



AGENDA

PUBLIC WORKS COMMISSION CITY OF HUNTINGTON BEACH

Wednesday, March 20, 2013 – 5:00 PM
City Council Chambers
2000 Main Street
Huntington Beach, CA 92648

A. PLEDGE OF ALLEGIANCE

ROLL CALL

Carr, Cook, Berge, Hart,
McGovern, Thomas

B. PRESENTATIONS-COMMENDATIONS

- B-1. Brown Act Overview- Paul D'Alessandro will present a brief overview on the Brown Act.

C. MINUTES

- C-1. Minutes of January 16, 2013 and February 20, 2013

D. ORAL COMMUNICATIONS

Public Comments – the Public Works Commission welcomes public comments on all items on this agenda or of community interest. **Three minutes per person**, time may not be donated to others. Commission on this date can take no action on any item not on the agenda. This is the time to address Commission 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. Commission Business- Reorganization of the Public Works Commission by election of Chair and Vice Chair.

F. INFORMATION ITEMS

- F-1. Upcoming City Council Study Sessions - The City Council conducts public Study Sessions on the evenings of City Council meetings, normally beginning at 4:00 p.m., in Room B-8. A tentative listing of upcoming sessions is submitted for the Commission's information.

- F-2. Active Capital Project Report – An update on active capital projects is presented for the Commission’s information. Project information, including description, location maps and funding sources can be found in the FY 2012/13 Capital Improvement Program notebook, or on the city’s website under Government, Current [Budget](#) information.

G. ADMINISTRATIVE ITEMS

- G-1. Planned Local Drainage Facilities Fund Annual Compliance Report Fiscal Year 2011/12- In accordance with Section 14.48 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Planned Local Drainage Facility Fund (Drainage Fund) for the City Council. The process provides an opportunity for the Public Works Commission to review planned projects, revenues and expenditures under the program.

Funding Source: No funding is required for this action.

Recommended Action: Motion to recommend to the City Council the approval of the Planned Local Drainage Facility Fund Compliance Report for Fiscal Year 2011/12.

- G-2. Sanitary Sewer Facilities Fund Annual Compliance Report Fiscal Year 2011/12 In accordance with Section 14.36 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Sanitary Sewer Facilities Fund (Sanitary Sewer Fund) for the City Council. The process provides an opportunity for the Public Works Commission to review planned projects, revenues and expenditures under the program.

Funding Source: No funding is required for this action.

Recommended Action: Motion to recommend to the City Council the approval of the Annual Sanitary Sewer Facilities Fund Compliance Report for Fiscal Year 2011/12.

- G-3. Fair Share Traffic Impact Fee Program Annual Report for Fiscal Year 2011/12 In accordance with Section 17.65.130 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Fair Share Traffic Impact Fee Program for the City Council. The process also provides an opportunity for the Public Works Commission to review revenues and expenditures under the program.

Funding Source: No funding is required for the recommended action. All Traffic Impact Fee funds are maintained in a separate account from other City operation funds.

Recommended Action: Motion to recommend approval of the 2011/12 Traffic Impact Fee Annual Report to the City Council.

- G-4. Rehabilitation of Hanover Lane, CC 1438- Plans and Specifications for the Rehabilitation of Hanover Lane, from McFadden Lane to Bolsa Ave., CC-1438 are in final preparation. Staff requests recommendation of the project to the City Council.

Funding Source: Funds in the amount of \$600,000 have been budgeted from the Gas Tax in Account No. 20790025.

Recommended Action: Motion to recommend to the City Council, approval of the Rehabilitation of Hanover Ln., CC-1438.

H. WRITTEN COMMUNICATIONS

I. COMMISSION AND STAFF COMMENTS

J. ADJOURNMENT

<p>NEXT PUBLIC WORKS COMMISSION MEETING <i>April 17, 2013, 5:00 PM, City Council Chambers</i></p>
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THE LAW FIRM OF
GREEN, de BORTNOWSKY & QUINTANILLA
A LIMITED LIABILITY PARTNERSHIP

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

2012 Edition

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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**

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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 of 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



MINUTES

CITY OF HUNTINGTON BEACH PUBLIC WORKS COMMISSION JANUARY 16, 2013

**Call to Order/
Pledge of Allegiance:** The meeting was called to order at 5:00 p.m. by Commissioner McGovern, who led Commissioners and the audience in the Pledge of Allegiance to the Flag.

