Infrastructure components scrutinized under the weighting review were sewers, drainage systems and pump stations, residential sidewalks and curbs, residential streets, traffic signals and street lighting, beach facilities, arterial highways, alleys, playgrounds, buildings, parks, highway block walls, the city's equipment and vehicle fleet, and street trees.

The results of this important undertaking revealed a clear consensus between the IAC and the Integrated Infrastructure Management Program (IIMP) authored by the city as to the infrastructure challenges needing the most urgent attention. These are the city's sewer system, rated as the highest priority, and its drainage and pump stations, rated as the second highest priority.

Fundamentally, the IAC is in agreement with the IIMP that the biggest infrastructure threat to Huntington Beach is that which is unseen, and therefore does not register on the public radar screen. The disrepair of Huntington Beach's sewer system, drainage and pumping stations represents the highest threat to the city's health, safety, economy and quality of life.

The question of money...

The means by which the City of Huntington Beach is able to achieve the vast array of infrastructure improvements to meet our demands over the next 20 years represents a complex subtext of available funds, revenue shortfalls, unfunded mandates and dynamic public policies.

In the most fundamental terms, the IAC's conclusions paint a costly portrait of necessary new construction, improvements, maintenance and operations. Indeed, meeting Huntington Beach's infrastructure needs over the next 20 years through the improvements identified in the IIMP total approximately \$1.37 billion*.

This figure is a staggering revelation, made more sobering by the clear lack of available funds. The IAC's assessment of anticipated revenues derived from the city's general fund, gas tax revenues, development and traffic impact fees, grants and other revenue sources reveals a revenue stream totaling just \$512* million over the next 20 years.

The resulting revenue shortfall is ominous: as much as \$850* million over 20 years.

The genesis of both the cost of the identified infrastructure improvements and the dramatic revenue shortfall resides in a number of factors. In general terms, these include Huntington Beach's unique geographic and climatic conditions causing accelerated deterioration of its infrastructure. It includes a declining revenue base born from the tax revolt of the 1970s and 80s. And it is characterized by an on-going deferral of maintenance propagated by declining revenues, competing budget priorities and an out-of-sight-out-of-mind mentality. Underpinning these circumstances has been the historic lack of a consistent public policy for infrastructure maintenance by political leadership in the city, in Sacramento and in Washington, D.C. This finally has begun to change, with the most aggressive initiative occurring at the city level.

It is clear to the IAC that there is no single magic bullet to erase the daunting cost and revenue shortfalls that confront our infrastructure challenges. Rather, meeting our 20-year infrastructure demands will require an integrated program of cost reductions, technology improvements, streamlined budgeting and processes, aggressive competitive bidding, active grant participation, federal and state loans and potential sources of new local revenues.

Fundamentally, the IAC believes the Huntington Beach City Council and its departments responsible for the city's infrastructure systems, must place the highest emphasis on revenue savings cultivated from cost-saving process improvements, competitive sources of materials and services, contemporary management practices and long-range strategic information systems. These priorities, and the retention of revenues they produce, must be initiated prior to any public dialogue with respect to the development of new revenue streams through additional assessments, special taxes, user charges and fees.

Nevertheless, the IAC is persuaded that even optimum revenues achieved through cost savings, revenue windfalls, technology improvements and improved processes cannot by themselves close the revenue gap. Ultimately, in the wake of aggressive cost-saving measures, the citizens of Huntington Beach must be approached to make the necessary investment in the city's critical infrastructure needs.

* In today's dollars, not adjusted for inflation

Now, the rest of the story...

Since it is now clear that Huntington Beach is a tale of two cities - that of the seen storybook town and the lifestyle it affords, and that of its decaying infrastructure - it is also clear through the work of the IAC that the general public is unaware of the darker side. Indeed, our infrastructure remains a mystery to most citizens. And our citizens will not experience its state of disrepair until its inadequacy directly impacts their daily lives...a failed sewer system, denial of ocean access, lost business, street conditions, flooded properties, tripping on a raised sidewalk, and eroding property values.

In many respects, the public does not perceive Huntington Beach's infrastructure challenges, and are not aware of the implications of its inadequacy. While this is not surprising, it clearly needs to be rectified. Not merely by asking for additional revenues, but by encouraging our fellow citizens to become informed, active stakeholders in our health, well-being and vitality of their city.

This initiative can only be successful through multiple public information, ballot, and coalition-building programs carried out in the context of formalized public oversight and accountability.

Trust is the key. Together, the Huntington Beach City Council and staff, along with the Citizens' Infrastructure Advisory Committee, (the citizens' representatives) must establish a strong, cooperative, united alliance. It must use this alliance to convince our fellow citizens that there is indeed a pressing need for infrastructure improvements, that there are insufficient revenues to pay for those improvements, that commitments are being made to achieve revenue savings through improved governmental processes, that similar infrastructure needs and funding shortfall will not occur in the future, and that a formalized citizen oversight authority will closely monitor infrastructure funds and improvements to ensure that the necessary commitment is sustained.

Understanding these imperatives, the IAC has developed certain immediate recommendations to establish the framework and environment in which we can effectively and cooperatively solve our infrastructure challenges:

Charter Amendment—Ensuring Sustained Attention to Infrastructure Needs

In order to increase the City's demonstrated level of commitment to infrastructure, the City Council should immediately approve the inclusion of an amendment to the City Charter for the next election. The Charter Amendment will establish the Huntington Beach Citizens' Infrastructure Advisory Board. The Board will:

- Serve as the public oversight and accountability mechanism for infrastructure improvements and maintenance;
- Establish, preserve and represent consistent infrastructure priorities by which future city councils will make their infrastructure decisions.

Following is the text of the proposed Charter Amendment:

Infrastructure Fund.

- (a) All revenue raised by vote of the electors or imposed by vote of the City Council after November 5, 2000, for the purpose of infrastructure shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include sewers, sewage lift stations, storm drains, storm water pump stations, alleys, streets, parks, beach facilities, playgrounds, traffic signals, street lights, block walls along arterial highways, and public buildings and public ways. Interest earned on funds in the Infrastructure Fund shall accrue to that account. Funds shall not be transferred, loaned or otherwise encumbered and shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration, and property acquisition.
- (b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five (5) –year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a three (3) –year rolling average.
- (c) The City Council shall by ordinance establish a Citizens' Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal year budget.

–Approved by the Citizens' Infrastructure Advisory Committee on June 1, 2000.

The following goals constitute a blueprint for implementation of the IAC's recommendations and overall approach for successfully completing the infrastructure initiative started by the current City Council over five (5) years ago. The goals are summarized below in five categories: Public Awareness, Organization, Advocacy, Finance/Funding and Policy. They are described in more detail in the Implementation Plan that follows.

Public Awareness—Informing Our Citizens

- ◆ **Implement an ongoing comprehensive public awareness program with the following goals:**
 - ✓ Communicate current conditions and deficiencies of the City's infrastructure and the benefits of having well maintained infrastructure;
 - ✓ Inform the public about property tax revenue, state sales tax revenue and other tax revenue allocations so they understand the consequences of the actions of State decision-makers;
 - ✓ Encourage participation in City infrastructure decisions and expenditures; and
 - ✓ Inform residents and businesses in Huntington Beach of the need to invest in the City's infrastructure.

Organizational—Marshalling Our Resources Effectively and Efficiently

- ◆ **Continue to:**
 - ✓ Implement programs to improve organizational efficiencies and minimize annual operating costs;
 - ✓ Monitor, audit and improve systems for tracking accomplishments; and
 - ✓ Adopt and periodically update infrastructure systems Master Plans to provide timely, effective management tools. Present an audit of cost assumptions and calculations.
- ◆ **Establish an annual infrastructure report to the City Council and the community at budget time that includes:**
 - ✓ Revenue and expenditure information;
 - ✓ A summary of the progress made in reducing the backlog of infrastructure repairs; and,
 - ✓ A summary of performance in completing rehabilitation/replacement and infrastructure capacity improvement projects.
- ◆ **Position the city's infrastructure budgeting and expenditures as an enhancement of the quality of life, and, as such, also an economic development and community investment tool.**

Advocacy—Establishing and Sustaining an Informed Constituency on Behalf of Our Infrastructure Needs

- ◆ **Intensify lobbying efforts to:**
 - ✓ Restore revenue to cities for use in improving and maintaining infrastructure systems;
 - ✓ Secure legislation at the State and Federal levels that will negate or mitigate regulatory changes that adversely impact cities; and,
 - ✓ Seek recovery of funds for non-funded, mandated programs. Critically evaluate what really must be done to comply with the regulations.

Financing/Funding—Obtaining Funds Commensurate with Our Needs

- ◆ Encourage the development and maintenance of a long-range financial plan for the City.
- ◆ Evaluate current cost-recovery programs and investigate additional efforts to recover and/or manage costs.
- ◆ Update, evaluate and use, to the maximum extent possible, current fees and charges, which are restricted for expenditure on infrastructure purposes.
- ◆ Earmark portions of unanticipated revenue received by the City for infrastructure programs.
- ◆ Continue to aggressively pursue governmental grants as a supplemental funding source for infrastructure.
- ◆ Establish a system to explore, evaluate and implement creative infrastructure financing/funding methods for reducing our funding shortfall as a continuing priority.
- ◆ Continue to budget and expend for infrastructure improvements and maintenance, subsequent to Fiscal Year 2001, a minimum of 15% of the annual general fund revenues based on a three year rolling average.
- ◆ Develop dedicated, ongoing sources of funding to meet the city's current and long-term infrastructure requirements based on the following:
 - ✓ Any new revenues placed in the infrastructure fund shall not supplant existing infrastructure funding.
 - ✓ A pay-as-you-go financing approach should be used, but with a provision for bonding of infrastructure improvements that meet the following specific criteria:
 - Delay of the project would result in a cost that is much greater than interest on the bonds;
 - Risk of the facility failing during the period that the City is waiting to accumulate enough funds to fix it would expose the City and residents to significant health and/or safety risk; and,
 - Provide matching funds for a grant program that may come along for which insufficient funds are accumulated for the matching amount.

