

**Minutes  
City Council/Public Financing Authority  
City of Huntington Beach**

Monday, November 2, 2015  
4 00 PM - Room B-8  
6 00 PM - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

**A video recording of the 4:00 and 6:00 PM portions of this meeting  
are on file in the Office of the City Clerk and are archived at  
[www.surfcity-hb.org/government/agendas/](http://www.surfcity-hb.org/government/agendas/)**

**4:00 PM - COUNCIL CHAMBERS**

**CALLED TO ORDER – 4 03 PM**

**ROLL CALL**

Present     Posey, O’Connell, Katapodis, Hardy, Sullivan, Delgleize (arrived 4 05), and Peterson  
Absent     None

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution),**

Pursuant to the Brown “Open Meetings” Act, City Clerk Joan Flynn announced supplemental communications that were received by her office following distribution of the Council agenda packet

Study Session

#1     PowerPoint presentation dated November 2, 2015, entitled *AQMD Rule 1304 1 – AES Mitigation Fees and Proposed Implementation Plan and Funding Criteria*

#2     PowerPoint presentation dated November 2, 2015, entitled *Purchasing Presentation*

Mayor Hardy announced that Closed Session Item Nos 4, 5, 6, and 7 will not be discussed tonight

**PUBLIC COMMENTS PERTAINING TO STUDY SESSION / CLOSED SESSION ITEMS**

(3 Minute Time Limit) – One – noted after Item No 2

**STUDY SESSION**

**1.     Presentation and overview regarding AQMD Rule 1304.1 mitigation fees and Implementation Plan Fund Criteria resulting from re-powering of AES Power Plant**

Antonia Graham, Energy Project Manager, accompanied by Peter Whitingham, of Kurt Pringle and Associates, presented a PowerPoint entitled *AQMD Rule 1304 1 - AES Mitigation Fees and Proposed Implementation Plan and Funding Criteria*, that included the following titled slides Discussion Topics, Background, Use of "Offset" Proceeds, Rule 1304 1 Working Group, PCV Sentinel Energy Project, Proposed Implementation Plan and Funding Criteria, AQMD Environmental Justice Map, City's Position, Proposed Eligible Projects, Next Steps, and Questions?

Councilmember Delgleize and Mr Whitingham discussed mitigation fees for emissions, emission credit, and the AQMD's 2011 approval of the Sentinel Plant in Coachella Valley and how it was a new, not repurposed plant

Councilmember Delgleize and Manager Graham discussed AQMD's decision to use a map showing potential 1304 1 repowering projects (which the City describes as inaccurate) versus the CalEnviroScreen map Manager Graham described particulate matter and environmental justice Mayor Hardy provided support for use of the CalEnviroScreen map

Councilmember Posey and Manager Graham discussed environmental justice and the AQMD's position to connect it to a specific particulate matter Discussion ensued regarding emissions generated from other facilities Mr Whitingham described how the board approved an amendment to filter funds back into the communities that bear a disproportionate impact of a project

Councilmember Delgleize and Manager Graham discussed disbursement of mitigation funds for projects with a 6-mile radius of the AES plant Consultant Whitingham continued by explaining how mitigation funds can be dispersed to non-municipal agencies

Councilmember O'Connell, Mr Whitingham and Manager Graham discussed the AQMD Board's authority to disperse funds, and the recourse/appeal process for Huntington Beach should they not receive a disbursement

Mayor Hardy pointed out that all proposed AQMD projects, estimated at \$75 million, are shovel-ready

**2. Presentation regarding the City's contracting, procurement and purchasing processes as they relate to transparency; compliance with Federal, State and local regulations and statutes**

Lori Ann Farrell, Finance Director, provided a PowerPoint entitled *Purchasing Presentation* that included the following titled slides Summary, Purchasing, Transparency in Contracting, Planet Bids Website, Contract Types, The Process - Professional Services, The Process - Goods and Services, Public Works Contracts, Current Transparency in Purchasing, Local Vendor Preference, Local Vendor Preference Options, Proposed Outreach Enhancements, Buy America Project Summary, Sample of 10 Largest Suppliers by Department, Recommendations, and Questions / Discussion

Councilmember Peterson and staff discussed the process for becoming a qualified vendor, including registering with Planet Bid Discussion ensue on how the system notifies registrants when an appropriate project is open for bids With regard to RFPs or RFQs, staff explained there are boilerplate standards which are modified for the specific project and reviewed by the appropriate department, and questions would be forwarded to the City's legal department Further, the RFP often determines who is eligible for the contract, and for unique situations the City Attorney's office is consulted

Staff explained the informal bid process, stating that as a general rule, departments secure three bids Staff also explained that while the Municipal Code does not require three bids, departments must stay within budget so they usually solicit three bids to ensure best cost

Councilmember Posey and staff discussed minimum dollar value for Planet Bids, and what percentage of Planet Bid RFPs are awarded Discussion continued on the criteria for determining a responsible bidder including bidder's financial status, references, client list, activity, etc

In response to Councilmember Posey, staff indicated it would not be permissible to split a bid for multiple automobiles to allow for multiple premiums. Discussion ensued about the number of vehicles purchased locally over the last several years, and how in 2015, new financial software was implemented to assure integrity, and use of national/inter-agency contracts more often.

Councilmember O'Connell and Finance Director Farrell discussed the self-certification process for suppliers. Director Farrell explained that if a product is assembled in the U.S. with parts from another country, it is generally considered domestically produced because that process provides U.S. jobs.

Councilmember O'Connell confirmed with Director Farrell that professional service contracts over \$30,000 must go out to bid. Staff explained that the same vendor bidding two different contracts under \$30,000 from two different departments for the same service is not allowed, but indicated that there may occasionally be situations where the professional service being provided under each contract is totally different, and being provided by different divisions or departments from the same vendor.

Councilmember O'Connell summarized the *Buy American* program as any purchasing policy mandating *Made In America* could be subject to legal challenges. He asked City Attorney Gates to address issues if the City were to incentivize, and not penalize for a *Made In America* policy. City Attorney Gates opined that the City should refrain from acting as a market regulator (which is Federal territory). He however offered that the City's current policy of local preference/incentive would most likely be seen as permissible by the courts, adding there is a fine line in which increasing the incentive could be interpreted as becoming a market regulator.

Mayor Pro Tem Katapodis revisited the \$30,000 benchmark and asked if contractors for projects under that threshold are also secured from Planet Bid. Director Farrell stated that in addition to Planet Bid, industry or state-wide purchasing officer networks are also good sources for the smaller contracts. She described the RFP process as time consuming, taking at least six months or even a year. Mayor Pro Tem Katapodis suggested that every time a business license is issued, the City should provide details on how that business can compete for City work.

Councilmember Peterson and Director Farrell discussed evaluating contractors without municipal experience.

