

**Minutes  
City Council/Public Financing Authority  
and the  
Special Meeting of the Successor Agency  
City of Huntington Beach**

**Monday, April 1, 2013  
5:00 PM – Closed Session  
6:00 PM – Regular Meeting  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648**

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

***The City Clerk recessed the 4:30 PM portion of the meeting to 5:00 PM due to an anticipated lack of quorum and no Study Session***

**5:00 PM - Council Chambers - Closed Session  
6:00 PM - Council Chambers - Regular Business Meeting**

**CALL TO ORDER – 5:00 PM**

**ROLL CALL - (Councilmember Carchio requested and was granted permission to be absent pursuant to Resolution No. 2001-54)**

Present: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
Absent: Carchio

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution) - None**

**PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEMS (3 Minute Time Limit) - None**

**RECESS TO CLOSED SESSION – 5:01 PM**

**CLOSED SESSION**

- 1. Pursuant to Government Code § 54956.9(d)(1), the City Council recessed into Closed Session to confer with the City Attorney regarding: Application of NextG Networks to Engage in Ground-disturbing Outside Plant Construction, California Public Utilities Commission Application No. 09-03-007, consolidated with City of Huntington Beach v. NextG, CPCU Case No. 08-04-037, which involve NextG's project to locate its wireless telephone antennas in the public right-of-way, and related case, NextG Networks of California v. City of Huntington Beach, Orange County Superior Court Case No. 30-2009-00119646.**
- 2. 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: Norman Evenson v. City of Huntington Beach, WCAB Case Nos. ADJ4025784 and**

**ADJ4014015; Claim Nos. COHB-06-0004 and COHB-08-0028.**

**6:00 PM – COUNCIL CHAMBERS**

**RECONVENE CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING**

**CALL TO ORDER THE REGULAR MEETING OF THE CITY COUNCIL/PUBLIC FINANCING AUTHORITY AND THE SPECIAL MEETING OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH – 6:00 PM**

**CLOSED SESSION REPORT BY CITY ATTORNEY - None**

**ROLL CALL - (Councilmember Carchio requested and was granted permission to be absent pursuant to Resolution No. 2001-54)**

Present: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
Absent: Carchio

**PLEDGE OF ALLEGIANCE – Led by Councilmember Sullivan**

**INVOCATION – Provided by Mr. Holman of the 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**

**Presentation - Mayor Boardman called on Richard Glover to accept a proclamation for Donate Life Month 2013.**

Mayor Boardman commented on the importance of organ donation and reported that Mr. Glover, a Public Works employee, donated one of his kidneys to a friend and presented him with a proclamation in appreciation and acknowledgement of his donation.

Mr. Glover expressed his appreciation to the City for allowing him the time to travel to make his donation.

Mayor Boardman announced an upcoming event where the donate flag will be raised under the City flag in acknowledgement of Donate Life Month. She added that a walk/run will be held on March 27, 2013 at California State University Fullerton to raise funds for organ and tissue donation.

**Presentation - Mayor Boardman called on a representative from the Orange County Transportation Authority to make a presentation to the City Council.**

Mayor Pro Tem Harper presented an update on transportation for the City of Huntington Beach addressing the functions of the OCTA, Measure M funding, and funds received by the City. He

referenced a handout of information as well as the Measure M Annual Report distributed for circulation and deferred to Sarah King, Community Coordinator for the West County Connectors Project for a report.

Ms. King presented a description of the project addressing anticipated completion, east and west segments, east segment milestones, west segment milestones and communication efforts and outreach including launch of an interactive Google map as well as an upcoming bridge demolition.

Mayor Pro Tem Harper noted the importance of the project and outreach for the City in minimizing the impacts of the project on residents and businesses. He acknowledged the efforts of the OCTA in helping the community to understand the process.

**Presentation - Mayor Boardman presented appreciation gifts to Senator Tom Harman and Assemblyman Jim Silva.**

Mayor Boardman called Senator Tom Harman to the podium and reported on his service to the City and the State. She expressed appreciation on behalf of Council, the City and the people of Huntington Beach for his service and presented him with a gift in honor of his retirement.

Senator Harman expressed his appreciation for the acknowledgement and stated that he looks forward to participating more actively in the City.

Mayor Boardman called Assemblyman Jim Silva to the podium and reported on his service to the City and the State. She expressed appreciation on behalf of Council, the City and the people of Huntington Beach for his service and presented him with a gift in honor of his retirement.