Commissioners Absent: O'Connell and Siersema

Commissioners Present: Commissioners McGovern, Cook, Thomas, and Spencer were in attendance.

Others Present: Travis Hopkins, Director of Public Works
Tom Herbel, City Engineer
Bob Stachelski, Transportation Manager
Brian Ragland, Utilities Manager
Jim Wagner, Senior Civil Engineer
Jonathan Claudio, Senior Civil Engineer
Duncan Lee, Principal Civil Engineer
Ken Dills, Project Manager
Kirsty Wapner, Administrative Assistant
Bill Hart

B. PRESENTATIONS-COMMENDATIONS

None

C. MINUTES

The August 15 and September 19, 2012 minutes were approved by the Commission.

D. ORAL COMMUNICATIONS

None

E. DIRECTOR'S ITEMS

E-1. Travis Hopkins noted the Chair and Vice Chair will be elected at the next Public Works Commission meeting in February.

F. INFORMATION ITEMS

- F-1. Upcoming City Council Study Sessions – Travis Hopkins stated the Circulation Element Update and Water Master Plan would be presented on January 22. He reported on January 25, the City will be holding the Strategic Planning Session meeting with three year goals, and a presentation on financial stability.
- F-2. Active Capital Project Report - Tom Herbel provided updates on the Capital Project Report.

G. ADMINISTRATIVE ITEMS

- G-1. Garfield Avenue Arterial Street Rehabilitation Project from Magnolia Street to Bushard Street, and Goldenwest Street from PCH to Yorktown Avenue, CC-1433- Tom Herbel introduced Jim Wagner to present on the Garfield Avenue Arterial Street Rehabilitation Project. He reported the last rehabilitation was done in 1989-1992. The targeted bid opening date is March 25, 2013. Award of a contract is anticipated on May 6 and completion of construction in October. Commissioner McGovern questioned if trees will be replaced in the center strip on Goldenwest. Wagner stated there are no plans for median tree replacement. Of the 39 trees to be removed from Goldenwest. Fourteen new trees will be replaced in the project area right-of-way with the balance of new trees planted elsewhere in the City.

Motion by Commissioner McGovern, seconded by Commissioner Thomas to move forward and bring this item to Council.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (O’Connell, Siersema)
ABSTENTIONS: 0

- G-2. Lambert Park Slope Repair, CC-1337 – Tom Herbel introduced Jo Claudio to present on the Lambert Park slope repair. Claudio noted there was an analysis of the slope for signs of failure, and now there are funds budgeted in this Fiscal Year. The focus of the repair is on the original failure area. Claudio stated this was caused by excess watering.

Motion by Commissioner McGovern, seconded by Commissioner Cook to bring this item to Council.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (O’Connell, Siersema)

ABSTENTIONS: 0

- G-3. Water Master Plan/ Financial Plan Presentation – Tom Herbel introduced Duncan Lee to present the Water Master Plan/ Financial Plan. Mr. Lee provided a brief history of the Water Master Plan, which was developed to address water system deficiencies related to projected population growth. He stated that the Financial Plan determined that no water rate adjustments were anticipated at this time to fund Master Plan projects.

Travis Hopkins added that a tiered conservation water rate would be presented to Council in the next few months. He explained the tiered rate system, stating it helps to encourage a conservation rate of water. The current billing system does not allow for different rates for different systems. An implementation plan is needed for the tiered rate, which will be brought to Council later. Hopkins noted this would be shared with the Public Works Commission in a few months. Commissioner Cook stated if the Poseidon desalination plant is constructed, it could drastically affect the cost of water. McGovern recommended that Cook assist the City staff in developing the plan.

Motion by Commissioner Thomas, seconded by Commissioner Spencer to bring to Council.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (O’Connell, Siersema)
ABSTENTIONS: 0

- G-4. 25 mph Speed Limit on Delaware Street near Manning Park – Travis Hopkins introduced Bob Stachelski to report on signage on Delaware Street, noting a 25 mph speed limit. Stachelski reported Delaware is currently 35 mph. California Vehicle code requires a resolution approaching park for 25 mph speed limit to be in effect during the time when park is actively being used. Installation of the signs would be posted between Atlanta and Frankfurt on Delaware. Stachelski noted the Police Department has also reviewed the proposed installation of the 25 mph signs and they’re in favor.