Councilmember Sullivan stated support for procuring domestically produced products when it is economically beneficial, and shared his pleasure that 85% of purchased supplies are domestically produced. He also stated support for the staff recommendations, especially removing the \$100,000 cap for the 5% local vendor preference list.

Mayor Hardy stated her support for removing the \$100,000 cap. She also suggested that advertising Planet Bid with business licenses be added to the recommendations.

Councilmember Posey asked how old the \$100,000 cap/5% policy is, and whether there should be an inflation adjustment. Director Farrell responded this policy has been used since 2009.

City Manager Wilson clarified that this policy only applies to goods and services, not Public Works projects.

**PUBLIC COMMENTS REOPENED, WITH NO OBJECTIONS FROM COUNCIL, FOR STUDY SESSION ITEM NO. 1 - AQMD RULE 1304.1 (3 Minute Time Limit)**

Mohsen Nazemi, P E Deputy Executive Director, Engineering and Compliance, South Coast Air Quality Management District (AQMD), wanted to remind the Council that the Implementation Plan and Funding Criteria described in the presentation is proposed, and not considered final. He discussed a State Assembly Bill that allows offsets from the AQMD. State law requires 30% of the fees to be used for mitigation within a 6-mile radius of the power plant. Typical environmental Justice Map is not being used because other factors, such as water contamination, unemployment rate and education rate, are to also be considered.

Councilmember O'Connell asked if any projects located in Huntington Beach get extra incentives. Mr Nazemi responded that projects within a 6-mile radius would receive the highest priority.

Mayor Hardy questioned the age of the map currently being used and Mr Nazemi stated the data was compiled last year.

### **RECESS TO CLOSED SESSION – 5:30 PM**

A motion was made by O'Connell, second Katapodis to recess to Closed Session Item Nos. 3, and 8-14. The motion carried by the following vote:

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

**Mayor Hardy Announced** Pursuant to Government Code §54956.8, the City Council takes this opportunity to publicly introduce and identify designated property negotiator, Assistant City Manager Ken Domer, who will be participating in today's Closed Session discussions concerning price and terms of payment for the real property located at 21500 Pacific Coast Highway (the Hyatt Property). The negotiating parties are: The real property owner, the Successor Agency to the former Redevelopment Agency of the City of Huntington Beach and the current lessee/purchaser, PCH Beach Resorts, LLC.

**Mayor Hardy Announced** Pursuant to Government Code §54956.8, the City Council takes this opportunity to publicly introduce and identify designated property negotiator, Assistant City Manager Ken Domer, who will be participating in today's Closed Session discussions concerning price and terms of payment for the real property located at 21100 Pacific Coast Highway (the Hilton Property). The negotiating parties are: the real property owner, the Successor Agency to the former Redevelopment Agency of the City of Huntington Beach and the current lessee/purchaser, Mayer Financial LLP.

**Mayor Hardy Announced** Pursuant to Government Code § 54957.6, the City Council takes this opportunity to publicly introduce and identify designated labor negotiator, City Manager Fred Wilson, who will be participating in today's Closed Session discussions regarding labor negotiations with Huntington Beach Firefighters' Association (HBFA), Huntington Beach Municipal Employees' Association (MEA), Management Employees' Organization (MEO), and Huntington Beach Police Officers' Association (POA).

### **CLOSED SESSION**

- Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Parks Legal Defense Fund v. The City of Huntington Beach, et al.; Orange County Superior Court Case No. 30-2012-00570541. In this second lawsuit challenging the Senior Center, a public interest advocacy organization alleges that the City violated CEQA, City Charter Section 612 (Measure C), and the City's General Plan.**

- ~~4 Pursuant to Government Code §54956.9(d)(1) the City Council shall recess into Closed Session to confer with the City Attorney regarding the following lawsuit City of Huntington Beach v Richmond, Huntington Beach Care Givers, Orange County Superior Court Case No 30-2014-00745511 The City alleges that Defendants are illegally conducting business as a Medical Marijuana Dispensary within the City.~~
- ~~5 Pursuant to Government Code §54956.9(d)(1) the City Council shall recess into Closed Session to confer with the City Attorney regarding the following lawsuit City of Huntington Beach v Med Aid HB, Garth Von Riedl, Nhu Quynh Trinh Truong, Medical Aid Program, Orange County Superior Court Case No 30-2014-00702871 The City alleges that Defendants are illegally conducting business as a Medical Marijuana Dispensary within the City.~~
- ~~6 Pursuant to Government Code §54956.9(d)(1) the City Council shall recess into Closed Session to confer with the City Attorney regarding the following lawsuit City of Huntington Beach v CHC Organization, Inc, a California Corporation Doing Business as Surf City Collective, Solomon Fishman, Orange County Superior Court Case No 30-2015-00800512 The City alleges that Defendants are illegally conducting business as a Medical Marijuana Dispensary within the City.~~
- ~~7 Pursuant to Government Code §54956.9(d)(1) the City Council shall recess into Closed Session to confer with the City Attorney regarding the following lawsuit City of Huntington Beach v Beach City Meds, LLC, A California Limited Liability Corporation, Lucy Yvette Garcia, Individually, and Lucy Yvette Garcia Doing Business as Beach Medical Durable Medical Equipment, Orange County Superior Court Case No 30-2015-00800505 The City alleges that Defendants are illegally conducting business as a Medical Marijuana Dispensary within the City.~~
- 8. Pursuant to Government Code §54956.9(d)(1) the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Donald Sipple, et al. v. City of Alameda, et al., Los Angeles Superior Court Case No. BC462270. Lawsuit to recover utility user tax ("UUT") on internet data paid by New Cingular Wireless PCS LLC.**
- 9. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Huntington Shorecliff, LP v. City of Huntington Beach, et al. (JS Stadium), Orange County Superior Court Case No. 30-2011-00463995.**
- 10. Pursuant to Government Code Section 54956.9(d)(4), the City Council recessed into Closed Session to confer with the City Attorney regarding whether to initiate litigation to condemn a temporary construction easement and permanent street easement for the Atlanta Avenue Widening Project from Pacific Mobile Home Park located at 80 Huntington Street in Huntington Beach, APN 024-291-16.**
- 11. Pursuant to Government Code § 54956.8, the City Council recessed into Closed Session to give instructions to the City's Negotiator, Ken Domer, Assistant City Manager, concerning price and terms of payment for the purchase of real property in located at 21500 Pacific Coast Highway (APN 024-251-01) the "Hyatt Property". The negotiating parties are: The real property owner, the Successor Agency to the former Redevelopment Agency of City of Huntington Beach and the current lessee/purchaser, PCH Beach Resorts, LLC.**

12. Pursuant to Government Code §54956.8, the City Council recessed into Closed Session to give instructions to the City's Negotiator, Ken Domer, Assistant City Manager, concerning price and terms of payment for the real property in located at 21100 Pacific Coast Highway (APN 024-01 and 02) the Hilton Property. The negotiating parties are: the property owner, the Successor Agency to the former Redevelopment Agency of City of Huntington Beach and the current lessee/purchaser, Mayer Financial LLP.
13. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Ocean View School District v. City of Huntington Beach, et al., Orange County Superior Court Case No. 30-2012-00539563, Court of Appeal Case No. G049545, which concerns a CEQA challenge to the City's final EIR on a mixed use project on the southwest corner of Beach Boulevard/Warner Avenue.
14. Pursuant to Government Code § 54957.6, the City Council recessed into Closed Session to meet with its designated labor negotiators and Fred Wilson, City Manager regarding the following: Huntington Beach Firefighters' Association (HBFA), Huntington Beach Municipal Employees' Association (MEA), Management Employees' Organization (MEO), and/or Huntington Beach Police Officers' Association (POA).