Assemblyman Silva expressed his appreciation for the acknowledgement and commented positively on his experiences in the City.

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

City Clerk Joan Flynn announced supplemental communications received after distribution of the Agenda as follows.

**Consent Calendar**

#7. Communication submitted by Mayor Pro Tem Harper which may change the recommended action, should Council so choose.

Communications were also submitted on Item No. 7, by Joe and Joan Robinson, Tom Stanton, Christine Vitamante, Mary Lee Smith, Gloria Nafel, Debbie Killey and Bob Watts.

**PUBLIC COMMENTS (3 Minute Time Limit)**

(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/>).

Mayor Boardman opened the Public Comments portion of the meeting, and noted that the Brown Act prohibits Council discussion on non-agendized items.

Joana Brown reported on her experience in the medical field and commented on the ability to provide massage services in her home office as well as visiting clients in their homes. She presented personal testimony on her experiences visiting hospice patients and addressed the importance of quality of care. She asked Council's support in allowing professionals to visit patients in their homes and see patients in their home offices. (00:24:58)

Ahmos Netanel, Chief Executive Officer of the California Massage Therapy Council, addressed discussions with Chief Small and the Mayor and felt that an ordinance can be written to protect the legal rights of Certified Massage Professionals while going after the "bad apples". He thanked City Attorney Jennifer McGrath for her thoroughness and willingness to work with the Council and addressed an issue which Ms. McGrath will discuss when the item is heard. (00:27:05)

Norman Lawson commented on the plastic bag ordinance addressing unintended consequences noting that there needs to be a good reason for restricting people's freedom. He spoke in opposition to the ordinance and asked Council for consistency and acknowledgement that the ordinance is not good for business. (00:28:04)

Mark Dixon, Massage Therapist, thanked City Attorney McGrath for her hard work, interest and objective consideration in helping to make a better law. He expressed appreciation to Council for its courtesy and cooperation on the matter. (00:30:14)

Tim Geddes spoke in support of Item No. 11 and commented on previous "hit" pieces by special interests relative to campaign documents and stressed the need to restore and improve Chapter 2.06 to the Municipal Code so that it is comprehensive, enforceable, independent and fair. He urged Council to be diligent in heading off negative campaigning and send a message that smear campaigns will not be tolerated. (00:31:10)

Maura Van Strien spoke in support of the plastic bag ordinance and presented an example of a reusable bag that she obtained in Hawaii. She suggested that the Chamber of Commerce sponsor a contest among the City high schools for students to submit original art entries for an affordable and catchy logo for the City to use in a similar reusable bag as City souvenirs. (00:34:05)

Hildy Meyers urged Council to pass the ordinance on plastic bags and promote the use of reusable bags. She thanked Mayor Boardman and Council Members Hardy, Shaw and Katapodis for moving the matter forward and supporting the ordinance and noted that is it an important steps toward a more sustainable way of living that the future requires and urged Council to vote in favor of the ordinance. (00:36:21)

Al Hendricker spoke regarding the plastic bag ordinance and asked that Council amend the portion of the ordinance which pertains to the mandated fixed price for paper bags. He opined that the latter results in a restriction to competition, an economic harm to the consumer and is a

step towards a more socialistic way of government. He urged Council to change the part of the ordinance regarding the price of the bags and not fix it in the marketplace. (00:37:00)

James R. Knowles spoke in objection to the plastic bag ban and felt that it is not a problem in the City. He felt that a bigger problem is human hair and bird feces and voiced objections to the ten-cent charge for paper bags and applying the ordinance only to grocery stores. (00:39:41)

Bill Hickman, Surfrider Foundation, spoke in support of the plastic bag ordinance and noted that the EIR shows the benefits of a plastic bag and reusable bag ordinance. He commented on the charge for paper bags noting that it helps with making the shift to reusable bags. He asked that Council support the ordinance and offered to do outreach and education once the ordinance takes effect. (00:42:11)

Michelle Mangano, Massage Therapist, Cal-Cooper Massage School, expressed appreciation to Council, the Police Department and CAMTC for establishing and enforcing laws to help protect the public. She spoke in support of the proposed ordinance on behalf of herself and the students at Cal-Cooper Massage School. (00:43:55)

Sue Gross spoke in opposition to the plastic ban ordinance and asked Council to not impose undue hardships on residents. She suggested exempting plant-based and biodegradable bags and banning only petroleum-based plastic bags and allowing businesses time to comply. She spoke in support of being able to make her own choices. (00:44:52)

