



CITY OF HUNTINGTON BEACH
CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT

TO: THE HONORABLE CITY COUNCIL

FROM: BARBARA DELGLEIZE, MAYOR
MIKE POSEY, MAYOR PRO TEM
DAN KALMICK, CITY COUNCIL MEMBER

DATE: DECEMBER 21, 2021

SUBJECT: REQUEST THAT STAFF ENGAGE A PROCESS TO FACILITATE CITY COUNCIL SELECTION OF AN OUTSIDE LEGAL FIRM THAT WOULD DIRECTLY REPORT TO AND SUPPORT THE CITY COUNCIL

During the past several years, there have been multiple circumstances where the City Council has been uncomfortable with the quality and accuracy of the legal advice provided by the City Attorney.

For example, in the case, Kennedy Commission, et al v. City of Huntington Beach, the City is currently appealing a Superior Court decision that mandates the City pay attorney's fees to the Kennedy Commission in the amount of \$3,531,201.10. See the attached judgement issued on July 8, 2021.

Also, after the City Council made the appropriate decision to limit future City liability by agreeing to settle a \$2.5 million age discrimination case against the City Attorney in June 2021, the Los Angeles Times published an article with the headline, "Huntington Beach City Attorney Criticizes City Council After Age Bias Case Is Settled." See the link below.

<https://www.latimes.com/california/story/2021-06-02/huntington-beach-city-attorney-clashes-with-city-council-after-age-discrimination-case-settled>

Further, after the City sued the State over SB54 in 2018, on January 10, 2020, the 4th District Court of Appeals ruled that the legal theory advanced by the City Attorney was incorrect, and Huntington Beach lost that law suit.

Given these and multiple other factors, we are requesting that the City Council direct staff to engage a process that would allow the City Council to select and procure the services of an outside legal firm that would report to and support the City Council.

Of particular note, we are not asking for any changes to be made in the City Attorney's Office. We are simply asking that the City Council assert our rights under the City Charter to obtain professional legal support for the City Council when we collectively believe that the City needs another legal opinion, in addition to the advice being provided by the City Attorney.

For reference, Section 304 (b) of the Huntington Beach Charter provides the City Council the authority to procure outside legal counsel as stated below:

"... The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business."

Given the complexity and importance of the decisions facing the City Council, coupled with our discomfort with the quality and accuracy of the legal advice being provided by the City Attorney, it is recommended that staff be directed to engage a process to facilitate the City Council's selection of an outside legal firm to report to and provide legal support for the City Council.

RECOMMENDED ACTION

It is recommended that the City Council direct the City Manager to engage a process to facilitate the City Council's selection of an outside legal firm that would directly report to and support the City Council.