**6:00 PM – COUNCIL CHAMBERS**

**RECONVENE CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING – 6 24 PM**

**CLOSED SESSION REPORT BY CITY ATTORNEY**

City Attorney Michael Gates reaffirmed Mayor Hardy's announcement that Closed Session Item Nos 4-7 were not discussed during Closed Session

**ROLL CALL**

Present Posey, O'Connell, Katapodis, Hardy, Sullivan, Delgleize, and Peterson  
Absent None

**PLEDGE OF ALLEGIANCE** – Led by Councilmember O'Connell

**INVOCATION** - Given by Reverend Peggy Price, Greater Huntington Beach Interfaith Council

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

**AWARDS AND PRESENTATIONS**

Mayor Hardy announced that November is National Native American Heritage Month and read a statement to recognize the accomplishments and contributions of the Native American community.

Mayor Hardy called on Library Services Director Stephanie Beverage who thanked the Friends of the Library for their continued support.

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS** (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced supplemental communications received by her office following distribution of the Council agenda packet

Liaison Report

A PowerPoint communication entitled Historic Wintersburg designated NATIONAL TREASURE by National Trust for Historic Preservation

City Treasurer's Report

#1 Revised PowerPoint communication received from City Treasurer, Alisa Cutchen, entitled *City of Huntington Beach City Treasurer's Report, Period Ending September 30, 2015*

Consent Calendar

#7 Reimbursement Agreement with Christopher Homes to fund the environmental analysis for Redevelopment of the Michael E Rodgers Seniors' Center Site

#9 Received 3 more Protest Letters regarding the Water and Sewer Service Rate Adjustments, in addition to the 257 previously received

Public Hearing

Items #10, #11, #12 and #13

Communication received from City Attorney, Michael E Gates, dated November 2, 2015, revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing

Communications received regarding denial of Zoning approvals, Business Licenses and Certificates of Occupancy for Medical Marijuana Dispensaries from

Mark Rosenberg

Dea Franklin

Dylan Hensley

Donna Wallack

Deborah Williams

Gil (no last name given)

Sabrina Regehr

Administrative Items

#14 Exclusive Negotiation Agreement with Christopher Homes for Redevelopment of the Michael E Rodgers Seniors' Center Site

**PUBLIC COMMENTS** (3 Minute Time Limit) – 10 speakers

*The number [hh mm ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>*

John Briscoe voiced his concerns about contract and permit inspections and enforcement by the City of Huntington Beach at the Rainbow Disposal property owned by Republic Environmental Services (01 36 57)

Sue Gordon, Community Relations Manager, Rainbow Environmental Services, provided a PowerPoint entitled *Bioswale* that included the following titled slides *What is a Bioswale?*, *Gate 6 Drain*, *Views of Bioswale*, and *Bioswale Endorsements* (2 slides) (01 39 26)

Maureen discussed government transparency and forgivable loans, identifying City Manager Fred Wilson and former Police Chief Ken Small as recipients of forgivable loans She also discussed the benefits available to certain public officials (01 42 39)

Annemarie Boyer voiced concerns about what she perceives as tactics used by the Ocean View School District and Oak View Comunidad to shut down Rainbow Environmental Services (01 44 42)

Doran Solis voiced concerns about her perception of the unhealthy conditions of the Rainbow Environmental Services property on Nichols Street in Huntington Beach (01 48 02)

Victor Valledares, Oak View Community member, encouraged the City to work with the County to resolve issues he has observed in the Oak View community related to absentee landlords that do not maintain property for adequate health and safety standards (01 51 23)

Chris Epting thanked Council for bringing forth the item that proposes establishing an ad hoc committee to provide a memorial for the Borrego and Silva's Families (01 54 35)

Barbara Iman voiced concerns about her perception that Rainbow Environmental Services is recycling concrete that may contain asbestos. She also voiced her concerns about the potentially life-threatening respiratory illnesses that she has observed in many members of the Oak View community -- an area that is directly impacted by the operations at Rainbow (01 55 34)

Robert Johnson voiced concerns about the City's housing element and affordable housing program (01 58 46)

R. Allen Baylis spoke in support of the proposed memorial for the Borrego and Silva's families and offered to assist in the process. He also suggested the City Council may want to reconsider the current stance of not allowing medical marijuana dispensaries in the City (02 02 12)

## **COUNCIL COMMITTEE - APPOINTMENTS - LIAISON REPORTS AND ALL AB 1234 DISCLOSURE REPORTING**

Mayor Pro Tem Katapodis appointed Andy Glade to the Citizen Participation Advisory Board (CPAB), and reported attending the Orange County Sanitation District (OCSD) meeting

Councilmember Posey appointed Sherwood Prusso to the CPAB, and reported attending the BIA Building Pacific City Workshop and the BIA General Membership breakfast and Affordable Housing discussion

Councilmember Delgleize reported attending a tour of the Orange County Rescue Mission where Mr. Jim Palmer shared ways they are serving the area's homeless population. She also reported attending the BIA Building Pacific City Workshop and the BIA informative Affordable Housing discussion

Councilmember O'Connell reported attending the OC Tax 2015 Annual Membership luncheon, the City Employee Halloween Breakfast at City Hall, the BIA Building Pacific City Workshop, OCBC 2015 Economic Forecast Conference and the BIA General Membership Breakfast discussion on Affordable Housing

Mayor Hardy, as Liaison with Councilmember Peterson to the Historic Wintersburg Task Force, shared a PowerPoint presentation entitled *Historic Wintersburg designated a National Treasure by the National Trust for Historic Preservation* which contained the following titled slides: *Urban Land Institute Technical Assistance Panel report released, General points from ULI technical analysis, What's next, and Holidays in Huntington Beach, 1915*. This is the first National Treasure for Orange County. The Urban Land Institute worked with the National Trust for Historic Preservation on behalf of Historic Wintersburg to come up with an economically, physically and politically feasible plan.