Suzanne Koehnlein spoke on behalf of the Sunset Beach Junior Lifeguard Program noting that she represents surrounding communities, that they are adults who work in the public sector and represent nearby adjacent cities that spend money in the City. She listed the benefits of the program and encouraged Council to consider keeping the program. (00:47:14)

Donna Krizo, Event Chair for the Huntington Beach Relay for Life, announced the Relay for Life event on May 18 and 19, 2013 at Central Park. She thanked the Mayor and Council for their support. She reported that the money raised will go to the American Cancer Society and encouraged the public to participate and visit their website for additional information. (00:50:15)

Phyllis Bailey, Huntington Beach Education Foundation, presented information on the organization and announced their Open Door Home and Garden Tour as a means of raising funds for the organization. She reported that they are in need of additional homes for the tour and asked those interested to contact the Foundation as soon as possible. (00:52:26)

Sarah Sheehy, California Grocers Association, commented on the proposed plastic bag ordinance and expressed appreciation to Council for moving forward with the ordinance. She noted that the goal of the ordinance is to encourage reusable bag use and that retailers will be required to provide sales information on paper bags to the City. She stated that based on past experience, 95% of customers will bring their own reusable bags after six months of implementation and not buy paper bags. She indicated that will provide information to the City that the ordinance is working. She addressed the industry standard cost of a paper bag and noted that the sales of paper bags will be nominal. She urged Council to move forward with the ordinance as presented. (00:54:04)

Roni Ellis, School Principal, asked Council to consider continuing the Sunset Beach Junior Lifeguard Program at its capacity. She presented personal testimony on the benefits of the program and stated that she doesn't believe that the participants will transition to the Huntington Beach Program noting the differences between the two programs. (00:56:37)

Tommy Lang, California Junior Guards, spoke in support of the Sunset Beach Junior Lifeguard Program and provided personal testimony as to its benefits. (00:58:10)

Jackie Fantuzo spoke in favor of allowing the Sunset Beach Junior Lifeguard Program to continue in the interest of increased transparency and in the interest of the City's youth. She provided personal testimony regarding the program and addressed the differences between the Sunset Beach and the Huntington Beach Programs. She addressed sharing the beach by various groups and encouraged Council to find a way of continuing the program. (00:59:18)

Larry Jacklin, California Junior Guards, spoke in support of the Sunset Beach Junior Lifeguard Program, expressed appreciation to community supporters and to Council for its consideration. He addressed the benefits of the program noting that they far outweigh the grumblings of a few. He asked that Council consider allowing the program to continue and noted the organization's willingness to find a compromise for a solution. (01:02:50)

William DeLorie spoke in support of the Sunset Beach Junior Lifeguard Program and felt that the most important consideration is the life and water-safety skills it provides to the community. He acknowledged the inconvenience to homeowners but stated that the benefits far outweigh the minor inconvenience. He noted that there are many hours during the day when there are no lifeguards in the area and that participants are trained to provide life-saving actions. He indicated that the program is only for a few hours during the day and noted that the City provides permits for other events that affect nearby homeowners. (01:04:41)

Geoff DeLorie spoke in support of the Sunset Beach Junior Lifeguard Program and noted the personal benefits he has attained through the program as well as benefits to the community in terms of public safety. (01:07:02)

Gerry DeLorie provided personal testimony of his experience with the Sunset Beach Junior Lifeguard Program and spoke in its support and the benefits of the program. (01:09:49)

Grace Gallaher, California Junior Guards, provided personal testimony on her experience with the Sunset Beach Junior Lifeguard Program and urged Council to consider continuing the program. (01:13:01)

Haley Forth provided personal testimony on her experience with the Sunset Beach Junior Lifeguard Program and urged Council to consider continuing the program. She stated that people chose to live there and that the area is a public beach for everyone to have fun. She spoke in support of the instructors. (01:14:03)

Alexandra Salazar Jones spoke in support of the Sunset Beach Junior Lifeguard Program and commented on the program allowing lower-level kids to participate and other differences between the Sunset Beach and Huntington Beach Programs. She urged Council to consider continuing the program. (01:15:33)

Samantha Salazar provided personal testimony on her participation in the Sunset Beach Junior Lifeguard Program and focused on the negative impacts of having the participants switch to the Huntington Beach Program. (01:17:03)

