

ORDINANCE NO 4078

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING THE HUNTINGTON BEACH MUNICIPAL
CODE BY ADDING NEW CHAPTER 2 70
RELATING TO OPENNESS IN LABOR NEGOTIATIONS

WHEREAS, the City Council of the City of Huntington Beach finds that the process of conducting transparent and open labor negotiations is essential to good government; and

The City of Huntington Beach is a Charter City; and

The California Constitution provides Charter Cities the direct power and “plenary authority” to determine the compensation of their officers and employees. (Cal. Const., Article XI, § 5, subds., (a), (b), and (b)(4)), and

The California Constitution provides Charter Cities the direct power and authority to make and enforce all ordinances and regulations in respect to municipal affairs. (Cal. Const., Article XI, § 5, subds., (a)); and

The California Constitution provides that Charter Cities’ authority with respect to municipal affairs shall supersede all laws inconsistent therewith. (Cal. Const., Article XI, § 5, subds., (a)); and

The City, through coordinated and concerted efforts, has met and conferred and will continue to meet and confer with the City’s recognized collective bargaining units regarding the terms and details of this Ordinance; and

Government Code Section 3500 (Meyers-Milias-Brown Act, hereinafter as “the Act”) provides in pertinent part that the purpose and intent of the Act is “to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed”; and

Consistent with the foregoing authorities, the City Council finds that the Labor Negotiations between the City and its employees regarding bargained for wages, hours, and other terms and conditions of employment that are within the scope of bargaining, will benefit from an informed and knowledgeable public, and

The City Council finds that the collective bargaining by the City and its employees will be enhanced when done in the presence of an informed public.

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. The Huntington Beach Municipal Code is hereby amended to add new Chapter 2 70, entitled "Openness in Labor Negotiations," to read as follows.

Chapter 2.70 – OPENNESS IN LABOR NEGOTIATIONS

2.70.010 Applicability

This Chapter shall apply to all Labor Negotiations between the City and City-recognized collective bargaining unit(s) (hereinafter "Association") in the securing of a labor agreements in the form of Memorandums of Understanding ("MOU") or amendments thereto including negotiated "side letters" with the City relating to and/or having a material relationship to wages, hours, and terms and conditions of employment that are within the scope of bargaining.

Any discussions, meet and confers, negotiations, and/or other communications between the City and Association(s) regarding proposed changes to wages, hours, and/or any other terms or conditions of employment within the scope of bargaining may also be referred to in this Ordinance as "Labor Negotiations"

2.70.020 Pre-Negotiation, Meet and Confer on Ground Rules

The City Manager and/or his or her designee(s) shall meet with each of the City's Associations regarding ground rules for upcoming Labor Negotiations *prior* to the commencement those Labor Negotiations, as defined by this Chapter.

2.70.030 Negotiator

- (a) Where an independent negotiator is deemed not necessary by the City Council for a particular Labor Negotiation, the City Manager or his or her designee will act as the lead negotiator ("Designated Negotiator") on behalf of the City. No designee may be a member of an Association.
- (b) An Independent Negotiator may be appointed by the City Council to lead the City in Labor Negotiations. If an Independent Negotiator is deemed necessary by the City Council, he or she shall 1) not be an employee of the City, 2) not be a member of the public pension plan that covers City employees, and 3) have a demonstrated expertise in negotiating labor and employment agreements on behalf of municipalities.
- (c) The City Council may designate one or more Executive or Management level employees to assist the Designated or Independent Negotiator as deemed appropriate.
- (d) The City Council shall report out to the public the identity of the Designated or Independent Negotiator for each Labor Negotiation upon designation.