**CITY MANAGER'S REPORT – None**

**CITY TREASURER'S REPORT**

**1. Received and filed the City Treasurer's September 2015 Quarterly Investment Summary Report**

City Treasurer Alisa Cutchen provided a PowerPoint entitled *City of Huntington Beach City Treasurer's Report*, that included the following titled slides *City Treasurer's Mission Preservation and Return of Investments, Investment Policy Certification, Portfolio Overview Investment Summary As of September 20, 2015, Investments by Type, Historical Book Value, Portfolio Performance, and Questions*

A motion was made by Peterson, second Delgleize to receive and file the Quarterly Investment Report for September 2015, pursuant to Section 17 0 of the Investment Policy of the City of Huntington Beach as amended by supplemental communication

The motion carried by the following vote

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

A motion was made by Sullivan, second Delgleize to bring forward **Councilmember Item 15** - Establish an Ad Hoc Committee to provide a Memorial for the Borrego and Silvas Families, since family members were present

The motion carried by the following vote

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

The minutes will reflect action on Councilmember Item 15 in its original, agendized order

**CONSENT CALENDAR**

Councilmember Peterson pulled Consent Calendar Item #7 for discussion

**2. Approved and adopted minutes.**

A motion was made by Katapodis, second Sullivan to review and approve the City Council/Public Financing Authority regular meeting and Successor Agency special meeting minutes dated October 19, 2015, as written and on file in the office of the City Clerk

The motion carried by the following vote

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

**3. Approved an appropriation in the amount of \$145,000 for security and evidence handling upgrades for the Police Department, from Property and Evidence Account, Fund 216; and, authorized the Chief of Police to expend funds**

A motion was made by Katapodis, second Sullivan to appropriate \$145,000 in business unit 21670101 for the purchase of security and evidence handling equipment, and, authorize the Chief of Police to use these funds to purchase a security surveillance system, evidence lockers, refrigerated evidence locker, biological evidence dryer, and property room improvements and installation

The motion carried by the following vote

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

**4. Adopted Resolution No. 2015-66 approving the Fiscal Year 2015/2016 Investment Policy**

A motion was made by Katapodis, second Sullivan to adopt Resolution No 2015-66, "A Resolution of the City Council of the City of Huntington Beach Approving the Statement of Investment Policy for 2015/2016 "

The motion carried by the following vote

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

**5. Adopted Resolution No. 2015-67 approving submittal of two grant applications associated with improvement projects to the Orange County Transportation Authority (OCTA) for funding under the Comprehensive Transportation Funding Program (CTFP) for regional traffic signal synchronization projects**

A motion was made by Katapodis, second Sullivan to adopt Resolution No 2015-67, "A Resolution of the City Council of the City of Huntington Beach Approving the Submittal of Improvement Projects to the Orange County Transportation Authority for Funding Under the Comprehensive Transportation Funding Program "

The motion carried by the following vote

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

**6. Approved and authorized execution of an Agreement with the City of Fountain Valley for Fire Investigator Services with the cost of these services being reimbursed to the City of Huntington Beach**

A motion was made by Katapodis, second Sullivan to approve and authorize the Mayor and City Clerk to execute "Agreement Between the City of Huntington Beach and the City of Fountain Valley for Fire Investigator Services "

The motion carried by the following vote

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

NOES None

**7. Approved and authorized execution of a Reimbursement Agreement with Christopher Homes to fund the environmental analysis for the redevelopment of the Rodgers Seniors' Center Site**

Councilmember Peterson pulled this item to request that it be acted on following Administrative Item #14 - Execute Exclusive Negotiation Agreement (ENA) with Christopher Homes for Redevelopment of Michael E Rodgers Seniors' Center Site

A motion was made by Peterson, second Katapodis to act on Consent Item No 7 following Administrative Item #14

The motion carried by the following vote

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

The minutes will reflect action on Councilmember Item #14 in its original, agendized order

A motion was made by Sullivan, second Posey to approve and authorize the Mayor and City Clerk to execute a Reimbursement Agreement with Christopher Homes in the amount of Two Hundred Fifty Four Thousand Dollars (\$254,000) as prepared by the City Attorney

The motion carried by the following vote

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

**8. Adopted Ordinance No. 4072 amending Section 1.18.140 of the Huntington Beach Municipal Code (HBMC) relating to the Right to Judicial Review Approved for introduction October 19, 2015 - Vote: 5-0-2 (Katapodis-Absent; Delgleize-Out of Room)**

A motion was made by Katapodis, second Sullivan to adopt Ordinance No 4072, "An Ordinance of the City of Huntington Beach Amending Section 1 18 140 of the Huntington Beach Municipal Code Relating to the Right to Judicial Review "

The motion carried by the following vote

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

**9. Adopted Ordinance No. 4073 amending Chapter 14.12 of the Huntington Beach Municipal Code relating to Water Fees, Rates and Deposits; and, adopted Ordinance No. 4074 amending Chapter 14.55 of the Huntington Beach Municipal Code relating to Rates, Charges, and Annual CPI-U Adjustment and Billing Methodology for the Sewer Service Charge Approved for introduction October 19-2015 - Vote: 7-0**

A motion was made by Katapodis, second Sullivan to adopt Ordinance No 4073, "An Ordinance of the City of Huntington Beach Amending Chapter 14 12 of the Huntington Beach Municipal Code Relating to Water Fees, Rates and Deposits," and, adopt Ordinance No 4074, "An Ordinance of the City of

Huntington Beach Re-adopting and Amending Chapter 14 55 of the Huntington Beach Municipal Code Relating to Rates, Charges, and Annual CPI-U Adjustment and Billing Methodology for the Sewer Service Charge "

The motion carried by the following vote

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

## **PUBLIC HEARING**

Due to a potential conflict of interest, Councilmember O'Connell recused himself from taking action on Public Hearing Item Nos 10, 12 and 13 By consensus, the Council agreed to hear Public Hearing Item No 11 first, before Councilmember O'Connell would leave the room The minutes will reflect action on Public Hearing Item Nos 10-13 in their presentation order, not in their agendized order

City Attorney Gates announced that since Public Hearing Nos 10-13 are administrative proceedings and he has been representing the City as an advocate prosecuting these matters, he would step down and have Matt Silver, an outside independent attorney, retained particularly to represent the City during these hearings

**11. Denied Appeal of Joint Decision of Planning and Building Director and Finance Director to Deny Zoning Approval, Business License and Certificate of Occupancy for Medical Marijuana Dispensary at 19142 Beach Blvd., Suite Y, because Dispensaries are a prohibited Land Use (Planning Application No. 2015-146)**