Kate Durkan spoke in support of continuing the Sunset Beach Junior Lifeguard Program. She stated that the Sunset Beach homeowners feel that the program is an inconvenience to their daily lives due to traffic, noise and dust. She reported that the organization presented the Homeowners' Association with detailed traffic plans but they did not take the time to review it. Additionally, she reported that the organization has worked hard to compromise with the homeowners to create an environment that is acceptable to everyone but that the homeowners are unwilling to compromise. She noted that the HOA is made up of no more than fifteen citizens, that many in the City and surrounding communities have expressed their support of the program and asked that Council consider continuing the program at Sunset Beach. (01:18:31)

Ken Boyd, instructor with the California Junior Lifeguard Program, spoke in support of the program at Sunset Beach and addressed how the program is beneficial to the City of Huntington Beach. He noted that they augment the local Lifeguard Program, provide first aid (i.e. stingray strikes) and provide a service and benefit to the community. (01:21:20)

Kevin Griffin, instructor with the California Junior Lifeguard Program, addressed the banning of fire rings due to the complaints of a small minority of people and equated that with what is occurring in Sunset Beach. He noted the positive impacts of the program to the community and expressed concerns that a program that is so beneficial will be banned because of the complaints of a few. He stated the organization's willingness to work with local homeowners to find a solution to the matter and asked that Council consider the matter on a future agenda. (01:24:19)

Ashley Standish, instructor of the California Junior Lifeguard Program at Sunset Beach, provided personal testimony regarding the benefits of the program and asked that Council consider the matter. (01:27:12)

Debbie Zuganelis felt that if the 2010 Council had heard the testimony of the many supporters of the Sunset Beach Junior Lifeguard Program, the vote may have been different. She asked that Council consider the City's youth and help in whatever way it can in support of the program. (01:29:34)

Brandyn Zuganelis provided personal testimony regarding his participation in the Sunset Beach Junior Lifeguard Program as well as the benefits of the program to the community. He asked Council to consider continuing the program. (01:32:48)

Lori Kewalram spoke in support of the Sunset Beach Junior Lifeguard Program and asked that Council consider allowing the program to continue. She provided testimony on her son's participation and spoke on the benefits of the program. She reported that her son asked her to stress four elements of the program that are of the utmost importance including safety, fitness, first-aid and the ability to make good decisions. (01:34:20)

With no one else present to speak, Mayor Boardman closed the public comments portion of the

meeting.

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

Mayor Pro Tem Harper noted that he gave his OCTA report during the presentation portion of the meeting.

Councilmember Sullivan announced his appointment to the Investment Advisory Board, Lyn Semeta.

Councilmember Shaw reported attending the Orange County Sanitation District Board meeting where they voted to increase the City's sewage rates. He felt that they are one of the best-run agencies in Orange County and noted that since the beginning of secondary treatment in the early 2000s beaches are now cleaner, there are less closures and that transit occupancy taxes are up in the City of Huntington Beach. He addressed the need to ensure that the City's world-class sewage treatment facilities are maintained and repaired so the aging infrastructure can continue the outstanding results being attained today.

Councilmember Katapodis reported attending the Orange County Coastal Coalition where discussion ensued regarding the environmental aspects of Trabuco Canyon.

## **CITY MANAGER'S REPORT**

City Manager Fred Wilson provided an update on the issue of the Air Quality Management District and fire rings noting that they took public input at a recent committee meeting. He reported that the City was not notified of the meeting but organized quickly and attended to express concerns regarding the ban. He stated that some of the concerns voiced included the impact to the City's local economy, lack of notice, lack of hard data to support the proposed ban in terms of air quality and concerns regarding the proposal of providing propane tanks as an option to wood burning. He reported that no action was taken by the Board but will be presented for consideration to the full Board as a consent item at an upcoming meeting.

## **CONSENT CALENDAR**

Mayor Pro Tem Harper requested pulling Item No. 7 for separate discussion and consideration.