Policy—Putting in Place and Maintaining Infrastructure-Supportive Policies

- ◆ **Amend the City Charter and enact implementing ordinances to provide:**
 - ✓ Permanent mechanism and controls regarding infrastructure budgeting and expenditures;
 - ✓ Assurance that any new infrastructure funding source(s) will be spent only for infrastructure purposes; and,
 - ✓ A long-term commitment to a City budget that will adequately fund infrastructure maintenance and improvement, demonstrating that infrastructure is a constant priority.

Writing the final chapter...

This tale of two cities, of the Huntington Beach whose engaging quality of life benefits thousands but whose infrastructure threatens to shatter a storybook existence, has all the potential for a happy ending. And it is an ending already being written...through the efforts of the Huntington Beach City Council, City staff, the Citizens' Infrastructure Advisory Committee and the citizens of Huntington Beach.

In the full detail of this report, the Citizens' Infrastructure Advisory Committee places before our fellow citizens solutions that create a new beginning.

Into Action...

The IAC's review of the City's financial resources revealed some of the difficult realities currently facing the City. The IAC also noted programs underway to minimize costs even while serving a growing community with aging infrastructure.

At the Federal and State level, funding made available for grants and other programs varies from year to year, making it an unreliable ongoing source of funds. Clearly, only a multi-pronged approach to funding infrastructure can come close to meeting the needs identified in the IAC's Final Report.

Whether through cost reductions, technology improvements, grants or preventive maintenance – every possible source must be tapped to minimize costs and secure sufficient funds to ensure a long-term infrastructure solution. Federal and state grants, dedication of portions of windfall revenue to infrastructure and implementation of new sources of revenue must all become part of a comprehensive, long-term solution.

Cost savings, revenue windfalls, technology improvements, etc. will not however, close the gap entirely. The IAC believes it will be necessary to approach the citizens of Huntington Beach to step forward and assist in meeting the City's infrastructure needs.

Simply stated, Huntington Beach is facing a significant challenge to close the funding gap between the total infrastructure needs identified in the IIMP over the next 20-years period and beyond. The three primary participants in providing a multi-pronged solution for this funding gap are the City Council, the City Staff and the community. They form a triad of shared responsibility and actions. It can be likened to a three legged stool, where all three legs must be in place and strong in order to provide a functioning, stable framework. The primary actions these three partners can take in solving the problem are:

City Council

- ◆ Enhancement of current revenues and development of new sources

City Staff

- ◆ Implementation of cost savings programs

Community

- ◆ Approval of new revenue as required

The following plan identifies the actions to be taken, when and by whom, in order to implement the recommendations of the IAC. Action items for each of the five elements are numbered and preceded by initials identifying the elements: Public Awareness (PA), Organizational (O), Advocacy (A), Financing/Funding (F), and Policy (P).

Public Awareness (PA)		
Action	When	Who
PA1 Authorize Phase II of Frank Wilson & Associates' contract for community outreach and public awareness consultant services.	Immediate	City Council
PA2 Approve budgeting funds in FY2000-01 and thereafter for Public Awareness program.	This Budget Year & Ongoing	City Council
PA3 Ensure that an organizational structure is in place with defined responsibilities and adequate support resources to implement an on-going public awareness program.	Ongoing	City Council through City Administrator

Summary of Public Awareness Goals and Objectives

- ◆ **Implement an ongoing comprehensive public awareness program with the following goals:**
 - ✓ Communicate current conditions and deficiencies of the City's infrastructure and the benefits of having well maintained infrastructure;
 - ✓ Inform the public about property tax revenue, the state sales tax revenue and other tax revenue allocation so they understand the consequences of the actions of State decision-makers;
 - ✓ Encourage participation in City Infrastructure decisions and expenditures; and
 - ✓ Inform residents and businesses in Huntington Beach of the need to invest in the City's infrastructure.

Organizational (O)		
Action	When	Who
O1 Ensure that an organizational structure is established with defined roles, responsibilities and resources to identify, evaluate and implement organizational efficiency and cost reduction programs. Also, establish a monitoring, tracking and reporting system.	Immediate	City Council through City Administrator
O2 Establish a program to review on a regular basis the City's Infrastructure System Master Plans to ensure they are current and budget funds for updating of the plans as needed.	Immediate	City Council, City Administrator and Staff
O3 Assign responsibility to the Citizens Infrastructure Advisory Board to oversee the program and report no less than annually to the City Council.	Upon passage of Charter Amendment	City Council
O4 Establish an Infrastructure Fund.	Upon passage of Charter Amendment	City Council

Summary of Organizational Goals and Objectives

- ◆ **Continue to:**
 - ✓ Implement programs to improve organizational efficiencies and minimize annual operating costs;
 - ✓ Monitor, audit and improve systems for tracking accomplishments, and
 - ✓ Adopt and periodically update infrastructure systems Master Plans to provide timely, effective management tools. Present and audit of cost assumptions and calculations.

- ◆ **Establish an annual infrastructure report to the City Council and the community at budget time that includes:**
 - ✓ Revenue and expenditure information;
 - ✓ A summary of the progress made in reducing the backlog of infrastructure repairs; and,
 - ✓ A summary of performance in completing rehabilitation/replacement and infrastructure capacity improvement projects.

- ◆ **Position the city's infrastructure budgeting and expenditures as an enhancement of the quality of life, and, as such, also an economic development and community investment tool.**

Advocacy (A)		
Action	When	Who
A1 Ensure that an organizational structure for lobbying is in place and adequate resources provided to maintain a high level, sustained commitment by the city.	Immediate	City Council through City Administrator
A2 Continue to participate in regional & statewide lobbying efforts.	Ongoing	City Council
A3 Maintain a legislative tracking system.	Ongoing	City Staff

Summary of Advocacy Goals and Objectives

◆ **Intensify lobbying efforts to:**

- ✓ Restore revenue to cities for use in improving and maintaining infrastructure systems;
- ✓ Secure legislation at the State and Federal levels that will negate or mitigate regulatory changes that adversely impact cities; and
- ✓ Seek recovery of funds for non-funded, mandated programs. Critically evaluate what really must be done to comply with the regulations.

Financing/Funding (F)		
Action	When	Who
F1 Adopt a long-range financial plan for the City, to be updated on a regular basis.	Immediate and Ongoing	City Council through Finance Board
F2 Conduct a bi-annual review for purposes of maximizing the use of fees and charges for funding of infrastructure.	Immediate and Ongoing	City Council through City Administrator
F3 Continue to pursue a program to recover and/or manage costs associated with infrastructure	Immediate and Ongoing	City Council through City Administrator
F4 Establish a policy that all unanticipated revenue received by the City will be evaluated for earmarking to be used for infrastructure	Immediate and Ongoing	City Council
F5 Ensure that an organizational structure for pursuing governmental grants and loans is in place and adequate resources provided to maintain a high level, sustained commitment.	Immediate and Ongoing	City Council through City Administrator
F6 Establish an ongoing program to implement creative infrastructure financing/funding methods.	Immediate and Ongoing	City Council through City Administrator
F7 Implement provisions of the proposed Charter Amendment	Immediate and Ongoing	City Council
F8* Enact a monthly Sanitary Sewer Charge pursuant to the provisions of California Health & Safety Code 5470 for the rehabilitation, replacement, maintenance and repair of sewer system facilities, including lift stations with provisions for: <ul style="list-style-type: none"> ◆ The charge to be ongoing (not expire) as the funding requirements for the sewer facilities will continue beyond a fixed time period. ◆ An escalator to keep pace with costs of inflation and construction cost increases. ◆ A set aside of an amount to establish and maintain a reserve fund to undertake future rehabilitation and replacement of newly completed improvements. 	Immediate	City Council

* Recommendation is contingent upon a Charter Amendment (with provisions recommended in this report by the IAC) or equivalent ordinance being in place at the time of fee enactment.

Financing/Funding (F) (continued)		
Action	When	Who
<p>F9 Approve obtaining voter approval of a special tax pursuant to a citywide Community Facilities District (CFD) for the funding of other infrastructure items included in the Updated IIMP. It is recommended that it include:</p> <ul style="list-style-type: none"> ◆ A term of 20 years to match the 20-year term of the IIMP. ◆ An annual escalator of 2%. ◆ A set aside of an amount to establish and maintain a reserve fund to undertake future rehabilitation and replacement of newly completed improvements. 	City General Election in 2002	City Council
<p>F10 Authorize and ensure that a public awareness program is in place and implemented to communicate:</p> <ul style="list-style-type: none"> • The current conditions and deficiencies in the city's infrastructure; • The benefits of having well maintained infrastructure; and • The need to invest in infrastructure 	Immediate	City Council through City Administrator

Summary of Financing/Funding Goals and Objectives

- ◆ Encourage the development and maintenance of a long-range financial plan for the City.
- ◆ Evaluate current cost-recovery programs and investigate additional efforts to recover and/or manage costs.
- ◆ Update, evaluate and use, to the maximum extent possible, current fees and charges, which are restricted for expenditure on infrastructure purposes.
- ◆ Earmark portions of unanticipated revenue received by the City for infrastructure programs.
- ◆ Continue to aggressively pursue governmental grants as a supplemental funding source for infrastructure.
- ◆ Establish a system to explore, evaluate and implement creative infrastructure financing/funding methods for reducing our funding shortfall as a continuing priority.
- ◆ Continue to budget and expend for infrastructure improvements and maintenance, subsequent to Fiscal Year 2001, a minimum of 15% of the annual general fund revenues based on a three year rolling average.