Planning Manager Jane James stated that Item 11 (Planning Application No 2015-146), is an appeal of the joint decision of Planning and Building Director and Finance Director to deny zoning approval and business license and Certificate of Occupancy for Medical Marijuana Dispensary (MMD) She proceeded to identify the applicant, specific location, land use and zoning designations, including background details for the site When the business license and certificate for occupancy were denied the communication included information on appealing the decision to the Planning Commission The applicant filed an appeal, and the Planning Commission held a public hearing The attorney representing the applicant was the only speaker, who objected to the proceedings and stated that medical marijuana is a permitted use and their belief that they were applying for an appeal of the business license decision and not a land use decision

Planning Manager James explained that in 2007 the City Council repealed medical marijuana dispensaries from industrial zones as a permitted use Medical marijuana dispensaries have not been listed as a permitted use for any other zones since that time The Beach and Edinger Corridors Specific Plan, Section 2 2, Building Use Regulations, describes that land use regulations do not include every use and that the Director of Planning and Building can determine whether the proposed use meets the intent and purpose of the Specific Plan In May 2015 the City Council adopted the Huntington Beach Zoning and Subdivision Ordinance, Section 204 18, Prohibited Uses, which determined that medical marijuana dispensaries are not a permitted use in any zoning district or in any Specific Plan

Therefore, it is staff's recommendation that Council deny the appeal, the request to obtain zoning approval, application for business license and certificate of occupancy for a medical marijuana dispensary because they do not share the same characteristics of any other use in the Specific Plan Furthermore, medical marijuana dispensaries are a prohibited use within the City The request is not

consistent with the General Plan land use or zoning designations and the use would not be compatible with other surrounding uses because it is a prohibited use

Matt Silver, the independent attorney retained by the City to advise Council due to reasons stated earlier by City Attorney Gates, indicated that the Council has two decisions to make 1) Whether the decision of the Planning Director and the Planning Commission to deny the land use were correct and the decisions to deny were based on the fact that the municipal code prohibits marijuana dispensaries, collectives and the like in every zone within the City, and 2) whether the Finance Director's decision to deny the business license was correct There is ongoing litigation, and it is not the role of the City Council to determine the constitutionality of the ordinance, legal merit of their claims, efficacy of marijuana, or marijuana laws

Mayor Hardy opened the Public Hearing for Item 11

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced supplemental communications received by her office on Public Hearing Item No 11 following distribution of the Council agenda packet

Various communications received for Public Hearing Item Nos 10-13 regarding denial of zoning approvals, business licenses and Certificates of Occupancies for Medical Marijuana Dispensaries

Mark Rosenberg  
Deborah Williams

Dea Franklin  
Gil (no last name given)

Dylan Hensley  
Sabrina Regehr

Donna Wallack

Communication received from City Attorney, Michael E Gates, dated November 2, 2015, revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing For Item #11, Page 3, Section C Planning Commission Meeting and Recommendation – the second paragraph should be revised to reflect the name of the public speaker as Sean Bozarth

Cristian L Peirano, Peirano & Associates, represented the applicant and spoke to Council regarding the law prior to the adoption of Ordinance No 4059, which adopted 4058, the urgency ordinance that adopted the new ban in Huntington Beach Mr Peirano asked the Council to consider the law prior to this From November 5, 2007, when 3703 was repealed by 3788, the long-standing ban, according to the staff report created by then City Attorney McGrath, the ban in the City was based on the Federal Control Substances Act City Attorney McGrath opined that the eventual decision would come down from the City of Garden Grove vs the Superior Court, which the City was a participant in On November 28, 2007, the City of Garden Grove disagreed with the decision and basically established that the reasons for the ban were illegal This decision was appealed by the cities that signed on to the decision, and that appeal to the Supreme Court was denied based on the fact that you cannot ban something indirectly that can't be banned directly Under the Health and Safety Code, Section 11362 765, provides for the possession for sale of medical marijuana, provides for the occupation of a property for the sale of medical marijuana, and it provides for the giving away of medical marijuana and exempts all criminal conduct, that was previously criminal, under the Health and Safety Code It was made illegal under the Compassionate Use Act, and in 2008 under the Medical Marijuana Protection Act

Mr Peirano stated that all four of the dispensaries tonight petitioned for a business license application and were denied They were denied the opportunity to submit the application, and then to be able to appeal the decision He went on to say that, for example, CHC went on four separate occasions prior to April 13, 2015, they should have received a decision and then would have been able to appeal it within 15 days with the City Finance Director Then they could have come before you and you would

have made the decision before the application of the May 4th adoption of Ordinance 4059. It had to come through a Court Order issued by The Honorable Judge Andrew P. Banks which ordered the City to accept the applications and process them. The City issued its June 26 joint decision to deny the application, and applicant proceeded to go to court in September for another order to be able to speak to the City, as they were being denied that opportunity. Mr. Peirano stated that the applicant did not appeal the Planning Commission's decision, or Mr. Scott Hess's decision, because there was no application for a certificate of occupancy. The City's role, prior to the litigation, was to first go to the Finance Director and submit for a business license application. After the lawsuit was commenced, the process was changed to the Building and Planning Division as the first step in getting a business license. The City of Huntington Beach Municipal Code Section 5.04.090 states that you should not regulate through the business license. That is the only ban that was in place since November 2007, i.e., use the licensing to control medical marijuana by applying the Federal Substance Control Act.

Mr. Peirano described that the referenced Garden Grove case was reaffirmed later on in the case of the City of Riverside vs. Inland Empire. It ends up adopting that the City cannot ban medical marijuana by implementing the Controlled Substances Act. Mr. Peirano expressed his opinion that the question tonight is not whether medical marijuana can be banned, but rather was it properly banned from the beginning. He believes that when the client originally applied that they were entitled to a business license for a medical marijuana dispensary. The real issue is about whether or not we properly legislated a ban in the City of Huntington Beach. (02:32:53)

There being no other public speakers, the Public Hearing was closed.

A motion was made by Katapodis, second O'Connell to deny applications for Business License and Certificate of Occupancy (Appeal of Directors' Decision) with Findings for Denial, and, deny Planning Application No. 2015-146 with findings for denial.

The motion carried by the following vote:

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

**10. Denied Appeal of Joint Decision of Planning and Building Director, and Finance Director to Deny Zoning Approval, Business License and Certificate of Occupancy for Medical Marijuana Dispensary at 17511 Griffin Lane, #6, because Dispensaries are a prohibited Land Use (Planning Application No. 2015-137)**

Planning Manager Jane James stated that this application is an appeal of the joint decision of the Planning and Building Director, and Finance Director, to deny zoning approval, business license and Certificate of Occupancy for Medical Marijuana Dispensary (MMD). She proceeded to identify the applicant, specific location, land use and zoning designations for the site. In this case, the MMD opened and began operating approximately June of 2013 without zoning approval, certificate of occupancy, or a business license. Litigation commenced and the applicant applied for a business license and certificate of occupancy on June 16, 2015. On June 26 the applications were jointly denied by the Director of Finance and Director of Planning and Building. Planning and Building denied the land use because medical marijuana dispensaries are a prohibited use. The Director of Finance cannot issue a business license unless prior zoning approval is obtained. The denial included information on appealing the decision to the Planning Commission. An appeal of Directors' decision was filed, and the Planning Commission held a public hearing.