Motion by Commissioner Thomas, seconded by Commissioner Spencer to move forward and bring to Council.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (O’Connell, Siersema)
ABSTENTIONS: 0

G-5. Amendments to HBMC Chapter 10.44 Parking Time Limits – Bob Stachelski reported this item is being presented to Council on Tuesday, January 22. Staff is seeking changes to modify sections of HBMC Chapter 10.44, as codes were out of date. The changes will allow for more flexibility for the City.

Motion by Commissioner Cook, seconded by Commissioner Thomas to move forward and bring to Council.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (O’Connell, Siersema)
ABSTENTIONS: 0

H. WRITTEN COMMUNICATIONS

None.

I. COMMISSION AND STAFF COMMENTS

J. ADJOURNMENT

The meeting adjourned at 6:30 PM to February 20, 2013, in City Council Chambers.

John McGovern
Commissioner

Kirsty Wapner
Administrative Assistant



MINUTES

CITY OF HUNTINGTON BEACH PUBLIC WORKS COMMISSION FEBRUARY 20, 2013

**Call to Order/
Pledge of Allegiance:** The meeting was called to order at 5:03 p.m. by Commissioner Thomas, who led Commissioners and the audience in the Pledge of Allegiance to the Flag.

Commissioners Absent: Cook and McGovern

Commissioners Present: Commissioners Berge, Carr, Hart and Thomas were in attendance.

Others Present: Travis Hopkins, Director of Public Works
Joan Flynn, City Clerk
Tom Herbel, City Engineer
Ken Dills, Project Manager

B. PRESENTATIONS-COMMENDATIONS

City Clerk Joan Flynn administered the oath of office to Commissioners Orin "Bud" Berge, Kim Carr and Bill Hart

C. MINUTES

Approval of the January 16, 2013 minutes was deferred to the March 20, 2013 Public Works Commission Meeting.

D. ORAL COMMUNICATIONS

None

E. DIRECTOR'S ITEMS

E-1. Director of Public Works Travis Hopkins welcomed the new members of the Public Works Commission and introduced the City staff present. Each Commissioner provided a brief personal background. Mr. Hopkins stated that election of a new Chairperson and Vice Chairperson would be done at the March 2013 regular meeting.

E-2. Travis Hopkins provided an overview of the City Council's most recent Strategic Planning efforts including the review of the City's mission statement and core

values; a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis; and development of 3-year goals. He noted that the topic of the location/relocation of the Senior Center received considerable focus during the Strategic Planning session. There were three (3) locations under consideration: the current Rodgers Senior Center site, a location in Central Park near Talbert and Goldenwest and the current Public Works Parks Yard located in Central Park on Gothard south of Slater. Mr. Hopkins stated that staff was instructed to return to Council with additional information and cost estimates for each of the sites.

Mr. Hopkins said that of particular interest to the Public Works Department, one of the 3-year goals set forth was to “improve the City’s infrastructure.” This included specific tasks that were given to staff including, providing a storm drain needs assessment, completing a bicycle master plan, developing recommendations for tiered conservation water rates, providing a work plan for update of the City’s General Plan to include a climate action plan, develop a facilities needs assessment and complete a study on dredging of Huntington Harbor.

F. INFORMATION ITEMS

- F-1. Upcoming City Council Study Sessions – Travis Hopkins presented the schedule of upcoming City Council Study Sessions. Commissioner Hart asked who attends the Study Sessions. Mr. Hopkins explained that these were open to the public and that the City Council and staff attend. He added that any Commissioner was welcome to communicate with Council via a memo or directly at the Study Sessions.
- F-2. Active Capital Project Report - Tom Herbel provided updates on the Capital Project Report focusing on “hot topics,” which are usually those projects currently under construction. Commissioner Carr asked for clarification on the Corrosion Control project. Mr. Herbel explained that it was a method to protect steel water pipeline whereby an electrical current is installed at various locations on the line.

Commissioners Berge and Hart asked several questions regarding the City’s recent annexation of Sunset Beach and Public Works administrative, maintenance and construction efforts thereof. Travis Hopkins explained that the City has been responsible for water service to Sunset Beach since the early 1960’s and that sewer is handled by a separate district, therefore, nothing changed for the Department with regard to those two services. He noted that, because of the areas relatively small size, the annexation has not really caused any financial burden to the City; extra property tax, gas tax, measure M and other funds are received by the City to help offset any additional maintenance costs.