- ◆ Develop dedicated, ongoing sources of funding to meet the city’s current and long-term infrastructure requirements based on the following:
 - ✓ Any new revenues placed in the infrastructure fund shall not supplant existing infrastructure funding.
 - ✓ A pay-as-you-go financing approach should be used, but with a provision for bonding of infrastructure improvements that meet the following specific criteria:
 - Delay of the project would result in a cost that is much greater than interest on the bonds;
 - Risk of the facility failing during the period that the City is waiting to accumulate enough funds to fix it would expose the City and residents to significant health and/or safety risk; and,
 - Provide matching funds for a grant program that may come along for which insufficient funds are accumulated for the matching amount.

Policy (P)		
Action	When	Who
P1 Approve placing the IAC’s proposed Charter Amendment on the November 2000 ballot.	Immediate	City Council
P2 Pursue formation of a campaign committee to promote voter approval of the Charter Amendment.	July 2000	IAC
P3 Authorize and ensure that a public awareness program is in place and implemented to communicate: the current conditions and deficiencies in the City’s infrastructure; the benefits of having well maintained infrastructure; and the need to invest in infrastructure.	July 2000	City Council
P4 Upon passage of and pursuant to the Charter Amendment: <ul style="list-style-type: none"> • Adopt an Ordinance establishing a Citizens Infrastructure Advisory Board (CIAB) and appointment of the CIAB. • Establish a separate Infrastructure Fund. 	Upon adoption of Charter Amendment	City Council

Summary of Policy Goals and Objectives

-
- ◆ **Amend the City Charter and enact implementing ordinances to provide:**
 - ✓ Permanent mechanism and controls regarding infrastructure budgeting and expenditures;
 - ✓ Assurance that any new infrastructure funding source(s) will be spent only for infrastructure purposes; and,
 - ✓ A long-term commitment to a City budget that will adequately fund infrastructure maintenance and improvement, demonstrating that infrastructure is a constant priority.

CROSS REFERENCE OF IMPLEMENTATION PLAN AND RECOMMENDATIONS

The following tables provide a cross reference between recommendations made in Sections 2 through 6 and their corresponding Action Plan Elements. Recommendations for each section also can be found at the end of their respective section.

2. Infrastructure Conditions and Needs	Action Plan Element
2A Communicate to residents the current deficiencies of the City's infrastructure and the benefits of having well maintained infrastructure systems.	Public Awareness
2B Develop and implement dedicated, ongoing and consistent sources of funding to meet the City's current and long-term infrastructure requirements.	Financing /Funding
2C Inform the citizens that a different prioritization of uses of current revenue and/or improvement in government efficiencies will not provide enough funds to do the job.	Public Awareness
2D Use the IAC weighting of possible consequences of non-implementation of infrastructure improvements and ranking of infrastructure as decision-making tools for the allocation of financial resources and budgeting.	Financing /Funding

3. City's Financial Resources	Action Plan Element
3A Inform residents and businesses in Huntington Beach of the need to invest additional dollars in the City's infrastructure systems to prevent future deterioration of its aging systems; to provide funding for ongoing infrastructure maintenance, repair, and rehabilitation/replacement, and, to protect property values.	Public Awareness
3B Continue an aggressive program of pursuing available governmental grants for infrastructure.	Financing /Funding
3C Continue implementing programs to improve organizational efficiencies and minimize annual operating costs.	Organizational
3D Consider earmarking unanticipated revenue to help fund the City's infrastructure programs before identifying it to be used for general municipal purposes.	Financing /Funding
3E Intensify lobbying efforts to redirect revenues back to cities for use in preserving and rehabilitating or replacing their aged and deteriorated infrastructure systems.	Advocacy
3F Support development and maintenance of a long-range financial plan for the City.	Financing /Funding
3G Evaluate current cost-recovery programs and investigate additional efforts to recover and/or manage costs.	Financing /Funding

4. City's Current Infrastructure Policies, Practices & Standards	Action Plan Element
<p>4A Establish an annual infrastructure report to the City Council and the community at budget time that includes: 1) Information on infrastructure revenue and expenditures, and 2) A summary of the progress made in reducing the backlog of infrastructure repairs, and 3) A progress report on performance in completing rehabilitation/replacement and infrastructure capacity improvement projects.</p>	Organizational
<p>4B Continue to adopt and periodically update infrastructure systems Master Plans to provide timely, effective management tools.</p>	Organizational
<p>4C Continue to implement programs to improve organizational efficiencies and minimize annual operating costs.</p>	Organizational

5. Community Influences Impacting Infrastructure	Action Plan Element
<p>5A Implement a public awareness program for the public to gain knowledge about and participate in the process leading to City infrastructure decisions and expenditures.</p>	Public Awareness
<p>5B Establish mechanisms for a long-term commitment to be made to City budgets that will adequately fund infrastructure maintenance and improvement.</p>	Policy
<p>5C Ensure that infrastructure is a constant priority for City budgeting and expenditures.</p>	Organizational
<p>5D Evaluate current cost-recovery programs (such as Utility Trench Ordinance) and investigate other efforts to recover costs and/or manage these impacts.</p>	Financing /Funding
<p>5E Continuously identify and evaluate proposed State and Federal regulatory changes and intensify lobbying efforts to ensure proposed changes do not adversely impact cities including Huntington Beach. Also, aggressively seek recovery of funds for non-funded mandated programs and participate fully in efforts to influence such legislation. Critically evaluate what really must be done to comply with the regulations.</p>	Advocacy
<p>5F Amend the City charter and enact implementing ordinances to provide permanent mechanism and controls regarding infrastructure budgeting and expenditures.</p>	Policy
<p>5G Inform the public regarding tax revenue allocation so they understand the consequences of the actions by State decision-makers.</p>	Public Awareness
<p>5H Inform residents and businesses that infrastructure budgeting and expenditures are a community investment and an economic development tool.</p>	Public Awareness

6. Financing/Funding Methods	Action Plan Element
6A Continue to update, evaluate and use, to the maximum extent possible, current fees and charges, which are restricted for expenditure on infrastructure purposes to provide a supplemental funding source.	Financing /Funding
6B Continue to aggressively pursue governmental grants as a supplemental funding source.	Financing /Funding
6C Establish a system to continuously explore, evaluate and implement creative funding methods.	Financing /Funding
6D Earmark portions of unanticipated revenue received by the City for infrastructure purposes.	Financing /Funding
6E Continue to budget and expend for infrastructure improvements and maintenance, subsequent to Fiscal Year 2001, a minimum of 15% of the annual general fund revenues, based on a three-year rolling average.	Financing /Funding
<p>6F* As soon as possible enact a monthly Sanitary Sewer Charge pursuant to the provisions of California Health & Safety Code 5470 to develop a dedicated, ongoing funding source for the rehabilitation/replacement and repair of sewer system facilities, including lift stations. It is recommended that the charge be ongoing (not expire), as the funding requirements for rehabilitation/replacement of the sewer facilities will continue beyond a 20-year period. In addition, it is recommended that the following be included as part of the action:</p> <ul style="list-style-type: none"> ✓ An escalator to keep pace with costs of inflation and construction cost increases; and, ✓ A provision for a portion of the revenue to be set aside as a reserve fund to undertake future rehabilitation/replacement and repair of newly completed improvements. 	Financing /Funding
6G Conduct community survey to assess how much financial impact the community is willing to accept as the basis of formulating the amount to be included in any financing/funding proposals.	Public Awareness

* Recommendation is contingent upon a Charter Amendment (with provisions recommended in this report by the IAC) or equivalent ordinance being in place at the time of fee enactment

6. Financing/Funding Methods	Action Plan Element
<p>6H Obtain voter approval of a special tax pursuant to a city-wide Community Facilities District (CFD) for the funding of other infrastructure items included in the updated IIMP. It is recommended that it include:</p> <ul style="list-style-type: none"> ✓ A term of 20 years to match the 20-year period of the IIMP. ✓ An annual escalator of 2% to match Proposition 13. ✓ A provision for a portion of the revenue to be set aside as a reserve fund to undertake future rehabilitation/replacement and repair of newly completed improvements. 	<p>Financing /Funding</p>
<p>6I Use a pay-as-you-go approach, but with a provision for bonding of infrastructure improvements that meet one or more of the following criteria:</p> <ul style="list-style-type: none"> ✓ Delay of the project would result in a cost that is much greater than interest on bonds; ✓ Risk of a facility failing during the period that the City is waiting to accumulate enough funds to fix it would expose the City and residents to significant health and/or safety risk; and ✓ Provide matching funds for a grant program that may come along for which insufficient funds are accumulated for the matching amount. 	<p>Financing /Funding</p>

Huntington Beach Charter and Codes							
Up	Previous	Next	Main		Search	Print	No Frames

[CHARTER](#)

[ARTICLE VI FISCAL ADMINISTRATION](#)

Section 617. INFRASTRUCTURE FUND.

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

(b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five- (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average.

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

View the [mobile version](#).

Huntington Beach Charter and Codes							
Up	Previous	Next	Main	Collapse	Search	Print	No Frames
MUNICIPAL CODE							
Title 2 ADMINISTRATION AND PERSONNEL							

Chapter 2.103 CITIZENS INFRASTRUCTURE ADVISORY BOARD

2.103.010 Creation

There is hereby created a Citizens Infrastructure Advisory Board. (4057-6/15)

2.103.020 Composition

The Board shall consist of seven members. Each City Council member shall appoint one member of the Commission to serve the same term as the City Council member. The Board shall adopt such bylaws and rules as it deems necessary to provide for its chair and officers and their method of selection, time and place of meetings and for such other matters relative to its work and administration of its duties which are not otherwise provided for by statute or ordinance. (4057-6/15)

2.103.030 Purpose

The Board shall act in an advisory capacity to the City Council in matters pertaining to infrastructure. (4057-6/15)

2.103.040 Duties

The Board shall have the duty to:

- A. Pursuant to City Charter Section 617(c), conduct an annual review and performance audit of the infrastructure fund and report its findings to the City Council prior to the City Council's adoption of the ensuing fiscal year budget.
- B. Perform such other duties or studies as may be directed by the City Council. (4057-6/15)

2.103.050 Authority

- A. It is intended that the Board act only in an advisory capacity and not be vested with final authority regarding infrastructure matters.
- B. The Board shall not interfere with the duties of any elected or appointed officer or employee. (4057-6/15)

2.103.060 Operating Policies

Except as otherwise provided in this Chapter, the Board shall conform to operating policies for Boards and Commissions as set forth in Chapter 2.100 of the Huntington Beach Municipal Code. The Board should meet monthly in the quarter prior to release of the annual budget. (4057-6/15)

2.103.070 Financial Disclosure

In accordance with California Law, members of the Board shall be required to file appropriate statements of economic interest. (4057-6/15)

2.103.080 Brown Act

Meetings of the Board shall be subject to the open meeting law (Government Code Section 54950). (4057-6/15)

View the [mobile version](#).