Manager James indicated that at that Planning Commission meeting, there were two speakers who both objected to the proceedings and stated their beliefs that medical marijuana dispensaries were a permitted use and the applicant believed they were applying for an appeal of their business license. The Planning Commission voted to deny the appeal and a judge subsequently ordered the City to extend the Planning Commission appeal period by one week.

She further stated that medical marijuana dispensaries were repealed from the Industrial Zones in 2007 and have not been listed as a permitted use in any other zones since then. The zoning and subdivision ordinance allows the Director to determine that a specific use is not within a classification if its characteristics are substantially different than typical uses named within the classification. That Director's decision is appealable to the Planning Commission. The zoning and subdivision ordinance also includes a section on Industrial land use control and states that use classifications that are not listed in the Industrial land use controls for Industrial designations are prohibited. Section 204.18, Prohibited Uses, adopted in May of 2015, specifically states that medical marijuana dispensary uses are not permitted in any zoning district or any Specific Plan.

Manager James concluded, in this case, it is Planning Commission and staff's recommendation that Council deny Planning Application No. 2015-137, the applicant's appeal, the request to obtain zoning approval, application for business license and certificate of occupancy for a medical marijuana dispensary because medical marijuana dispensaries do not share the same characteristics of any other permitted use. Medical marijuana dispensaries are a prohibited use within the City. The request is not consistent with the General Plan land use or zoning designations and this use would not be compatible with other surrounding uses because it is a prohibited use.

Mayor Hardy opened the Public Hearing for Item 10.

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced supplemental communications received by her office on Public Hearing Item No. 10 following distribution of the Council agenda packet.

Various communications received for Public Hearing Item Nos. 10-13 regarding denial of zoning approvals, business licenses and Certificates of Occupancies for Medical Marijuana Dispensaries.

Mark Rosenberg  
Deborah Williams

Dea Franklin  
Gil (no last name given)

Dylan Hensley  
Sabrina Regehr

Donna Wallack

Communication received from City Attorney, Michael E. Gates, dated November 2, 2015, revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing. For Item #10 (Planning Application No. 2015-137), Page 3, Section C Planning Commission Meeting and Recommendation – the second paragraph should be replaced in its entirety with

*"Two people spoke during the public hearing. Both speakers stated their opposition to the Director's decision and to the proceedings themselves. One speaker, Sean Bozarth, an attorney representing the applicant, stated he thought they were appealing denial of the business license, not the Planning and Building Director's decision regarding denial of zoning for the land use. The applicant's attorney also stated that the medical marijuana use was a retail sales use and should be permitted in the IG, Industrial General Zone." The description of Planning Commission Action on August 25, 2015, should state that the motion was made by Kalmick and seconded by Mandic.*

Cristian L. Peirano, Peirano & Associates, requested that the Council consider comments he provided and were recorded for Public Hearing Item No. 11 as support for his opinion on this item.

Mr Peirano also described that it is their belief that under Huntington Beach Zoning and Subdivisions Ordinance, 211 for Retail Sales, L 6 , for this particular property, that as a small facility with seven (7) persons processing for retail sales that it would be allowable and fall within the described use, and as also provided for under 204 10, Y This is a catch-all provision for any and all uses not provided for anywhere else in the Huntington Beach Zoning and Subdivision Ordinance (02 45 54)

There being no other speakers, Mayor Hardy closed the Public Hearing

A motion was made by Katapodis, second Sullivan to deny applications for Business License and Certificate of Occupancy (Appeal of Directors' Decision) with Findings for Denial, and, deny Planning Application No 2015-137 with findings for denial

The motion carried by the following vote

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

**12. Denied Appeal of Joint Decision of Planning and Building Director and Finance Director to Deny Zoning Approval, Business License and Certificate of Occupancy for Medical Marijuana Dispensary at 17416 Beach Boulevard because Dispensaries are a prohibited Land Use (Planning Application No. 2015-147)**

Planning Manager Jane James stated that Item 12 (Planning Application No 2015-147), is an appeal of the joint decision of Planning and Building Director and Finance Director to deny zoning approval and business license for Medical Marijuana Dispensary She proceeded to identify the applicant, specific location, land use and zoning designations, including background details for the site The General Plan is Mixed Use Specific Plan with a Design Overlay The zoning designation is the Beach/Edinger Corridor Specific Plan, in the Neighborhood Boulevard segment

She further explained that this applicant opened and began operating by February 6, 2014, without zoning approval, certificate of occupancy, or a business license Subsequently they sought a business license but were rejected at the Business License counter They also applied for a business license and certificate of occupancy in June 2015 The business license and certificate for occupancy applications were jointly denied by the Planning and Building Director and Finance Director The applicant filed an appeal It was noted that there are two appeals filed on the exact same address Item #12 and Item #13 are for the same address, but the appellant and applicant have two different names at the same address Prior to the Planning Commission meeting, there was communication received from an attorney representing the property owner The property owner objected to the applicant's request for zoning approval and indicated that they had served the tenants with a three-day notice to vacate at the time The Planning Commission held a public hearing and one person spoke in support of the request The Planning Commission denied the request on that date, and an appeal was then filed to the City Council

Manager James stated that in 2007 the City Council repealed medical marijuana dispensaries from Industrial Zones as a permitted use Medical marijuana dispensaries have not been listed as a permitted use for any other zones since that time The Beach and Edinger Corridors Specific Plan, Section 2 2, Building Use Regulations, states that not every use is listed and that the Director is to determine if a proposed use that is not listed has similar characteristics that meet the intent and purpose of the Specific Plan In May 2015 the City Council adopted the Huntington Beach Zoning and

Subdivision Ordinance, Section 204 18, Prohibited Uses, which determined that medical marijuana dispensaries are not a permitted use in any zoning district or in any Specific Plan

Manager James concluded that it is the Planning Commission and staff's recommendation that Council deny Planning Application No 2015-147, the applicant's appeal for denying the request to obtain zoning approval, application for business license and certificate of occupancy for a medical marijuana dispensary because medical marijuana dispensaries do not share the same characteristics of any other permitted use. Medical marijuana dispensaries are a prohibited use everywhere within the City. The request is not consistent with the General Plan land use or zoning designations and the use would not be compatible with other surrounding uses because it is a prohibited use.