G. ADMINISTRATIVE ITEMS

G-1. Central Park Parking Lot Improvements – Slater Lot, CC 1437 - Tom Herbel presented CC 1437, a project to reconstruct a badly deteriorated parking lot in Central Park located south of Slater Avenue. For the benefit of the new Commissioners present, Tom also provided a brief overview of how projects are presented to the Commission. He noted the reconstructed parking lot would include a “bio-swale” for collection, treatment and drainage of storm water and referred the Commission to the plans. Commissioner Hart asked if the new lot would provide the same number of parking spaces. Mr. Herbel said that it would. Commissioner Hart then asked about replacement of the trees that would be removed as part of the project. Travis Hopkins noted that the City’s policy is to replace trees “one for one” and that in this case the new trees would be planted elsewhere in the City in a more suitable area. Commissioner Berge asked whether the Department had been patching the existing lot. Mr. Hopkins said that this had been done and noted that the lot has needed reconstruction for quite some time.

Motion by Commissioner Hart, seconded by Commissioner Berge to recommend to the City Council the approval of the Central Park Parking Lot Improvements – Slater Lot, CC 1437I.

VOTE: The motion carried.
AYES: 4
NOES: 0
ABSENT: 2 (Cook, McGovern)
ABSTENTIONS: 0

H. WRITTEN COMMUNICATIONS

None.

I. COMMISSION AND STAFF COMMENTS

J. ADJOURNMENT

The meeting adjourned at 6:00 PM to March 20, 2013, in City Council Chambers.

Jennifer Thomas
Commissioner

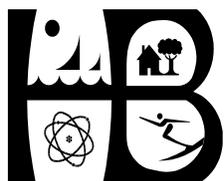
Kirsty Wapner
Administrative Assistant



~2013~ CITY COUNCIL STUDY SESSIONS & SPECIAL SESSIONS

*This information is for agenda scheduling purposes only and is subject to change on a daily basis.
Subjects listed below are not guaranteed to appear on a City Council agenda.*

COUNCIL MEETING	TIME	SUBJECT	DEPT HEAD
2013			
Jan. 7, 2013		<i>No Meeting</i>	
Jan. 22, 2013		<i>Circulation Element Update</i> <i>Water Master Plan</i>	<i>Hess</i> <i>Hopkins</i>
Feb. 4, 2013		<i>Street Light RFQ</i>	<i>Hall</i>
Feb. 19, 2013		<i>DTSC Asccon Update</i>	<i>Hall</i>
Mar. 4, 2013		<i>Housing Element/ General Plan Update Work Program</i>	<i>Hess</i>
Mar. 18, 2013		Senior Center Update	Laudenback
April 1, 2013			
April 15, 2013	<i>New</i>	PERS Actuarial Update	Farrell
May 6, 2013	<i>Moved</i>	Mid-Year Budget Study Session	Farrell
May 20, 2013	<i>Moved</i>	Historic Context & Survey Report	Hess/Galvin Preservation Associates
June 3, 2013	<i>New</i>	Conservation (Tiered) Water Rates	Hopkins
June 17, 2013	<i>Moved</i>	CDBG – Allocations	Hall
July 1, 2013			
July 15, 2013			
Aug. 5, 2013			
Aug. 19, 2013			
Sept. 3, 2013			
Sept. 16, 2013			
Oct. 7, 2013			
Oct. 21, 2013			
Nov. 4, 2013			
Nov. 18, 2013			
Dec. 2, 2013		Mayor Transition	
Dec. 16, 2013			



**CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
REQUEST FOR ACTION**

Item No. PW 13-05

SUBMITTED TO: Chairperson and Members of the Commission

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

DATE: March 20, 2013

SUBJECT: Planned Local Drainage Facilities Fund Annual Compliance Report *Fiscal Year 2011/12*

Statement of Issue: In accordance with Section 14.48 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Planned Local Drainage Facility Fund (Drainage Fund) for the City Council. The process provides an opportunity for the Public Works Commission to review planned projects, revenues and expenditures under the program.

Funding Source: No funding is required for this action.

Impact on Future Maintenance Costs: Not applicable.