### **1. Approved and adopted minutes**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to approve and adopt the minutes of the City Council/Public Financing Authority Regular Meeting of February 19, 2013, and approve and adopt the minutes of the City Council/Public Financing Authority Regular Meeting of March 4, 2013, as written and on file in the office of the City Clerk and approve and adopt the minutes of the Successor Agency Special Meeting of February 19, 2013, as written and on file in the office of the City Clerk.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

**2. Approved and authorized execution of a Cooperative Agreement with the City of Fountain Valley regarding Street Rehabilitation and reimbursement for portions of Arterial Rehabilitation within the Fountain Valley City Limits**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to approve and authorize the City Manager and City Clerk to execute the Cooperative Agreement with the City of Fountain Valley for the Garfield Avenue Project.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

**3. Approved and authorized execution of a Professional Services Agreement with Enterprise Automation for On-Call Engineering Services for Water and Wastewater SCADA Systems with a term of three years and \$900,000**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to approve and authorize the Mayor and City Clerk to execute the "Professional Services Contract Between the City of Huntington Beach and Enterprise Automation for On-Call Engineering Services for Water and Wastewater SCADA Systems."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

**4. Approved and authorized execution of four Professional Services Contracts for As-Needed General Environmental Engineering Services with Geosyntec Consultants, Inc., Langan Engineering and Environmental Services, Inc., E2 Manage Tech, Inc. and Pacific Advanced Civil Engineering, Inc., each in the amount of \$1,000,000 with three-year terms**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to approve and authorize the Mayor and City Clerk to execute "Professional Services Contract Between the City of Huntington Beach and Geosyntec Consultants, Inc. for As-Needed Environmental Services;" and, approve and authorize the Mayor and City Clerk to execute "Professional Services Contract Between the City of Huntington Beach and Langan Engineering & Environmental Services Inc. for As-Needed Environmental Services;" and, approve and authorize the Mayor and City Clerk to execute "Professional Services Contract Between the City of Huntington Beach and for E2 ManageTech Inc. for As-Needed Environmental Services;" and, approve and authorize the Mayor and City Clerk to execute "Professional Services Contract

Between the City of Huntington Beach and Pacific Advanced Civil Engineering Inc. for As-Needed Environmental Services."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

5. **Adopted Resolution No 2013-13 approving the submittal of a grant application to the Orange County Transportation Authority (OCTA) for funding under the Measure M Project V Program to provide free shuttle service annually from the Goldenwest Transportation Center to Downtown Huntington Beach on July 4 and on weekends during the Annual US Open of Surfing**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to adopt Resolution No 2013-13, "A Resolution of the City Council of the City of Huntington Beach Authorizing Submission of an Application to the Orange County Transportation Authority for Competitive Funding Under the Measure 2 Program for Project V to Provide Community-Based Transit/Circulators."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

6. **Adopted Ordinance No. 3974 authorizing execution of a Pipeline Franchise Agreement with OXY USA, Inc. for the construction, operation and maintenance of a pipeline system for the transportation of oil, gas, and other hydrocarbon substances  
Approved for introduction March 18, 2013 (Vote: 7-0)**

A motion was made by Councilmember Hardy, second by Councilmember Katapodis to adopt Ordinance No. 3974, "An Ordinance of the City of Huntington Beach Granting to OXY USA, Inc. a Franchise to Construct, Operate and Maintain a Pipeline System for the Transportation of Oil."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

7. **Adopted Ordinance No. 3975 adding Chapter 5.95 to the Huntington Beach Municipal Code regulating the use of plastic carryout bags and recyclable paper carryout bags and promoting the use of reusable bags.  
Approved for introduction March 18, 2013 (Vote: 4-3, Sullivan, Harper, Carchio-No)**

Mayor Pro Tem Harper referenced his supplemental communication regarding the item noting that one of his objections to the ordinance is that there are no performance measures as to whether the change in the law would cause a reduction of bags from retailer establishments in the City.

Councilmember Shaw asked Sarah Sheehy of the California Grocers Association to the podium to explain the method for measuring the results of the ordinance.

Ms. Sheehy noted that there is a requirement under the ordinance for retailers to keep track of the number of paper bags sold. Using those metrics over time, it can be determined whether the number of paper bags sold decreases. She reported that retailers are required to submit yearly reports and that cities that have implemented the ordinance are able to track how many paper bags are being sold.

A motion was made by Councilmember Shaw, second by Councilmember Hardy to adopt Ordinance No. 3975, "An Ordinance of the City of Huntington Beach, Amending the Huntington Beach Municipal Code by Adding Chapter 5.95 Regulating the Use of Plastic Carryout Bags and Recyclable Paper Carryout Bags and Promoting the Use of Reusable Bags."

Councilmember Katapodis indicated that although he understands Mayor Pro Tem Harper's position, he believes the audit is in place.

Mayor Boardman addressed the challenges with using biodegradable plastic bags and felt that reduction in plastic bag use will be obvious.