THE LAW FIRM OF
GREEN, de BORTNOWSKY & QUINTANILLA
A LIMITED LIABILITY PARTNERSHIP

**USERS GUIDE
TO THE
THE RALPH M. BROWN ACT**

2012 Edition

Green, de Bortnowsky & Quintanilla, LLP
gdqlaw.com

Los Angeles Area Office 23801 Calabasas Road, Suite 1015 Calabasas, California 91302 (818) 704 - 0195	Coachella Valley Office 41750 Rancho Las Palmas Drive, Suite P1 Rancho Mirage, California 92270 (760) 770 - 0873
---	--

Legal Disclaimer: Green, de Bortnowsky & Quintanilla, LLP provides this Guide to the Ralph M. Brown Act as a source of useful information for the public. While the information in this Guide is about legal issues, it is not legal advice or legal representation. Because of the rapidly changing nature of the law and the need to rely on outside sources of information, Green, de Bortnowsky & Quintanilla, LLP makes no warranty or guarantee of the accuracy or reliability of information contained herein.

THE RALPH M. BROWN ACT USERS GUIDE

Table of Contents

I.	HISTORICAL OVERVIEW OF THE ACT	1
II.	SUMMARY OF SUBJECTS COVERED BY THE BROWN ACT	1
A.	Applicability.....	1
1.	Governing Bodies Subject to the Act.....	1
2.	Subsidiary Bodies Subject to the Act	1
3.	Standing Committees Subject to the Act.....	1
4.	Private or Nonprofit Entities Subject to the Act.....	2
5.	Exempt Entities.....	2
6.	Newly Elected Officials.....	2
B.	Meetings, Defined.....	2
1.	What is a Meeting?.....	2
2.	What is Not a Meeting?.....	2
3.	Teleconferenced Meetings.....	4
4.	Prohibited Serial Meetings.....	4
C.	Notice, Agenda and Meeting Requirements.....	6
1.	Regular and Adjourned Regular Meetings.....	6
2.	Special Meetings.....	7
3.	Emergency Meetings.....	8
4.	Simultaneous Meetings.....	9
D.	Closed Session Meetings.....	9
1.	Personnel.....	9
2.	Litigation.....	10
3.	Property Negotiations.....	13
4.	Labor Negotiations.....	13
5.	Liability Claims.....	14
6.	Joint Powers Agencies.....	15
7.	Other Permissible Closed Session Topics.....	16
8.	Disclosure and Reporting of Items.....	16

Table of Contents (Continued)

9.	Permitted Closed Session Attendees.....	17
10.	Confidentiality of Closed Session Discussions.....	17
E.	Adjourned Meetings.....	18
1.	Adjournment Permitted.....	18
2.	Adjournment by the Clerk or Secretary.....	18
F.	Continued Hearings.....	18
1.	Authority.....	18
2.	Notice.....	18
G.	Rights of the Public at Meetings.....	19
1.	Attendance.....	19
2.	Access to Meeting Records.....	19
3.	Right to Record Proceedings.....	19
4.	Participation.....	20
5.	Disorderly Conduct of the Public.....	20
III.	REMEDIES AND PENALTIES.....	20
A.	Criminal Penalties.....	20
B.	Civil Penalties.....	21

THE RALPH M. BROWN ACT USERS GUIDE

I. HISTORICAL OVERVIEW OF THE ACT

The Brown Act, officially known as the Ralph M. Brown Act (Government Code sections 54950-54963¹) after its author, Assemblyman Ralph M. Brown (Turlock), was enacted in 1953 in response to mounting public concerns that local elected officials were avoiding requirements for providing the public with advance notice of public meetings by conducting secret "workshops" or "study sessions".

The stated intent of the Brown Act (also referred to herein as the "Act") is to ensure that public agencies deliberate and conduct their business in open public meetings that are open and accessible to the public.

The Act solely applies to local public agencies, boards, and councils, whereas the comparable Bagley-Keane Act mandates open meetings for State government agencies.

II. SUMMARY OF SUBJECTS COVERED BY THE BROWN ACT

A. APPLICABILITY

1. Governing Bodies Subject to the Act

The governing bodies of general law and charter cities, boards of supervisors and district boards are subject to the Brown Act. A governing body is referred to herein as the "governing body" or the "body"; the governmental entity that is governed by the body is referred to herein as the "agency". The officials of governing bodies subject to the Brown Act are referred to herein as "public officials" or "members".

2. Subsidiary Bodies Subject to the Act

Subsidiary boards, commissions or advisory bodies created by agencies (i.e., Planning Commissions, Finance Authorities, etc.) are subject to the Act, whether permanent or temporary.²

3. Standing Committees Subject to the Act

A standing committee of a governing body is subject to the Act. A standing committee is one that has a continuing subject matter jurisdiction or a meeting schedule that has been fixed by formal action of the governing body, regardless of the number of members.³

4. Private or Nonprofit Entities Subject to the Act

The governing body of a private or nonprofit entity formed by an agency to exercise authority that may lawfully be delegated by the governing body is subject to the Act.⁴

The governing body of a private or nonprofit entity that receives funds from an agency and whose body includes a member with full voting rights who also serves as a member of the governing body of the contributing agency is also subject to the Act.⁵

5. Exempt Entities

The following entities are exempt from the Brown Act:

- An ad hoc advisory committee of a governing body comprised of less than a quorum of members of the body⁶; and
- Businesses operating in the private sector.

6. Newly Elected Officials

Any person elected to serve as a member of the governing body who has not yet assumed the duties of office must conform his or her conduct to the requirements of the Brown Act.⁷

B. MEETINGS, DEFINED

1. What is a Meeting?

A "meeting" is any congregation of a majority of the governing members of a covered body, at the same time and location including a teleconferenced location, to hear, discuss, deliberate or take action on any item that is within the covered body's jurisdiction.⁸

2. What is Not a Meeting?

Nothing in the Brown Act prevents a majority of members of a governing body from attending a function. The test is not whether a majority attends the function, but whether business of a specific nature within the subject matter jurisdiction of the agency is discussed. So long as the members do not discuss agency business, there is no violation of the Brown Act.

Following are the five exceptions that permit a majority of members of a body to gather without prompting the Brown Act meeting requirements:

- A majority of the body may attend a public conference or similar gathering that addresses issues of general interest to the public, provided that a majority of the body do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the body's subject matter jurisdiction.⁹
- A majority of the body may attend an open and publicized meeting organized by another organization to address a topic of concern to the community provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the body's subject matter jurisdiction.¹⁰
- A majority of the body may attend a meeting of a governing body of another local agency. Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their agency's subject matter jurisdiction, again provided that it is an open and publicized meeting.¹¹
- A majority of the body may attend an open and noticed meeting of a standing committee of the governing body. The governing body members who are not standing committee members may attend only as observers, meaning that they cannot speak or otherwise participate in the meeting. A majority of the members must not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the governing body's subject matter jurisdiction.¹²
- A majority of the body may attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the agency.¹³

Example: A local organization is sponsoring the first of many candidates' forums. Each candidate will present his or her platform in the upcoming Municipal election. Candidates include four of the existing members of the City Council. Result: The forum is not a meeting, provided it is open and publicized and organized by a person or organization other than the agency to address a topic of local community concern, and provided a majority of the governing body do not discuss agency business among themselves, other than as part of the scheduled program.

3. Teleconferenced Meetings

The Brown Act provides for the audio or video teleconferencing of any meeting subject to the following conditions:

- A teleconferenced meeting must comply with all other Brown Act requirements.¹⁴
- All votes taken during a teleconferenced meeting must be accomplished by roll call.¹⁵
- The notice and agenda of the meeting must identify the teleconference location and must provide the public with the opportunity to address the members at the teleconferenced location.¹⁶
- A meeting agenda must be posted at the teleconferenced location.¹⁷
- The teleconferenced location must be accessible to the public.¹⁸
- During the teleconference, at least a quorum of the members of the body must participate from locations within the body's jurisdictional boundaries.¹⁹

4. Prohibited Serial Meetings

A series of private meetings (known as "serial meetings") by which majority of members of the body commit themselves to decision concerning public business or engage in collective deliberation on public business violates open meeting requirement imposed by the Brown Act. There may be nothing improper about the substance of a serial meeting; the problem is the process, which deprives the public of an opportunity for meaningful participation in decision-making.

The Brown Act prohibits a majority of the members of a legislative body, outside a public meeting, from using a series of communications of any kind, directly or through intermediaries, "to discuss, deliberate, or take action" on any item of business within its jurisdiction.²⁰ "Taking action" means a collective decision by a majority of the body, a collective commitment or promise by a majority to make a decision, or an actual vote of the body upon a motion, proposal, resolution, order or ordinance.²¹

The Brown Act does not prohibit public agency employees or officials from engaging in separate conversations or communications with members of a legislative body outside of a meeting to answer questions or provide information regarding a matter, as long as that employee or official does not communicate a member's comments or position on a matter to any other member.²² Officials must be cognizant of the difference between informational exchanges and prohibited consensus-building; officials must take great care to neither elicit information from council or board members nor share the comments or position of one council or board member with other members of the board or council outside of a public meeting.