Recommended Action: Motion to recommend to the City Council the approval of the Planned Local Drainage Facility Fund Compliance Report for Fiscal Year 2011/12.

Alternative Action(s): Recommend revisions to the report.

Analysis: The Planned Local Drainage Facilities Fund (Drainage Fund) is a development fee that is restricted to use for drainage system enhancements. Section 14.48.050 (d) requires the City Council to review the status of compliance with this Chapter, including the revenues collected and the funds expended. The following information conforms to the requirements of the HBMC regarding revenues and expenditures of the Drainage Fund. Although the reporting requirement became effective with the adoption of the revised ordinance in September 2006, the Drainage Fund has existed since 1975. The following information covers Fiscal Year 2011/12.

Fiscal Status

As the result of project costs overruns for the Shields Pump Station in Fiscal Year 2001/02, the Drainage Fund maintained a negative balance of (\$275,130) at the end of the fiscal year. The Drainage Fund advanced \$250,000 to the Redevelopment Agency for improvements in 1987. With interest accrual of \$596,408, the debt amount is currently \$846,408.

On June, 29, 2011, the State of California enacted AB1X26, which dissolves redevelopment agencies and designates Successor Agencies to “wind-down” activities of the former redevelopment agencies under supervision of newly created Oversight Boards. On January, 31, 2012, the City’s Redevelopment Agency presented an initial draft Recognized Obligation Payment Schedule (ROPS) to the Successor Agency. In this case, the City has elected to become the Successor Agency. The debt noted above is included in the list of obligations, however, no payments are scheduled to the Drainage Fund within the presented time frame.

Revenues

Revenue for FY 2011/12 from development was \$100,354. Interest to the fund was debited for a reduction of (\$2,088).

Expenditures

No expenditures were made in 2011/12, or are planned for the Drainage Fund in the foreseeable future.

Conformance with Program Goals and Objectives

The Drainage Fund is intended to implement the goals and objectives of the current Drainage Master Plan. Funds collected and deposited to the fund may be expended solely for the construction or reimbursement for construction of drainage facilities. The Fund is in compliance with these requirements.

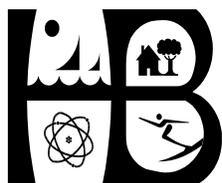
Beginning Balance 10/11	(\$373,396)
Revenue	
Developer fees	100,354
Interest earned	(2,088)
Total Revenue	\$ 98,266
Expenditures	
Total Expenditures	0
Beginning Balance 10/12	(\$275,130)
Budgeted revenues	90,000
Budgeted expenditures	0
Estimated Balance 10/13	(\$185,130)

Rate Schedule Fiscal Year 2011/12

Drainage Fees: \$13,880 per acre.

Environmental Status: Not applicable

Attachments: None



**CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
REQUEST FOR ACTION**

Item No. PW 13-06

SUBMITTED TO: Chairperson and Members of the Commission

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

DATE: March 20, 2013

SUBJECT: Sanitary Sewer Facilities Fund Annual Compliance Report
Fiscal Year 2011/12

Statement of Issue: In accordance with Section 14.36 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Sanitary Sewer Facilities Fund (Sanitary Sewer Fund) for the City Council. The process provides an opportunity for the Public Works Commission to review planned projects, revenues and expenditures under the program.

Funding Source: No funding is required for this action.

Impact on Future Maintenance Costs: Not applicable.

Recommended Action: Motion to recommend to the City Council the approval of the Annual Sanitary Sewer Facilities Fund Compliance Report for Fiscal Year 2011/12.

Alternative Action(s): Recommend revisions to the report.

Analysis: The Sanitary Sewer Fund is a development fee that is restricted to use for sewer capacity enhancements. The fee is unrelated to the monthly Sewer Service Charge used for operations and maintenance of the existing sewer system.

Section 14.36.070 (d) requires the City Council to review the status of compliance with this Chapter, including the revenues collected and the funds expended. The following information conforms to the requirements of the HBMC regarding revenues and expenditures of the Sanitary Sewer Fund. Although this requirement became effective with the adoption of the revised ordinance in

July 2003, the Sewer Facilities Fund has existed since 1988. The following information covers Fiscal Year 2011/12.

Fiscal Status

Revenues and expenditures are summarized below for the past fiscal year. The fund balance as of September 30, 2012 was \$1,979,533.