In response to Mayor Pro Tem Harper's inquiry, staff reported there is nothing that requires tracking of paper bag sales information prior to the six-month implementation of the ordinance.

Mayor Pro Tem Harper reaffirmed his argument that there is no measurement in terms of whether the price set for paper bags has an impact on increasing or decreasing the number of paper bags being circulated.

Councilmember Shaw stated that every receipt will show how many paper bags are purchased and that according to the California Grocers Association, in all municipalities that have adopted the ordinance, 95% of customers bring their own reusable bags after six months of implementation and do not buy paper bags, thereby demonstrating that paper bag use is minimal.

An amendment to the motion was made by Mayor Pro Tem Harper as presented in his supplemental communication. The maker and second of the original motion did not accept the proposed amendment.

Mayor Boardman explained that in six months, the City will gather data on how many paper bags are being distributed as well as in subsequent months and the City will be able to determine a trend as to how many paper bags are being sold.

Mayor Pro Tem Harper felt that the matter cannot be measured without his proposed amendment.

The original motion carried with the following roll call vote:

AYES: Hardy, Boardman, Shaw, Katapodis  
NOES: Sullivan, Harper  
ABSENT: Carchio

#### ORDINANCES FOR INTRODUCTION

**8. Approved for Introduction Ordinance No. 3976 updating the Huntington Beach Municipal Code (HBMC) and Zoning and Subdivision Ordinance (ZSO) to reflect certain technical, non-substantive changes identified by Quality Code Publishing's Standard Editorial Procedures**

City Clerk Flynn presented background on the item and noted that the Code has not had a complete review in over twenty-five years and that it has been codified successfully, in-house. She reported that staff has been reduced and maintaining the codification process has been difficult. Although staff has done a great job, the profession of codification has improved over the years and has surpassed the abilities of staff. She reported that her office has reviewed whether it would be cost-effective to outsource the service and has done its due diligence in researching the item, resulting in the consideration of Quality Code Publishing for the service. She addressed the review process, next steps and benefits to be reaped by the City including those provided with the use of improved technology. Ms. Flynn offered to respond to questions.

A motion was made by Councilmember Sullivan, second by Councilmember Shaw to after the City Clerk reads by title approve for Introduction Ordinance No. 3976, "An Ordinance of the City of Huntington Beach, California, amending various sections of the Huntington Beach Municipal Code (HBMC) and Zoning and Subdivision Ordinance (ZSO) to globally change department head titles of City Administrator, Deputy City Administrator and Chief of Police; amending HBMC Section 1.01.020 to identify Quality Code Publishing as publisher of the HBMC; amending HBMC Section 1.01.040 to reflect the updated City Charter; and, adopting Standard Editorial Procedures as recommended by Quality Code Publishing."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

**9. Approved for introduction Ordinance No. 3977 repealing Huntington Beach Municipal Code (HBMC) Chapter 9.28, which regulates pinball machines in the City**

City Manager Wilson noted that the item was brought to staff's attention by Mayor Pro Tem Harper and Councilmember Hardy and reported that it has not been enforced because there are other provisions in the Code relative to gambling. Therefore, staff has determined there is no need for the ordinance and Mr. Wilson presented recommendations.

Mayor Pro Tem Harper commented on the item noting that it appeared to be outdated. He

thanked Councilmember Hardy for her input on the matter.

A motion was made by Mayor Pro Tem Harper, second by Councilmember Hardy to after the City Clerk reads by title approve for introduction Ordinance No. 3977, "An Ordinance of the City of Huntington Beach Repealing Chapter 9.28 of the Huntington Beach Municipal Code Relating to Pinball Machines."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

**10. Approved for introduction Ordinance No. 3973 amending Chapter 5.24 of the Huntington Beach Municipal Code (HBMC). The proposed amendment augments current state law and enhances the City's ability to regulate massage businesses operating in Huntington Beach**

Police Captain Bill Stuart presented the staff report including background, previous Council consideration and additional meetings with pertinent parties to fine-tune the ordinance for consideration by Council. He presented details of the recommended changes as stated in the report and noted that they were substantive enough to result in again having a first reading of the ordinance. Captain Stuart presented an additional suggested amendment to Section 5.24.055 relative to permitting outcall massages.

Mayor Boardman noted that the reason the changes were made was so that the ordinance would comply with State law. She wondered regarding conflicting with State law regarding the requirement for separate dressing rooms for male and female clients when they are served simultaneously.