Example 1: Council member A contacts Council member B to discuss a proposed building project that the council will act upon in the future. Council member B later contacts Council member C and discusses the project, and reveals Council member A's opinions regarding the project to Council member C. Result: A prohibited serial meeting has been conducted since there was discussion between a quorum of council members outside of an open, public meeting concerning a matter within the City Council's subject matter jurisdiction.

Example 2: One by one, a developer telephones and speaks with each council member for a decision on the developer's proposed project. During the phone conversation, the developer reveals to a majority of the council members the opinions of other members. Result: With the developer acting as the intermediary, a prohibited serial meeting has been conducted since there was discussion between a quorum of council members outside of an open, public meeting concerning a matter within the City Council's subject matter jurisdiction.

Example 3: A staff member briefs each council member about a pending project prior to a formal meeting and, in the process, reveals information about each member's respective views. Result: With the staff member acting as the intermediary, a prohibited serial meeting has been conducted since there was discussion between a quorum of council members outside of an open, public meeting concerning a matter within the City Council's subject matter jurisdiction.

Example 4: Council member A sends an email to a developer with a pending project congratulating him on the merits of the project. The developer forwards the email to all the remaining council members. Council members B and C confer in private about the opinion expressed by Member A. Result: A prohibited serial meeting has been conducted since there was discussion between a quorum of council members outside of an open, public meeting concerning a matter within the City Council's subject matter jurisdiction.

Example 5: One by one, the Mayor telephones the other council members to inquire as to whether to schedule a special meeting to discuss a pending project. Result: No serial meeting has been conducted, provided the Mayor avoids soliciting the opinions of the other members regarding the merits of the project.

C. NOTICE, AGENDA AND MEETING REQUIREMENTS

1. Regular and Adjourned Regular Meetings

A meeting of the governing body must be conducted within the local agency's jurisdiction except in limited circumstances.²³ The meeting place must not prohibit the admittance of any person on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. Members of the public must be able to gain admittance without making a payment or purchase.²⁴

At least three days prior to the meeting, notice of the meeting must be mailed to those who request it, including each local newspaper, radio and television station that has requested it.²⁵

At least seventy-two hours in advance of the meeting, notice of the meeting and the meeting agenda must be posted in areas that are freely accessible to the public at all times and on the local agency's website, if the local agency has one.²⁶

The agenda must describe each item of business to be transacted or discussed and must provide the time, and location of the meeting.²⁷ Action or discussion on any item not described in the agenda is prohibited, unless one of the urgency exemptions is applicable.²⁸ However, members may briefly respond to statements made or questions asked by the public.²⁹

Additionally, members may³⁰:

- ask a question for clarification
- make a brief announcement
- make a brief report on activities
- provide a reference to staff or other sources for factual information
- request staff report to the body at a future meeting
- direct staff to place a matter of business on a future agenda

The governing body may take action on items of business not described in the agenda under any one of the following urgent conditions:

- A majority of the members determine that an emergency exists, such as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both.³¹
- Two-thirds of the members present (or all of the members if less than two-thirds are present) determine that there is a need to take immediate action and the need for that action came to the attention of the body after the agenda was posted.³²
- The item appeared on the agenda of a meeting of the governing body held not more than five days earlier and the item was continued from that meeting.³³

The governing body may conduct only public votes, with no secret ballots.³⁴

2. Special Meetings

A special meeting may be called by the governing body's presiding officer or a majority of the body.³⁵ A special meeting of the governing body must be conducted within the agency's jurisdiction except in limited circumstances.³⁶ The meeting place must not prohibit the admittance of any person based on race, religious creed, color, national origin, ancestry, or sex and must be accessible to disabled persons.³⁷ Members of the public must be able to gain admittance without making a payment or purchase.³⁸

At least twenty-four hours prior to the meeting, the following must be accomplished:

- The call and notice of the meeting must be posted in a location that is freely accessible to the public at all times, and on the local agency's website, if the local agency has one.³⁹
- Written notice of the meeting must be delivered to, and received by each member of the governing body, unless the member has filed a written waiver of the notice or if the member is actually present at the meeting when it convenes.⁴⁰
- Written notice of the meeting must be delivered to and received by each local newspaper of general circulation and each radio or television station that requested written notice.⁴¹

The call and notice of the meeting agenda must describe each item of business to be transacted or discussed.⁴² Action or discussion on any item not described in the agenda is prohibited.⁴³ The governing body may conduct only public votes, with no secret ballots.⁴⁴

A special meeting may not be called regarding salaries, salary schedules, or fringe benefits of a local agency executive. However, this prohibition does not apply to a local agency calling a special meeting to discuss the local agency's budget.⁴⁵

3. Emergency Meetings

The governing body may conduct an emergency meeting if the majority of the body determines there is a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both.⁴⁶ All special meeting requirements are applicable to the emergency meeting, except for the twenty-four hour notice requirement.⁴⁷

One hour prior to the emergency meeting, the presiding officer or his or her designee must notify by telephone each local newspaper of general circulation and radio or television station that has requested notice of special meetings. If telephone services are not functioning, the notice requirement is waived. As soon after the emergency meeting as possible, the media must be informed of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting.⁴⁸

A majority may vote to hold an emergency meeting upon less than one-hour's notice in the case of a dire emergency such as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity if the peril is so immediate and significant that requiring the one-hour notice before holding the meeting may endanger the public health, safety, or both.⁴⁹ In such situations, at or near the time of the emergency meeting under dire circumstances, the presiding officer or his or her designee must notify by telephone each local newspaper of general circulation and radio or television station that has requested notice of special meetings. If telephone services are not functioning, the notice requirement is waived. As soon after the emergency meeting as possible, the media must be informed of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting.⁵⁰

During an emergency meeting, the body may meet in closed session if agreed to by a two-thirds vote of the members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.⁵¹

As soon after the emergency meeting as possible, the minutes of the meeting, a list of persons who the agency notified or attempted to notify, a copy of the roll call vote and any actions taken at the meeting must be posted in a public place and must remain posted for a minimum of ten days.⁵²

4. Simultaneous Meetings

A legislative body that has convened a meeting and whose membership constitutes a quorum of any other legislative body (such as a city council and housing authority board) may convene a meeting of the subsequent legislative body, simultaneously or in serial order, only if a clerk or member of the convened legislative body verbally announces the amount of compensation or stipend (not including reimbursements), if any, that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the subsequent legislative body. The announcement must also specify that the compensation or stipend is provided as a result of convening the meeting.⁵³

The announcement need not be made if the amount of compensation is determined by statute and no additional compensation is authorized by the local agency.⁵⁴

D. CLOSED SESSIONS

As discussed below, closed meetings are the exception and are permitted by the Brown Act only if they meet defined purposes and follow special requirements.⁵⁵

1. Personnel

The governing body may convene into closed session to discuss the appointment, employment, performance evaluation, discipline and complaints about or dismissal of a specific employee or potential employee, unless the employee requests a public session.⁵⁶

Prior to conducting a closed session on specific complaints or charges brought against an employee by another person or employee, the agency must provide the employee written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session. The notice must be delivered to the employee personally or by mail at least twenty-four hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the governing body against the employee based on the specific complaints or charges in the closed session is null and void.⁵⁷

The agenda must describe the closed session in the following manner.⁵⁸

- Public Employee Appointment Title: (Specify description of position to be filled)
- Public Employment Title: (Specify description of position to be filled)
- Public Employee Performance Evaluation Title: (Specify position title of employee being reviewed)
- Public Employee Discipline/Dismissal/Release (No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

The governing body must report action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session at the public meeting during which the closed session is held. The report must identify the title of the position. The report of a dismissal or of the nonrenewal of an employment contract must be deferred until the first public meeting following the exhaustion of administrative remedies, if any.⁵⁹

2. Litigation

The governing body may convene into closed session to discuss to with its legal counsel pending litigation when discussion in open session concerning those matters would prejudice the agency's position in the litigation.⁶⁰ Litigation is pending when any of the following circumstances exist:

- Litigation, to which the agency is a party, has been initiated formally.⁶¹
- A point has been reached where, in the opinion of the governing body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the agency.⁶²
- Based on existing facts and circumstances, the governing body is meeting only to decide whether a closed session is authorized under the Act.⁶³

An agency is considered to be a "party" or to have a "significant exposure to litigation" if an agency officer or employee is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment. This includes litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.⁶⁴

The facts and circumstances that indicate significant exposure to litigation are as follows:⁶⁵

- Facts and circumstances that might result in litigation against the agency but which the agency believes are not yet known to a potential plaintiff or plaintiffs. Such facts and circumstances need not be disclosed.
- Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs. Such facts or circumstances must be publicly stated on the agenda or announced.
- The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation. The claim or communication must be available for public inspection.
- A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the governing body.
- A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the governing body so long as the official or employee of the agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. That record must be available for public inspection. The record need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

The agenda must describe the closed session in the following manner:⁶⁶

- Conference With Legal Counsel--Existing Litigation (Subdivision (a) of Section 54956.9) Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers) or Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)
- Conference With Legal Counsel--Anticipated Litigation Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)
- Initiation Of Litigation Pursuant To Subdivision (C) of Section 54956.9: (Specify number of potential cases)

Agency approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation must be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. If the approval is to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but must specify that the direction to initiate or intervene in an action was given and that the action, the defendants, and the other particulars must be disclosed to any person upon inquiry, once the litigation is formally commenced, unless the disclosure would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or if disclosure would jeopardize its ability to conclude existing settlement negotiations to its advantage.⁶⁷

The governing body must report approval given to its legal counsel of a settlement of pending litigation at any stage prior to or during a judicial or quasi-judicial proceeding after the settlement is final, as specified below:⁶⁸

- If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.⁶⁹
- If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.⁷⁰