Not included in this figure are monies owed the Sanitary Sewer Facilities Fund by the Huntington Beach Redevelopment Agency. The original advance was \$131,000. With interest accrual of \$315,978 the debt amount for the fiscal year end was \$446,978.

On June, 29, 2011, the State of California enacted AB1X26, which dissolves redevelopment agencies and designates Successor Agencies to “wind-down” activities of the former redevelopment agencies under supervision of newly created Oversight Boards. On January, 31, 2012, the City’s Redevelopment Agency presented an initial draft Recognized Obligation Payment Schedule (ROPS) to the Successor Agency. In this case, the City has elected to become the Successor Agency. The debt noted above is included in the list of obligations, however, no payments are scheduled to the Sanitary Sewer Facilities Fund within the presented time frame.

Revenues

Total revenue for FY 2011/12 was \$1,028,163. Residential and commercial developer fees contributed \$75,278 and \$923,973 respectively. The higher than normal commercial revenue is due to a receipt of \$823,545 related to the ongoing development at Bella Terra. Miscellaneous revenue totaled \$12,310. The fund was credited \$16,602 in interest.

Expenditures

Fiscal Year 2011/12

Expenditures for the fund in FY 11/12 included \$90,740 in salaries and \$30,139 in engineering design related to the Trinidad station for a total of \$120,879.

Fiscal Year 2012/13

Budgeted expenditures for the current fiscal year include \$106,911 in encumbrance rollovers, \$400,000 in new funds. In addition, \$525,200 for Warner Avenue Gravity Sewer and \$399,000 for Trinidad Lift Station were carried over from FY 11-12 to FY 12-13. Total budgeted expenditures are \$1,431,111

Conformance with Program Goals and Objectives

The Sanitary Sewer Facilities Fund is intended to implement the goals and objectives of the current Sewer Master Plan. Funds collected and deposited to

the fund may be expended solely for the construction or reimbursement for construction of sanitary sewer facilities. The Fund is in compliance with these requirements.

Environmental Status: Not applicable.

**Summary of Revenue and Expenditures
Sanitary Sewer Facilities Fund**

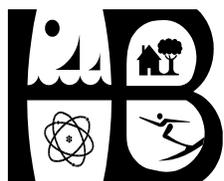
Beginning Balance 10/11	\$1,072,249
Revenue	
Developer fees (residential)	75,278
Developer fees (commercial)	923,973
Miscellaneous revenue	12,310
Interest earned	16,602
Total Revenue	\$ 1,028,163
Expenditures	
Salaries and Benefits	(90,740)
Design services	(30,139)
Total Expenditures	(\$120,879)
Beginning Balance 10/12	\$1,979,533
Budgeted revenues	87,000
Budgeted expenditures	(1,431,111)
Estimated Balance 10/13	\$635,422

Rate Structure Fiscal Year 2011/12

CITY SEWER CONNECTION FEES		Effective October 1, 2011
Single Family Dwelling Unit	\$	2,202
Multiple Family Dwelling Unit	\$	1,801

Non-Residential (based on water meter size relationship to Equivalent Dwelling Unit, EDU)		
Meter Size & Type	EDU's	Charge
3/4"	1	\$ 2,503
1"	2	\$ 5,006
1 1/2"	3	\$ 7,509
2"	5	\$ 12,517
3"	11	\$ 27,537
4" Compound	17	\$ 42,556
4" Domestic & Turbine	33	\$ 82,610
6" Compound	33	\$ 82,610
6" Domestic & Turbine	67	\$ 167,721
8" Domestic	117	\$ 292,885
10" Domestic	183	\$ 455,483

Attachments: None



**CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
REQUEST FOR ACTION**

Item No. PW 13-07

SUBMITTED TO: Chairman and Members of the Commission

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

DATE: March 20, 2013

SUBJECT: Fair Share Traffic Impact Fee Program Annual Report for Fiscal Year 2011/12

Statement of Issue: In accordance with Section 17.65.130 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Fair Share Traffic Impact Fee Program for the City Council. The process also provides an opportunity for the Public Works Commission to review revenues and expenditures under the program.

Funding Source: No funding is required for the recommended action. All Traffic Impact Fee funds are maintained in a separate account from other City operation funds.

Recommended Action: Motion to recommend approval of the 2011/12 Traffic Impact Fee Annual Report to the City Council.