Mayor Hardy opened the Public Hearing for Item 12

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced supplemental communications received by her office on Public Hearing Item No 12 following distribution of the Council agenda packet.

Various communications received for Public Hearing Item Nos 10-13 regarding denial of zoning approvals, business licenses and Certificates of Occupancies for Medical Marijuana Dispensaries

Mark Rosenberg  
Deborah Williams

Dea Franklin  
Gil (no last name given)

Dylan Hensley  
Sabrina Regehr

Donna Wallack

Communication received from City Attorney, Michael E. Gates, dated November 2, 2015, revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing For Item #12 (Planning Application No 2015-147) Page 3, Section C Planning Commission Meeting and Recommendation – the description of the Planning Commission's Action on August 25, 2015, should state that the motion was seconded by Semeta.

Cristian L. Peirano, Peirano & Associates, was called to speak and stated that in addition to his previous comments in Public Hearing No 11, he wanted to bring to the Council's attention the Neighborhood Boulevard Segment, page 20, 2.2.1 Use Types, G Convenience Uses. It is designated as NC which means permitted in a corner store or permitted in a neighborhood center configuration. This is also defined in 2.2.2, page 28, Section G which defines small businesses selling food and goods providing convenience services to serve nearby residential neighborhoods such as those listed, i.e., convenience stores with this notation these uses are allowed by right, subject to plan review.

Mr. Peirano stated that the argument with the City Planning Commission is that it is provided for, prior to any ban that the City wanted to institute, and it always did fit. Mr. Peirano stated that if the purpose is for retail sales, then that is achieved and it does fit that particular use type.

Mr. Peirano asked that the Council please consider all of the previous comments he made for each of the other similar items to be a part of the record for this item as well. (02:45:50)

There being no other speakers, Mayor Hardy closed the Public Hearing.

A motion was made by Katapodis, second Sullivan to deny Applications for Business License and Certificate of Occupancy (Appeal of Directors' Decision) with Findings for Denial, and, deny Planning Application No 2015-147 with Findings for Denial.

The motion carried by the following vote:

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

**13.     Denied Appeal of Joint Decision of Planning and Building Director and Finance Director to Deny Zoning Approval, Business License and Certificate of Occupancy for Medical Marijuana Dispensary at 17416 Beach Boulevard because Dispensaries are a prohibited Land Use (Planning Application No. 2015-145)**

Planning Manager Jane James stated that Item 13 (Planning Application No 2015-145), is an appeal of the joint decision of Planning and Building Director and Finance Director to Deny Zoning Approval and Business License for Medical Marijuana Dispensary. She proceeded to identify the applicant, specific location (the same as the previous item), land use and zoning designations, including background details for the site. The General Plan is Mixed Use Specific Plan with a Design Overlay. The zoning designation is the Beach/Edinger Corridors Specific Plan, in the Neighborhood Boulevard segment.

Manager James indicated that this applicant opened and began operating approximately February 6, 2014, without zoning approval, certificate of occupancy, or a business license. Subsequently they sought a business license but were rejected at the Business License counter. They also applied for a business license and certificate of occupancy in June 2015. The business license and certificate for occupancy applications were jointly denied by the Planning and Building Director and Finance Director. The applicant filed an appeal of the Directors' decisions. As was noted for the previous item, there are two appeals filed on the exact same address. Item #12 and Item #13 are for the same address, but the appellant and applicant have two different names at the same address. Prior to the Planning Commission public hearing, there was communication received from an attorney representing the property owner. The property owner objected to the applicant's request for zoning approval and indicated that they had served the tenants with a three-day notice to vacate at the time. The Planning Commission held a public hearing. One person spoke in support of the request. The Planning Commission denied the request at the close of the public hearing, and an appeal was filed by the applicant to the City Council.

Manager James further stated that the site analysis includes the fact that in 2007 the City Council repealed medical marijuana dispensaries from industrial zones as a permitted use. Medical marijuana dispensaries have not been listed as a permitted use for any other zones since that time. The Beach and Edinger Corridors Specific Plan, Section 2.2, Building Use Regulations, states that not every use is listed and that the Director of Planning and Building is to determine if a proposed use that is not listed has similar characteristics that meet the intent and purpose of the Specific Plan. In May 2015 the City Council adopted the Huntington Beach Zoning and Subdivision Ordinance, Section 204.18, Prohibited Uses, which determined that medical marijuana dispensaries are not a permitted use in any zoning district or in any Specific Plan.

Manager James concluded that it is the Planning Commission and staff's recommendation that Council deny Planning Application No. 2015-145, the applicant's appeal for denying the request to obtain zoning approval, application for business license and certificate of occupancy for a medical marijuana dispensary at the listed site because medical marijuana dispensaries do not share the same characteristics of any other permitted use. Medical marijuana dispensaries are a prohibited use everywhere within the City. The request is not consistent with the General Plan land use or zoning designations and the use would not be compatible with other surrounding uses because it is a prohibited use.

Mayor Hardy opened the Public Hearing for Item 13

Pursuant to the Brown “Open Meetings” Act, City Clerk Joan Flynn announced supplemental communications received by her office on Public Hearing Item No 13 following distribution of the Council agenda packet

Various communications received for Public Hearing Item Nos 10-13 regarding denial of zoning approvals, business licenses and Certificates of Occupancies for Medical Marijuana Dispensaries

Mark Rosenberg	Dea Franklin	Dylan Hensley	Donna Wallack
Deborah Williams	Gil (no last name given)	Sabrina Regehr	

Communication received from City Attorney, Michael E Gates, dated November 2, 2015, revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing For Item #13 (Planning Application No 2015-145) Page 3, Section C Planning Commission Meeting and Recommendation – the second paragraph should be revised to reflect the name of the public speaker as Sean Bozarth

Cristian L Peirano, Peirano & Associates was called to speak He requested that comments made in Public Hearing No 11 be included in the record of this hearing He also shared his opinion that under the Specific Plan, 2 1 7, Neighborhood Boulevard Segment, that medical marijuana is provided for as a use for convenience stores and is allowed as a matter of right by way of 2 2 2 as a neighborhood center City Council was asked to consider the state of the law prior to this attempt to ban medical marijuana in May It has never been banned since November 2007 because it was implementing improperly the Federal Controlled Substances Act, and using its licensing scheme to do so, which it cannot do (03 00 14)

There being no other speakers, Mayor Hardy closed the Public Hearing

A motion was made by Katapodis, second Sullivan to deny Applications for Business License and Certificate of Occupancy (Appeal of Directors' Decision) with Findings for Denial (Attachment No 1), and, deny Planning Application No 2015-145 with Findings for Denial