3. Property Negotiations

The governing body may convene into closed session to discuss with the agency's identified bargaining agent, the purchase, sale, exchange or lease of real property by or for the agency.⁷¹ Prior to the closed session, the governing body must hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate. Negotiators may be members of the governing body.⁷²

The agenda must describe the closed session in the following manner:⁷³

- **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Negotiating parties: (Specify name of party (not agent)) Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

The governing body must report its approval of an agreement concluding real estate negotiations after the agreement is final.⁷⁴ If the body's own approval renders the agreement final, it must report that approval and the substance of the agreement in open session at the same public meeting during which the closed session is held.⁷⁵ If final approval rests with the other party to the negotiations, the agency must disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the agency of its approval.⁷⁶

4. Labor Negotiations

The governing body may convene into closed session with designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.⁷⁷ The closed session with the agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of the agency's available funds and funding priorities, but only insofar as those discussions relate to providing instructions to the agency's designated representative.⁷⁸

The term "employee" includes an officer or an independent contractor who functions as an officer or an employee, but does not include any elected official, member of the governing body, or other independent contractors.⁷⁹

Prior to the closed session, the governing body must hold an open and public session in which it identifies its designated representatives.⁸⁰ The agenda must describe the closed session in the following manner:⁸¹

- **CONFERENCE WITH LABOR NEGOTIATORS**

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

The closed session must be for the purpose of reviewing the body's position and instructing the agency's designated representatives⁸² and may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.⁸³ The closed sessions must not include final action on the proposed compensation of one or more unrepresented employees.⁸⁴

The governing body must publicly report (orally or in writing) the action taken in closed session and the vote or abstention of every member present and voting; to approve an agreement that concludes labor negotiations with represented employees. The report must be made after the agreement is final and has been accepted or ratified by the other party and must identify the item approved and the other party or parties to the negotiation.⁸⁵

5. Liability Claims

The governing body may convene into closed session to discuss a claim for the payment of tort liability losses and public liability losses.⁸⁶ The agenda must describe the closed session in the following manner:⁸⁷

- **LIABILITY CLAIMS**

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name).

The governing body must report disposition of claims discussed in closed session as soon as reached in a manner that identifies the name of the claimant, the name of the agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.⁸⁸

6. Joint Powers Agencies

When the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, any person who serves as both a member of the governing body of a joint powers agency and as a member of the governing body of a member agency may disclose information to the member agency's legal counsel, or to other agency members in a closed session when the information was obtained in a JPA closed session and has direct financial or liability implications for the member agency.⁸⁹

If the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, any person who serves as both a designated alternate member of the JPA and as a member of the governing body of a member agency who attends a JPA meeting as the member agency's primary representative may attend the JPA closed session.⁹⁰

When the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, the governing body of a member agency, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a JPA closed session.⁹¹ The agenda must describe the closed session in the following manner.⁹²

- **CONFERENCE INVOLVING A JOINT POWERS AGENCY** (Specify by name).

Discussion will concern: (Specify closed session description used by the joint powers agency.) Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

7. Other Permissible Closed Session Topics

- Security of public buildings and services or a threat to the public's right of access to public services or facilities.⁹³
- License applications for people with criminal records.⁹⁴
- Threats to public services or facilities.⁹⁵

8. Disclosure and Reporting of Items

Prior to holding a closed session, the governing body must disclose, during open session, the item or items to be discussed in closed session. The disclosure may be by reference to the item as listed by number or letter on the agenda. During the closed session, the governing body may consider only those items covered in the disclosure.⁹⁶

After the closed session, the governing body must reconvene into open session and make the required reports of action taken and the vote or abstention of the members in closed session.⁹⁷ The required reports may be made orally or in writing.⁹⁸

The governing body shall provide to anyone who has submitted a written request within 24 hours of the posting of the agenda, or to anyone who has made a standing request for all documentation, copies of any documents that were finally approved or adopted in the closed session, if the requester is present at the time the closed session ends.⁹⁹ If the documents require substantive amendments and retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the governing body, or his or her designee orally summarizes the substance of the amendments for the benefit of the requester or any other person present and requesting the information.¹⁰⁰

Documents finalized in closed session must be made available to the public on the next business day following the meeting. If the documents require substantial amendment or retyping, copies must be made available as soon as completed.¹⁰¹

9. Permitted Closed Session Attendees

Only the members of the governing body and the support staff necessary to conduct business regarding a specified item (i.e., legal counsel, consultants, and negotiators) may attend a closed session.¹⁰²

10. Confidentiality of Closed Session Discussions

A person may not disclose confidential information that has been acquired by being present in a closed session to a person not entitled to receive it, unless the governing body authorizes disclosure of that confidential information.¹⁰³

"Confidential information" is defined by the Brown Act as a communication made in a closed session that is specifically related to the basis for the governing body to meet lawfully in closed session under the Act.¹⁰⁴

Violations of the confidentiality provision may be addressed by the use of the remedies currently available by law, including, but not limited to the following:¹⁰⁵

- Injunctive relief to prevent the disclosure of confidential information.
- Disciplinary action against an employee who has willfully disclosed confidential information, provided the employee in question has received training as to the requirements of this either section or otherwise has been given notice of the requirements of this section.
- Referral of a member of a legislative body who has willfully disclosed confidential information to the grand jury.

It is not a violation of the confidentiality prohibition for a person to do any of the following:¹⁰⁶

- Make a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.
- Express an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session,

including disclosure of the nature and extent of the illegal or potentially illegal action.

- Disclose information acquired by being present in a closed session that is not confidential.

E. ADJOURNED MEETINGS

1. Adjournment Permitted

The governing body may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment.¹⁰⁷ When a regular or adjourned regular meeting is adjourned, the resulting adjourned regular meeting is a regular meeting for all purposes.¹⁰⁸

2. Adjournment by the Clerk or Secretary

If all the members of the governing body are absent from any regular or adjourned regular meeting, the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place.¹⁰⁹ The clerk must give written notice of the adjournment in the same manner as is provided for special meetings. If the order of adjournment fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.¹¹⁰

Within twenty-four hours after the time of the adjournment, a copy of the order or notice of adjournment must be conspicuously posted on or near the door of the place where the adjourned meeting was held.¹¹¹

F. CONTINUED HEARINGS

1. Authority

Any hearing being held during a meeting, and any hearing that was noticed or ordered to be held during a meeting, may be continued by the governing body to a subsequent meeting of the governing body.¹¹²

2. Notice

The clerk must give written notice of the continuance in the same manner as for giving notice of a special meeting.¹¹³ Within twenty-four hours after the time of the continuance, a copy of the notice of continuance must be conspicuously posted on or near the door of the place where the continued

hearing was held. However, if the hearing is continued for a period of less than twenty-four hours after the time specified in the hearing notice or order, a copy of the notice of continuance must be posted immediately following the meeting at which the governing body ordered the continuance.¹¹⁴

G. RIGHTS OF THE PUBLIC AT MEETINGS

1. Attendance

An agency cannot require the public to register their names, provide other information, complete a questionnaire, or otherwise fulfill any condition to attend a meeting of the governing body.¹¹⁵ If an attendance list, register, questionnaire or similar document is circulated to the public present at the meeting, the document must clearly state that signing, registering or completing the document is voluntary.¹¹⁶

An agency's meeting place must not prohibit the admittance of any person based on race, religious creed, color, national origin, ancestry, or sex and must be accessible to disabled persons. Members of the public must be able to gain admittance without making a payment or purchase.¹¹⁷

2. Access to Meeting Records

If a writing is a public record and relates to an agenda item for an open session of a regular meeting of the agency's legislative body and the writing is distributed less than 72 hours prior to the meeting, the writing must be made available for public inspection when the writing is distributed to all, or a majority of all, of the members of the legislative body.¹¹⁸

The agency must make the writing available for public inspection at a public office or location that the agency designates for that purpose. The agency must list the address of the office or location on the agendas for all meetings of the legislative body. The agency may also post the writing on its website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.¹¹⁹

3. Right to Record Proceedings

Any person attending an open and public meeting of the governing body has the right to record the proceedings with an audio or video tape recorder or a still or motion camera providing the recording can proceed without noise, illumination or obstruction of views that would be a persistent disruption to the meeting.¹²⁰ Any person may inspect any tape or film record of an open and public meeting of the governing body. The inspection must be provided without

charge on a video or tape player made available by the agency.¹²¹ The agency may erase or destroy the recording thirty days after the taping or recording.¹²² Any inspection of an audio or video recording shall be provided without charge on equipment made available by the Agency.