City Attorney McGrath reported that State law that is being preserved states that businesses such as masseuses cannot be treated differently than other businesses (i.e. beauticians) and that there are no existing laws indicating the need for separate male and female restrooms. She added that if it is Council's desire to maintain the provision in the ordinance, laws would need to be changed for other businesses as well.

Mayor Boardman wondered regarding the tools provided within the amended ordinance that would allow the Police Department to help the City address the issue of illegal massage parlors and prostitution.

Captain Stuart reported that the owner of the establishment will need to submit an application and receive a certificate to operate by the Police Department. Additionally, the ordinance adds a new section indicating that if the Police closes one of the locations as a result of criminal behavior, another cannot open in that same location for one year.

In response to an inquiry from Councilmember Sullivan, Captain Stuart noted the additional amendment relative to outcall massages. Councilmember Sullivan suggested that Council include that amendment in its consideration.

A motion was made by Councilmember Sullivan, second by Councilmember Katapodis to after the City Clerk reads by title approve for introduction Ordinance No. 3973, "An Ordinance of the City of Huntington Beach Amending Chapter 5.24 of the Huntington Beach Municipal Code Relating to Massage Establishments", as amended to include Section 5.24.055 relative to permitting outcall massages.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Shaw, Katapodis  
NOES: None  
ABSENT: Carchio

### **COUNCILMEMBER ITEMS**

**11. Submitted by Councilmember Shaw - Direct City Attorney to draft an ordinance amending the Huntington Beach Municipal Code (HBMC) by adding Chapter 2.06 relating to campaign documents**

Councilmember Shaw reported his reason for bringing the item forward and presented an example of a mailer distributed in the previous election which included slanderous and libelous statements. He stated that the ordinance would require that campaign mailings be filed with the City Clerk's Office within twenty-four hours of distribution and would be effective thirty-days before the election. He indicated that the ordinance is an introduction of one that previously existed before being repealed and provides a way for the public to scrutinize claims made in flyers and mailers, in the interest of fair elections and giving all parties the right to respond.

Mayor Pro Tem Harper did not feel it ideal to bring campaigns to the dais of a policy-making body. He noted that he has been at the negative end of hit pieces before, felt that such documents are a part of free speech. He wondered if this is not an attempt to manipulate the campaign process for a perceived advantage for the re-election of the author. He mentioned the possibility of a candidate hiring Tim Geddes to work on specific campaigns, addressed donors to a campaign listing their business addresses and expressed concerns over applicability of the ordinance, limitations on activities, transparency and the effectiveness of the ordinance. Regarding the latter, he stated that the ordinance does not affect elections, but rather, campaigns and wondered regarding the definition of a "campaign document". He noted his strong concerns and indicated that he will vote against the ordinance.

Mayor Boardman indicated that Councilmember Shaw is moving the item forward because of the negative campaigning that occurred during the last election and is simply proposing to restore something that had been in place for decades.

Councilmember Hardy reported that she was on Council when the ordinance was repealed and noted that there were specific rules associated with it. She questioned the City Clerk regarding her support of repealing the ordinance in 2008.

City Clerk Flynn stated that at the time, it stated a total of 10 pieces that were to be dropped off at her office within two hours of being dropped within thirty days of the election. No one ever came to her office to review the pieces and it seemed to be a waste of staff time especially

during a time when staff had been reduced.

Councilmember Hardy wondered if a piece could be emailed to the City Clerk's Office.

Ms. Flynn stated that there was question as to whether the City would become an advocate by publishing any material on its website.

Councilmember Hardy distinguished between a negative campaign and one based on lies and hoped that the lesson would be to spend money on something positive. She was unsure as to the benefit of the ordinance and wondered how knowing the details of a piece a few hours earlier could have helped and noted the additional work for the City Clerk's Office.

City Attorney McGrath reported that the ordinance applies to only mail, that it be submitted thirty days before an election, that it be submitted electronically at a minimum. The Clerk would not be required to do any notification and would be incumbent upon candidates or the public to request reviewing. It applies to any mail that gets sent out, 200 pieces or more, thirty days before an election.

Councilmember Katapodis addressed the issue of donors listing their place of business rather than another address and agreed with Councilmember Hardy's comments. He was unsure as to the availability of staff and stated that he would not be willing to support the ordinance.

Councilmember Shaw stated that the effect of the ordinance would be a deterrent to operating in secrecy or trying to fool the public and would bring the matter to light.