2.70.040 Negotiation Disclosures to Public

- (a) After the first submitted offer and counteroffer have been made, the City Council shall report to the public within twenty-four (24) hours of accepting or rejecting a submitted written proposal or portion thereof from an Association. The subject written proposal shall be made public by posting on a designated area of the City's web site. This Section shall not mandate publication of City Council-directed future proposals and/or the analytical thought process utilized by the City Council in Labor Negotiations.
- (b) No verbal or written reports or publications to the public regarding offers and counter-offers waive the attorney-client privileges that attach to Closed Session. All other information communicated during Closed Session, excluding offers and counter-offers, will remain subject to and covered by the privilege. By passing this Ordinance, the City Council does not waive this privilege of confidentiality.

2.70.050 Cost of Proposals and Labor Agreements

- (a) Except for the first offer and counteroffer made, the Director of Finance shall cause to be prepared a report determining the fiscal impacts attributed to each term and condition of employment of each subsequent written proposal (offer and/or counteroffer) resulting from Labor Negotiations, using the current MOUs as a baseline. These cost reports will be presented for review by the City Council, the affected Association, and the general public within twenty (20) days after said proposal is made.
- (b) The Director of Finance shall also cause to be prepared a report determining the fiscal impacts attributed to each term and condition of employment in the final, tentatively agreed upon labor agreement resulting from Labor Negotiations, which is reduced to writing in the form of an MOU between the City and the Association. This cost report will be presented for review by the City Council, the affected Association, and the general public at least thirty (30) days prior to the final MOU being acted upon by City Council.

2.70.060 Council Member Disclosures

Each City Council Member shall disclose both during Closed Sessions and publicly in Open Sessions, the identity of any and all Associations representatives with whom the City Council Member has had any verbal, written, electronic or other communication(s) regarding a subject matter of a pending Labor Negotiations.

2.70.070 Adoption of Memorandum of Understanding

- (a) A proposed MOU shall be introduced at the City Council not more than thirty (30) days after the initial City Council consideration and tentative approval

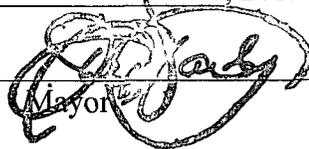
- (b) At each City Council meeting, the proposed MOU shall be agendized as an administrative item
- (c) The rendering of a final City Council determination regarding adoption of a MOU shall only be undertaken after the matter has been heard at a minimum of two (2) open City Council meetings, wherein the public has had the opportunity to review and comment on the matter.
- (d) All compensation increases shall be effective no earlier than the beginning of the first full pay period following City Council adoption.

SECTION 2. Inconsistencies. Any provision of the Huntington Beach Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance

SECTION 3. Severability. If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance, which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 4 This ordinance shall become effective 30 days after its adoption

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 7th day of December, 2015.



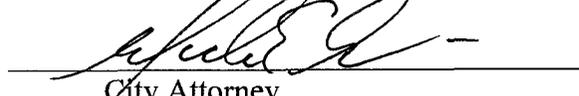
 Mayor

ATTEST:



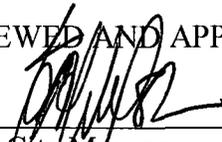
 City Clerk

APPROVED AS TO FORM:



 City Attorney

REVIEWED AND APPROVED



 City Manager

INITIATED AND APPROVED



 City Attorney

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

I, JOAN L FLYNN, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven, that the foregoing ordinance was read to said City Council at a **Regular** meeting thereof held on **November 16, 2015**, and was again read to said City Council at a **Regular** meeting thereof held on **December 7, 2015**, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Posey, Sullivan, Delgleize, Peterson

NOES: O’Connell, Katapodis, Hardy

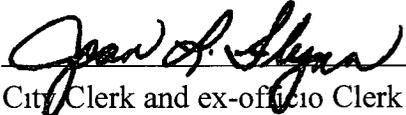
ABSENT: None

ABSTAIN: None

I, Joan L. Flynn, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Huntington Beach Wave on December 17, 2015
In accordance with the City Charter of said City

Joan L. Flynn, City Clerk

Senior Deputy City Clerk



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