4. Participation

Every regular meeting agenda must provide an opportunity for the public to address the governing body on any item of interest to the public that is within the governing body's subject matter jurisdiction.¹²³ At a regular meeting, the public must be provided an opportunity to address the governing body concerning any item described on the meeting agenda before or during consideration of that item.¹²⁴ However, an agenda for a regular meeting need not provide the public with the opportunity to address the body on any item that has already been considered by a committee composed exclusively of members of the body at a public meeting at which the public was given an opportunity to address the committee before or during its consideration of the item, unless the item has been substantially changed since the committee heard the item.¹²⁵

Every notice for a special meeting must provide an opportunity for the public to address the governing body concerning any item described in the notice before or during consideration of that item.¹²⁶

5. Disorderly Conduct of the Public

The members of the governing body may order the meeting room cleared, in the event a group or groups of individuals willfully interrupt the meeting and orderly conduct is unfeasible and cannot be restored by removal of individuals.¹²⁷ News media representatives must be permitted to attend the session, except those who participated in the disturbance.¹²⁸ Only matters appearing on the agenda shall be considered at a meeting which has been ordered cleared.¹²⁹

III. REMEDIES AND PENALTIES FOR VIOLATIONS OF THE ACT

A. Criminal Penalties

A member of the governing body may be charged with a misdemeanor if he or she attends a meeting of the body where action is taken in violation of the Act provided the member intended to deprive the public of information to which it is entitled under the Act.¹³⁰

B. Civil Penalties

The district attorney or any interested person may file an action requesting the court do any of the following:¹³¹

- Stop or prevent violations or threatened violations of the Act by members of a governing body.
- Determine the applicability of the Act to actions or threatened future action of the body.
- Determine whether any rule or action by the body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under state or federal laws.
- Compel the body to audio-record its closed sessions as ordered by the court. The court has the discretion, upon a judgment of a violation of any of the closed session provisions of the Act, to order the body to audio record its closed sessions and preserve the recordings for the period and under the terms of security and confidentiality the court deems appropriate.¹³²

Additionally, the district attorney or any interested person may file an action seeking a judicial determination that an action taken by the body is null and void under the Act.¹³³ However, prior to such action, the Act provides the body up to thirty days in which to cure or correct the defect.¹³⁴

The court may award court costs and reasonable attorney fees to the successful plaintiff who is successful in filing an action against the agency and/or its members under the Act. The costs and fees must be paid by the agency and are not a personal liability of any public officer or employee of the agency.¹³⁵ If the agency successfully defends the action, the court may award it court costs and reasonable attorney fees if the court finds that the action was clearly frivolous and totally lacking in merit.¹³⁶

P:\APPSWPDATA\WORKSHOP MATERIALS\Brown Act 2012\Brown Act Guide 2012 (01.24.12).doc

1 Unless otherwise specified, all statutory references are to the California Government Code.
2 § 54952(b)
3 § 54952(b)
4 § 54952(c)
5 § 54952(c)
6 § 54952(b)
7 § 54952.1
8 § 54952.2(a)
9 § 54952.2(c)(2)

10 § 54952.2(c)(3)
11 § 54952.2(c)(4)
12 § 54952.2(c)(6)
13 § 54952.2(c)(5)
14 § 54953(b)(1)
15 § 54953(b)(2)
16 § 54953(b)(3)
17 § 54953(b)(3)
18 § 54953(b)(3)
19 § 54953(b)(3)
20 § 54952.2(b)(1)
21 § 54952.6
22 § 54952.2(b)(2)
23 § 54954(b)-(e)
24 § 54961
25 § 54954, § 54954.1
26 §§ 54954(a), 54954.2(a)
27 § 54954.2(a)(1)
28 § 54954.2(a)(2)
29 § 54954.2(a)(2)
30 § 54954.2(a)(2)
31 § 54954.2(b)(1)
32 § 54954.2(b)(2)
33 § 54954.2(b)(3)
34 § 54953(c)
35 § 54956
36 § 54954(b)
37 § 54961(a)
38 § 54961(a)
39 § 54956
40 § 54956
41 § 54956
42 § 54956
43 § 54956
44 § 54953(c)
45 § 54956
46 § 54956.5(a)(1)
47 § 54956.5(d)
48 § 54956.5(b)(2)
49 § 54956.5(b)(2)
50 § 54956.5(b)(2)
51 § 54956.5(c)
52 § 54956.5(e)
53 § 54952.3
54 § 54952.3
55 § 54962
56 § 54957(b)(1)
57 § 54957(b)(2)
58 § 54954.5(e)
59 § 54957.1(a)(5)
60 § 54956.9

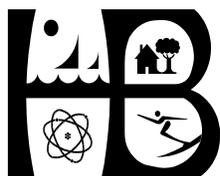
61 § 54956.9(a)
62 § 54956.9(b)(1)
63 § 54956.9(b)(2)
64 § 54956.9(c)
65 § 54956.9(b)(3)
66 § 54954.5(c)
67 § 54957.1(a)(2)
68 § 54957.1(a)(3)
69 § 54957.1(a)(3)(A)
70 § 54957.1(a)(3)(B)
71 § 54956.8
72 § 54956.8
73 § 54954.5(b)
74 § 54957.1(a)(1)
75 § 54957.1(a)(1)(A)
76 § 54957.1(a)(1)(B)
77 § 54957.6(a)
78 § 54957.6(a)
79 § 54957.6(b)
80 § 54957.6(a)
81 § 54954.5(f)
82 § 54957.6(a)
83 § 54957.6(a)
84 § 54957.6(a)
85 § 54957.1(a)(6)
86 § 54956.95(a)
87 § 54954.5(d)
88 § 54957.1(a)(4)
89 § 54956.96(a)(1)
90 § 54956.96(a)(2)
91 § 54956.96(b)
92 § 54954.5(j)
93 § 54957(a)
94 § 54956.7
95 § 54957(a)
96 § 54957.7(a)
97 § 54957.7(b)
98 § 54957.1(b)
99 § 54957.1(b)
100 § 54957.1(b)
101 § 54957.1(c)
102 Cal. Attorney General Opinion No. 03-604 (2003).
103 § 54963(a)
104 § 54963(b)
105 § 54963(c)
106 § 54963(e)
107 § 54955
108 § 54955
109 § 54955
110 § 54955
111 § 54955

112 § 54955.1
113 § 54955.1
114 § 54955.1
115 § 54953.3
116 § 54953.3
117 § 54961
118 § 54957.5(b)(1)
119 § 54957.5(b)(2)
120 § 54953.5(a)
121 § 54953.5(b)
122 § 54953.5(b)
123 § 54954.3(a)
124 § 54954.3(a)
125 § 54954.3(a)
126 § 54954.3(a)
127 § 54957.9
128 § 54957.9
129 § 54957.9
130 § 54959
131 § 54960(a)
132 § 54960(b)
133 § 54960.1(a)
134 § 54960.1(c)
135 § 54960.5
136 § 54960.5

Infrastructure Calculation FY 2011/12 to FY 2015/16

as of 6/25/2015

in thousands	Actuals FY 11/12	Actuals FY 12/13	Actuals FY 13/14	Projected FY 14/15	Proposed Budget FY 15/16	2011-2016 Total 5 Yrs	2011-2016 Avg 5 Yrs	15% of Revenue
REVENUES								
General Fund Revenues	\$ 188,704	\$ 197,877	\$ 203,722	\$ 207,039	\$ 215,690	\$ 1,013,032	\$ 202,606	\$ 30,391
Gas Tax Fund Transfers to General Fund	900	900	900	900	-	3,600	720	108
Total General Fund Revenues Subject to Calc	\$ 189,604	\$ 198,777	\$ 204,622	\$ 207,939	\$ 215,690	\$ 1,016,632	\$ 203,326	\$ 30,499
EXPENDITURES								
Public Works	\$ 18,113	\$ 17,974	\$ 18,052	\$ 20,638	\$ 20,089	\$ 94,866	\$ 18,973	
Community Services	2,214	2,261	2,280	2,396	2,508	11,659	2,332	
Library Facility Maintenance	159	162	243	268	270	1,102	220	
Information Services - GIS	137	137	141	145	150	710	142	
General Fund Capital Projects	2,050	4,620	3,636	3,692	3,020	17,018	3,404	
General Fund Infrastructure Debt	4,227	5,064	5,001	6,154	6,353	26,799	5,360	
Transfers to Infrastructure Fund	1,829	1,640	2,000	3,000	-	8,469	1,694	
Equipment for Infrastructure Purpose	1,124	2,154	1,490	2,000	2,700	9,469	1,894	
Total Expenditures	\$ 29,853	\$ 34,012	\$ 32,843	\$ 38,293	\$ 35,090	\$ 170,091	\$ 34,018	
Infrastructure Exp as a % of General Fund Revenues	15.7%	17.1%	16.1%	18.4%	16.3%			
5 Year Rolling Average	15.6%	15.3%	15.3%	16.2%	16.7%			
Expenditures Over (Under) 15% of Revenue								
Single Year	\$ 1,413	\$ 4,195	\$ 2,150	\$ 7,102	\$ 2,737			
Rolling 5 Years	\$ 5,569	\$ 2,319	\$ 3,119	\$ 11,657	\$ 17,597			



**CITY OF HUNTINGTON BEACH
CITIZEN'S INFRASTRUCTURE ADVISORY BOARD**

SUBMITTED TO: Citizen's Infrastructure Advisory Board

SUBMITTED BY: Travis K. Hopkins, PE, Director of Public Works

DATE: July 15, 2015

SUBJECT: Approve Infrastructure Fund Annual Report
for Fiscal Year 2014/15

Statement of Issue: The City Charter requires an annual review and performance audit of the Infrastructure Fund, and a report of the findings to the City Council. This review covers the current fiscal year (FY) 2014/15

Funding Source: Infrastructure Fund No. 314

Recommended Action: Motion to recommend to City Council approval of the Infrastructure Fund Annual Report.

Alternative Action(s): Direct staff to modify the Annual Report.

Analysis: The Infrastructure Fund was established in 2002, by City Charter Section 617. "... (c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget."

The single substantial revenue source to the fund is General Fund excess fund balance per the Financial Policy adopted in Fiscal Year 2006/07. The Policy was revised beginning in Fiscal Year 2009/10 to allow for an Economic Uncertainties Reserve commitment. Excerpts addressing the Infrastructure Fund for the previous and current policies are shown in Attachment 1.

Revenue

1. The General Fund transfer for FY 2014/15 is \$3,000,000.
2. The maintenance agreement for the traffic signal at Beachmont Plaza provides approximately \$10,000 annually. This payment is normally received in August and, therefore, has not been received as of the date of this report. The anticipated payment is included in the financial information below.