Mayor Pro Tem Harper stated that he is aware that Tim Geddes has worked as a "pen for hire" and wondered whether the law has ever been challenged in court.

City Attorney McGrath reported that the ordinance is content neutral and is consistent with the First Amendment.

Mayor Pro Tem Harper felt that if the ordinance would be challenged, it would not survive. He thanked Ms. Flynn for clarifying the issue and stated that he would much rather have staff spend their time accommodating people who are trying to register to vote rather than getting involved in campaign mailers.

Councilmember Hardy wondered if a candidate would have a campaign event if they would need to submit an invitation and possibly have it posted online.

Ms. McGrath reported they would submit it if it were to be distributed via mail but it would not be posted online. She noted that the original ordinance applied to mailed pieces.

Mayor Boardman reported running in 1998 and again in 2000 and it was not onerous on her to bring her pieces of mail to the City Clerk's Office and she found it helpful to see what else was going out.

A motion was made by Councilmember Shaw, second by Mayor Boardman to direct the City Attorney to draft an ordinance amending the Huntington Beach Municipal Code by adding

Chapter 2.06 relating to campaign documents.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Boardman, Shaw  
NOES: Harper, Katapodis  
ABSENT: Carchio

**COUNCILMEMBER COMMENTS (Not Agendized)**

Councilmember Hardy commended HB Reads on another great event for students at Huntington Beach High School. She expressed her appreciation to the Kiwanis for the successful Easter Egg Hunt.

Mayor Pro Tem Harper reported attending the grand opening of a New Jersey Mike's, speaking at the Huntington Beach Chamber of Commerce Economic Development Conference, and attending a Conversation with Elected Officials at the Boeing facility. In addition, he participated in the Huntington Beach Cruiser Meet and commented positively on the event. He attended other events for the City.

Mayor Pro Tem Harper commented on the previous item and felt that Council should be unified and focusing on saving fire rings in the City. He asked if the issue could be visited by the IRC and it was noted that the item is being agendized with the IRC. He reported that he has heard those commenting on the Sunset Beach Junior Lifeguard Program and felt that the issue merits some discussion at Council level and suggested that the item be considered by the IRC with the possibility of moving the group to the adjacent State beach. He felt that the issue will take advocacy on behalf of leaders and others. He addressed the Coast Community College District issue and noted that the Project Labor Agreement (PLA) is still under consideration and addressed the related costs.

Councilmember Shaw reported attending HB Tomorrow and commented positively on the event.

Councilmember Katapodis reported attending HB Reads and commented positively on the event and reported presenting Certificates of Completion to high school students from various schools through the Human Relations Dialogue Program. Additionally, he reported attending the Golden West Chili Cook-off and expressed his appreciation to the Fire Department for participating. He attended a Graduation for Parents at the library, a ribbon cutting for City Employees of the Month Parking Spaces, ribbon cutting of the Avocado Café, Kiwanis Easter Egg Hunt, the El Viento Program and a retirement event for a teacher at Ocean View High School.

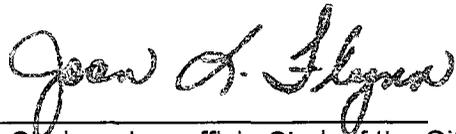
Mayor Boardman thanked the Kiwanis and City staff for the recent Easter Egg Hunt, noted attending a Conversation with Elected Officials at the Boeing facility, and apologized to the HB Reads group for not attending their event. She noted that Council may disagree on some issues but stated that she shares the concerns of her colleagues regarding the removal of fire rings. She noted that she wrote a letter in opposition to the issue and encouraged others to voice their concerns to the AQMD. She indicated her interest in the Project Labor Agreement (PLA) at the Coast Community College District and saw the matter as a wise investment in high-

quality workers and listed benefits of the PLA.

**ADJOURNMENT OF THE REGULAR MEETING OF THE CITY COUNCIL/PUBLIC FINANCING AUTHORITY AND THE SPECIAL MEETING OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH**

There being no other business to come before Council and the Public Financing Authority, Mayor Boardman adjourned the meeting at 8:59 PM.

The next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority is Monday, April 15, 2013, at 4:30 PM in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.



City Clerk and ex-officio Clerk of the City Council/Successor Agency of the City of Huntington Beach, Secretary of the Huntington Beach Public Finance Authority of the City of Huntington Beach, California

ATTEST:

  
City Clerk-Clerk-Secretary  
Mayor-Chair