Alternative Action(s): Recommend revisions to the report elements or request additional information.

Analysis: The Fair Share Traffic Impact Fee (TIF) program is intended to implement the goals and objectives of the General Plan by providing revenue to ensure that the adopted Level of Service standards for arterial roadways and signalized intersections are maintained when new development is constructed within the City limits and that these developments pay their fair share towards short and long term transportation improvements. During the FY 2011/12 fiscal year, the City Council approved an update of the Fair Share Traffic Impact Fee including minor revisions to the Municipal Code and the fee structure.

The following sections comprise the annual report.

Fiscal Status

This report presents the fund information based on the City's preliminary audit for Fiscal Year 2011/12. The balance for the fund at the beginning of the fiscal year was \$30,402. During FY 2011/12, Traffic Impact Fee fund recognized \$293,447 in revenues including the following:

▪ Grant reimbursements	\$134,545
▪ Impact Fees Paid	\$156,820
▪ Interest	\$ 2,082

Expenditures from the fund totaled \$57,567 during the year, with the majority of those expenses (\$41,086) in personnel salaries and benefits related to program and project administration. The fund balance at the end of the fiscal year was \$266,282.

No projects were funded in this program in FY2011/12 due to the low fund balance.

Planned Capital Projects, Studies and Expenditures

The City Council approved funding towards two projects using Traffic Impact Fee funds for the 2012/13 Fiscal Year. The Atlanta widening project has \$26,500 in continuing project funding. The City Council also approved \$60,000 funding for a study of the potential reconfiguration of the Beach/Ellis/Main Street intersection to improve traffic flow efficiency and reduce congestion. Most projects envisioned in the Traffic Impact Fee program require substantial funding and project programming is expected to be limited for the next few years while the fund balance increases to a level sufficient to fund larger projects. Staff will continue to look for opportunities to obtain grant funds for TIF eligible projects and consider use of TIF funds as local matching funds.

Capital Project Reimbursements

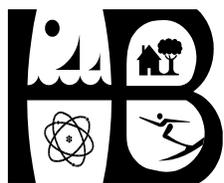
During the FY 2011/12 Fiscal Year, staff has been working to dispose of excess real property owned by the Traffic Impact Fee fund. Though none of the sales were finalized in the FY 2011/12, significant progress was made and the sale of two properties are expected to be finalized this year. The overall assessed value of the real estate assets to the fund are in excess of \$700,000

2010/11 Fund Balance Including Assets

Final Audited Fund Balance	\$266,282
Real Estate Assets (low estimate)	<u>\$700,000</u>
Total	\$966,282

Conformance with Program Goals and Objectives

The Traffic Impact Fee Program is intended to implement the goals, objectives and policies of the City of Huntington Beach General Plan, as stated in the Municipal Code Chapter 17.65. Completion of the planned projects implements improvements identified in the Circulation Element of the General Plan and is in conformance with the goals and objectives of the Fair Share Traffic Impact Fee program.



**CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
REQUEST FOR ACTION**

Item No. PW 13-08

SUBMITTED TO: Chairman and Members of the Commission

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

DATE: March 20, 2013

SUBJECT: Rehabilitation of Hanover Lane, CC-1438

Statement of Issue: Plans and Specifications for the Rehabilitation of Hanover Ln, from McFadden Ln to Bolsa Ave., CC-1438 are in final preparation. Staff requests recommendation of the project to the City Council.

Funding Source: Funds in the amount of \$600,000 have been budgeted from the Gas Tax in Account No. 20790025.

Impact on Future Maintenance Costs: No additional costs are anticipated.

Recommended Action: Motion to recommend to the City Council, approval of the Rehabilitation of Hanover Ln., CC-1438.

Alternative Action(s): Deny approval and recommend alternative action.