3. Interest and market adjustments are paid in proportion to the citywide investments and fund balance.

Expenditures

Budgeted expenditures and expenditure adjustments for FY 2014/15 consisted of carry forward projects from 2013/14, carry over encumbrances and new funds, including:

- Heil Pump Station Property Acquisition – A Hazard Mitigation Grant that will provide \$2,250,000 in funding for the project was awarded recently. A separate fund has been created to track the grant funds. Infrastructure funds in the amount of \$2,426,057 were carried forward from FY 2013/14.
- \$11,864 in encumbrance carry over funds for City Yard improvements. These funds have now been spent.
- \$1,000,000 in new funds for the Atlanta Avenue Widening Project.
- \$170,000 in new funds for replacement of the Arena Soccer Artificial Turf.
- The Infrastructure Fund is being used as a holding account for developer fees and expenditures related to the proposed Bella Terra Pedestrian Crossing Project. The FY 2014/15 budget includes \$63,639 in encumbrance carry over funds related to preliminary design and \$200,000 in carry forward funds designated for construction. However, to date the project has failed to move forward due to the fact the Public Utilities Commission, which oversees railroad crossings, is reluctant to allow an at-grade pedestrian crossing.
- FY 2014/15 funds for construction of the Senior Center include:
 - \$165 in encumbrance carry over funds related to plans and specification printing,
 - \$867,310 of carry forward funds for construction, and
 - \$3,000,000 in new funds for construction.

Due to favorable bid results, it was determined that the entire \$3M in new funds for the Senior Center would not be needed. Administration directed staff to expend a portion of the funds on other infrastructure needs. These include:

- \$305,000 for replacement of street lights fixtures with new LED fixtures.
- \$400,000 for concrete replacement in zone maintenance areas.
- \$600,000 for the Beach Parking Lot Rehabilitation from the Hyatt pedestrian bridge north to Huntington Street.

In addition, on January 20, 2015, City Council approved the appropriation of \$1,500,000 from the Infrastructure Fund to the Main Street Promenade Parking Structure Rehabilitation and \$500,000 for Worthy Park Phase 1 improvements.

New budgeted projects for 2015/16 include improvements to Walnut Avenue and 1st Street lighting.

INFRASTRUCTURE FUND (314)
Summary Report for FY 2014/15

	Budget 2014/15	Total Projected Revenue and Expenditures	Projected Budget/Carry Over to FY 2015/16
Beginning Fund Balance 9/30/14		\$7,559,644	
Projected Fund Balance 9/30/15			\$9,064,587
Revenue			
Transfer from General Fund	\$3,000,000	\$3,000,000	
Interest and Market Adjustments		\$8,000	\$6,000
Maint. Agreement - Beachmont Plaza		\$10,000	\$10,000
Total Revenue	\$3,000,000	\$3,018,000	\$16,000
Expenditures			
Heil Pump Station Const. and Property	(\$2,426,057)	(\$10,000)	(\$2,323,657)
City Yard Building Improvements	(\$11,864)	(\$11,864)	\$0
Atlanta Avenue Widening	(\$1,000,000)	\$0	(\$1,000,000)
Arena Soccer Artificial Turf Repl.	(\$170,000)	(\$168,715)	\$0
Bella Terra Pedestrian Crossing	(\$263,639)	\$0	(\$263,000)
Senior Center	(\$2,562,475)	\$0	(\$2,562,475)
LED Lighting Retrofit	(\$305,000)	(\$305,000)	\$0
Zone Maintenance Concrete	(\$400,000)	(\$400,000)	\$0
Beach Parking Lot	(\$600,000)	(\$600,000)	\$0
Main Street Parking Structure	(\$1,500,000)	(\$20,000)	(\$1,480,000)
Worthy Park Phase 1	(\$500,000)	\$0	(\$500,000)
Walnut Avenue and 1st Street Lighting			(\$143,000)
Accounting adjustment prior year	\$2,522	\$2,522	
Total Expenditures	(\$9,736,513)	(\$1,513,057)	(\$8,272,132)
Projected Fund Balance 9/30/15		\$9,064,587	
Projected Fund Balance 9/30/16			\$808,455

Attachments:

1. Excerpts from Financial Policy adopted FY 2006/07 and 2009/10

City of Huntington Beach

Financial Policies

Adopted FY 2006/07

FINANCIAL REPORTING AND ACCOUNTING STANDARDS

- . The City's accounting system will be maintained in accordance with generally accepted accounting practices and the standards of the Government Accounting Standards Board and the Government Finance Officers Association.
- . The annual financial report will be prepared within six months of the close of the previous fiscal year. The City will use generally accepted accounting principles in preparing the annual financial statements and will attempt to qualify for the Government Finance Officers Association's Excellence in Financial Reporting Program.
- . The City will strive for an unqualified audit opinion. An unqualified opinion is rendered without reservation by the independent auditor that financial statements are fairly presented.
- . The City will contract for an annual audit by a qualified independent certified public accounting firm. The independent audit firm will be selected through a competitive process at least once every five years. The contract period will be for an initial period of three years, with two one-year options.

BUDGETING

- . The budget will be prepared consistent with the standards developed by the Government Finance Officers Association and California Society of Municipal Finance Officers. In addition, a summary version will be provided to the public in a user-friendly format.
- . The City will maintain a balanced operating budget for all funds with estimated revenues being equal to, or greater than, estimated expenditures, and with periodic City Council reviews and necessary adjustments to maintain balance.
- . On-going revenues will support on-going expenditures. Revenues from one-time or limited duration sources will not be used to balance the annual operating budget.
- . Support function appropriations will be placed in the department in which they are managed.

GENERAL FUND BALANCE

- . The General Fund reserve (designation) will be a minimum of seven percent of the General Fund budget. In addition, a second tier reserve will consist of the net accumulation of amounts that were in excess of the seven percent reserve (designation) and remained in the General Fund after application of the financial policy that immediately follows. This second tier reserve will be used to balance budget fluctuations.
- . Allocation of the audited General Fund balance in excess of the above reserves (designations) may be as follows:
 - . 25 percent for capital projects (transferred to the Capital Improvement Reserve)
 - . 25 percent for Infrastructure (transferred to the Infrastructure Fund)
 - . 50 percent to increase the 2nd tier reserve
- . All supplemental appropriations from the General Fund minimum reserve that cannot otherwise be funded during the current fiscal year operating budget must meet one of the three following criteria:
 - . It is an unanticipated emergency.
 - . It is required to implement a Memoranda of Understanding (MOU) or a mandate.
 - . It is a new expense that is offset by related revenues.



**City of Huntington Beach
Financial Policies
Adopted Budget – FY 2009/10**



FINANCIAL REPORTING AND ACCOUNTING STANDARDS

- The City's accounting system will be maintained in accordance with generally accepted accounting practices and the standards of the Government Accounting Standards Board (GASB) and the Government Finance Officers Association (GFOA).
- The annual financial report will be prepared within six months of the close of the previous fiscal year. The City will use generally accepted accounting principles in preparing the annual financial statements and will attempt to qualify for the Government Finance Officers Association's Excellence in Financial Reporting Program.
- The City will strive for an unqualified audit opinion. An unqualified opinion is rendered without reservation by the independent auditor that financial statements are fairly presented.
- The City will contract for an annual audit by a qualified independent certified public accounting firm. The independent audit firm will be selected through a competitive process at least once every five years. The contract period will be for an initial period of three years, with two one-year options.

BUDGETING

- The budget will be prepared consistent with the standards developed by the Government Finance Officers Association and California Society of Municipal Finance Officers (CSMFO). In addition, a summary version will be provided to the public in a user-friendly format.
- The City will maintain a balanced operating budget for all funds with estimated revenues being equal to, or greater than, estimated expenditures, and with periodic City Council reviews and necessary adjustments to maintain balance.
- On-going revenues will support on-going expenditures. Revenues from one-time or limited duration sources will not be used to balance the annual operating budget.
- Support function appropriations will be placed in the department in which they are managed.

GENERAL FUND BALANCE

- There will be an established Economic Uncertainties Reserve commitment in the General Fund. The goal is to have an Economic Uncertainties Reserve commitment equal to the value of two months of the General Fund expenditure adopted budget amount.
- Once established, appropriations from the Economic Uncertainties Reserve commitment can only be made by formal City Council action. Generally, appropriations and access to these funds will be reserved for emergency situations. Examples of such emergencies include, but are not limited to:
 - An unplanned, major event such as a catastrophic disaster requiring expenditures over 5% of the General Fund adopted budget
 - Budgeted revenue taken by another government entity
 - Drop in projected/actual revenue of more than 5% of the General Fund adopted revenue budget
- Should the Economic Uncertainties Reserve commitment be used, and its level falls below the minimum amount of two months of General Fund expenditures adopted budget, the goal is to replenish the fund within three fiscal years.



City of Huntington Beach Financial Policies Adopted Budget – FY 2009/10



- Allocation of the audited General Fund unassigned fund balance will be done as follows if, and until, the Economic Uncertainties Reserve commitment is fully funded (i.e., two months of General Fund expenditures):
 - 50% to Economic Uncertainties Reserve commitment
 - 25% for Infrastructure Fund
 - 25% to Capital Improvement Reserve (CIR) commitment
- Once the Economic Uncertainties Reserve commitment attains full funding, unassigned fund balance will be divided as follows:
 - 25% for Infrastructure Fund
 - 25% to Capital Improvement Reserve (CIR) commitment
 - 50% to Equipment Replacement commitment
- Any unanticipated and unrestricted revenues received during the fiscal year will be added to the fund balance of the General Fund.

FUND BALANCE CLASSIFICATION

- The City's fund balance is made up of the following components:
 - Nonspendable fund balance typically includes inventories, prepaid items, and other items that, by definition cannot be appropriated.
 - The restricted fund balance category includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.
 - The committed fund balance classification includes amounts that can be used only for the specific purposes determined by a formal action of the City Council. The City Council has authority to establish, modify, or rescind a fund balance commitment.
 - Amounts in the assigned fund balance classification are intended to be used by the City for specific purposes but do not meet the criteria to be classified as restricted or committed. The City Administrator or designee has the authority to establish, modify, or rescind a fund balance assignment.
 - Unassigned fund balance is the residual classification for the City's funds and includes all spendable amounts not contained in the other classifications.
- The City considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available.
- The City's committed, assigned, or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

APPROPRIATION AUTHORITY

- The City Council is the appropriation authority for the City Budget. As required by state law, appropriations expire at the end of each fiscal year.