The motion carried by the following vote

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

**ADMINISTRATIVE ITEMS**

**14. Approved and authorized execution of an Exclusive Negotiation Agreement (ENA) with Christopher Homes for Redevelopment of Michael E. Rodgers Seniors' Center Site**

City Manager Wilson provided some background for this item, stating that Shea Homes had been approved for this project, but withdrew their proposal Staff then reached out to the other original bidders for this project including Christopher Homes They have reduced their offer from approximately \$14M to \$11M Also, the agreement with Christopher Homes would run through December 2016 with a purchase price of \$11M, and they would assume full responsibility for all planning entitlements, payment of all SEQA and EIR costs, all entitlement costs, Charter Section 612 election costs, and fully indemnify the City on this project

Bill Holmann, Vice President of Land Development for Christopher Development Group, introduced Mark Thomas, Vice President of Land Acquisition, Christopher Homes. Mr. Holman provided a PowerPoint presentation to describe Christopher Homes' experience in community development for Huntington Beach during the last twenty years, including neighborhood parks. Christopher Homes plans to create a very compatible collection of new homes in the redevelopment of the Michael E. Rodgers Seniors' Center site.

Mayor Hardy voiced her opposition to this item as she cannot support any plan that builds homes on park land, especially for this section of the community where parks are spaced further apart. Building homes on open space can never be undone.

Councilmember Peterson stated his opposition based on the fact of the drop to \$11M in the price. The City is disposing of assets for too cheap a price.

Councilmember Posey stated he supports this item. \$500,000 per lot seems like a bargain, but when you factor in the costs for entitlement and election, and that the investors are assuming all of the risk, it doesn't seem like a bad deal. Especially when you factor in that there is approximately \$9M in park maintenance that is needed and a Measure C vote requires that this money be reinvested back in parks. This is far from a done deal as this item requires the approval of the citizens of Huntington Beach. There is a finite window of time to get this item on the ballot for November 2016. The other option is to not approve this item and put a fence around the property while we decide what to do with it. It is currently a building and asphalt parking lot in need of repair. He stated it is an opportunity to turn a liability into an asset.

Councilmember Delgleize shared that having recently seen the Master Park Plan and being aware of the challenges of current park maintenance costs, it is obvious this site cannot be kept as only a park as there is no revenue for the maintenance. The citizens of this community will vote for their vision of the area, but this is an opportunity to gain funds for maintaining all of the City's parks and she will be supporting this item.

Mayor Pro Tem Katapodis shared that this is a tough decision, and the proposed project does include a small pocket park. The ultimate decision will be made by the vote of the people, and he supports this item.

A motion was made by Sullivan, second Delgleize to approve and authorize the Mayor and City Clerk to execute an "Exclusive Negotiation Agreement for Redevelopment of Michael E. Rodgers Seniors' Center Site By and Between the City of Huntington Beach and Christopher Homes."

The motion carried by the following vote:

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

#### **COUNCILMEMBER ITEMS**

- 15. Approved request submitted by Councilmembers Delgleize and Sullivan - Establish an Ad Hoc Committee to provide a Memorial for the Borregos' and Silvas' Families**

Councilmember Delgleize thanked Mr Epting for not only bringing the 1943 incident to light and encouraging some sort of public recognition, but also bringing affected family members to this evening's meeting

Councilmember Sullivan also voiced his appreciation to Mr Epting, and added that any memorial of this event will also be acknowledging the outstanding performance of the Huntington Beach first responders in 1943

A motion was made by Delgleize, second Posey that the City Council form an ad hoc committee of three Council Members to work with city staff with the task of developing an appropriate memorial for the Borregos' and Silvas' families Councilmembers Delgleize, Sullivan and O'Connell are to serve on the ad hoc committee

The motion carried by the following vote

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

#### **COUNCILMEMBER COMMENTS (Not Agendized)**

Councilmember Delgleize reported that she cannot say enough about the good that Village of Hope provides It is the result of an incredible vision of a man from the age of 14 to help make people whole who are going through dire circumstances It is not a handout, but the goal is to assist individuals in becoming self supporting and productive members of society Orange County Rescue Mission is an organization deserving of support

Councilmember Posey shared he had received an email from a Huntington Beach resident who suggested that not only park benches be used to memorialize people, but that bike racks also be considered The City Manager and Community Services Director confirmed that using bike racks for this purpose is already an option If anyone is interested in further details on this, they can contact Community Services Director Janeen Laudenback He further shared that the Orange County Board of Supervisors is working diligently on a homeless transitional shelter in Anaheim They are having a hearing on this issue on November 17, from 11 a m to 3 p m and recommended attendance by anyone wanting further information

Mayor Hardy reported attending the Huntington Beach Educational Foundation sponsors and leaders event, where they talked about their technology goals This is a great organization to either donate to, or get involved with She also attended the Surf City 10 event where she attended the start of the 10 mile, 10K and 5K races She attended the ribbon cutting for the Southern California Edison substation with a new ocean-friendly landscape on Brookhurst just north of Hamilton She announced that Pacific City will be offering a sneak peek for the public on November 7, and on November 11 at 11 a m at the pier will be the Veterans Day ceremony There is also a Veterans and Labor event at the Orange County Fairgrounds on November 11

#### **RECESS TO CLOSED SESSION – 8 23 PM**

A motion was made by Katapodis, second Delgleize to return to Closed Session to discuss Closed Session Item No 14

The motion carried by the following vote

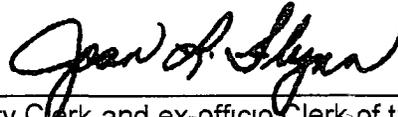
AYES Posey, O'Connell, Katapodis, Hardy, Sullivan, Delgleize, and Peterson  
NOES None

14. Pursuant to Government Code § 54957.6, the City Council recessed into Closed Session to meet with its designated labor negotiators and Fred Wilson, City Manager regarding the following: Huntington Beach Firefighters' Association (HBFA), Huntington Beach Municipal Employees' Association (MEA), Management Employees' Organization (MEO), and/or Huntington Beach Police Officers' Association (POA).

RECONVENE CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING – 9 26 PM

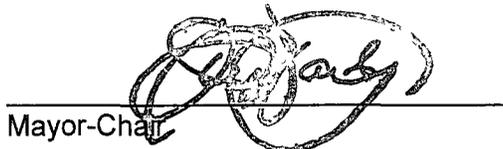
CLOSED SESSION REPORT BY CITY ATTORNEY – None

ADJOURNMENT – 9 27 PM to a Special Closed Session Meeting on Monday, November 9, 2015, at 5 00 PM in the Council Chambers, 200 Main Street, Huntington Beach, California, and the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Monday, November 16, 2015, at 4 00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California



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

ATTEST:

  
\_\_\_\_\_  
City Clerk-Secretary  
\_\_\_\_\_  
Mayor-Chair