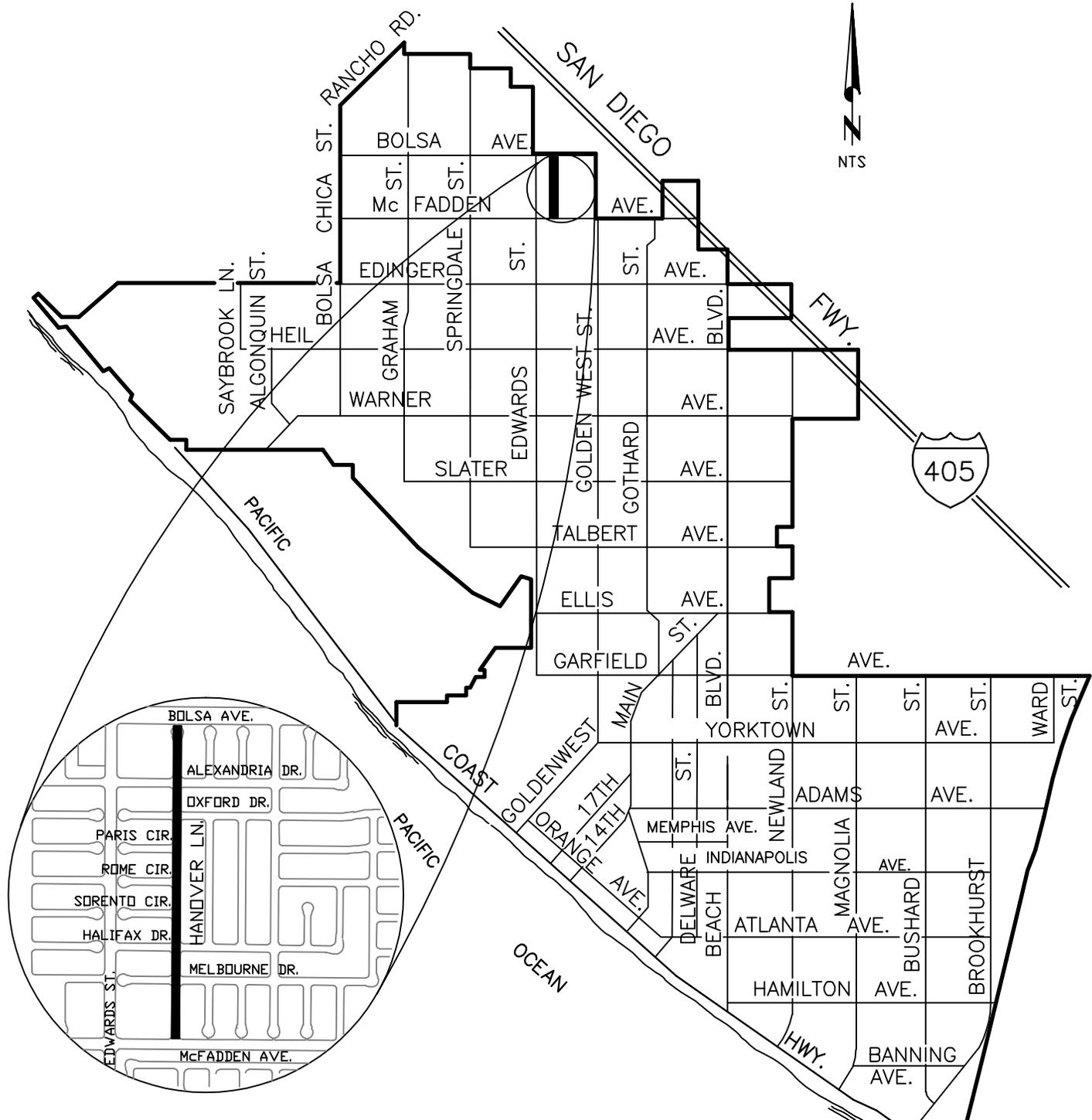
Analysis: Hanover Lane is on the established Tree Petition Program and was picked for construction based on current street condition. The street is located in Reporting District 139 and consists of 62 address lots.

The scope of work includes removal and replacement of concrete sidewalks, driveway approaches, cross gutters, curb and gutter, handicap ramps, and indentified street trees. The asphalt roadway will be cold milled and overlaid due to previous damage from tree roots. Engineer's estimate for this project is \$550,000.

Attachments:

1. Location Map

ATTACHMENT #1



LEGEND

 TREE PETITION STREET LOCATION

PROJECT LOCATION

HANOVER LN (MCFADDEN AVE. - BOLSA AVE.)
RD 139

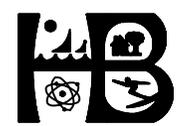
REV 6/21/2012

HANOVER LANE, TREE PETITION STREET. CC-1438

PROJECT LOCATION MAP

CITY OF HUNTINGTON BEACH

DEPARTMENT OF PUBLIC WORKS



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