

**Minutes  
Council/RDA Meeting  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday, June 16, 2008  
4:00 PM - Room B-8  
6:00 PM - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

**An audio recording of the 4:00 PM portion of this meeting  
and 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/agendas/](http://www.surfcity-hb.org/government/agendas/)**

**Call to Order**

Mayor Cook called the regular meeting of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4:05 PM, in Room B-8.

**City Council/Redevelopment Agency Roll Call**

Present: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
Absent: None

(Councilmembers Coerper and Hardy arrived at 4:08 PM and 4:12 PM, respectively.)

**The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced the following communication received by the City Clerk's Office pertaining to the study session portion of the meeting:

PowerPoint communication submitted by Scott Hess, Director of Planning, undated and titled *Huntington Beach Planning Department Annual Report Summary of 2007 Activities*.

**The Following Communication Was Distributed During the Meeting**

PowerPoint communication submitted by Travis Hopkins, Public Works Director, dated June 16, 2008, and titled *Current Capital Improvement Projects Update*.

**Public Comments** — None

**(City Council/Redevelopment Agency) Study Session #1 Held — Activities and Accomplishments for the Planning Department for Calendar Year 2007**

Interim City Administrator Paul Emery called on Scott Hess, Planning Director, who introduced Herb Fauland, Planning Manager - Current Planning, Mary Beth Broeren, Planning Manager - Advance Planning, and Bill Zylla, Neighborhood Preservation Project Manager. Director Hess provided a brief overview of staff responsibilities and personnel updates, and gave a PowerPoint report that included the following information: Planning Department divisions, various boards and commissions for which Planning provides staff support, Planning Commission members, meetings conducted and projects reviewed, other applications and plans reviewed, applications processed during 2002-2007, the public counter statistics, 2007 Major Projects including the Beach/Edinger Corridor Study, The Ripcurl, The Village at Bella Terra, Downtown Specific Plan Update, Pacific City, and future Planning projects, Process Improvements: customer service statistics, various communications developed by the Planning Department, Neighborhood Preservation/Code Enforcement activity, including the top ten code enforcement complaints in 2007.

Councilmember Coerper asked what areas in the City receive the flood information brochures, and Director Hess described properties within flood plain areas. He added that, in addition to the brochure information, staff responded to 780 inquiries for flood zone exemption information.

Director Hess distributed the Planning Department's customer service form that provides information for individuals who require further assistance, describes the second opinion program for applicants who want a second opinion regarding a particular issue, and provides a list of additional City departments that may also require consultation for project completion. He added that the City's website and additional info pertaining to the property are located on the back of the form.

Councilmember Carchio inquired about abandoned shopping carts reported under the top 10 code enforcement complaints. Director Hess and Project Manager Zylla discussed Code Enforcement responsibilities to first identify where the carts belong and then follow up by contacting the store. He stated that these matters are handled on a complaint basis; staff first gives courtesy warnings and if no compliance occurs, citations are issued.

Councilmember Bohr asked for examples of faulty weather protection issues and Director Hess discussed exposed wiring on the sides of houses, peeling paint, missing roof shingles and stucco chipping away as a few examples.

Mayor Cook asked staff if brochure mailings are sent to neighborhoods of homes with faulty issues. Project Manager Zylla indicated that after studying certain areas within the City, staff mailed notices of neighborhood workshops that were offered and website information. Director Hess added that Planning's monthly newsletter has tips on the back for code enforcement issues and is available at City Hall and the City's website.

Councilmember Carchio asked staff how they handle calls of non-permitted work reported by the public. Director Hess stated that staff from Code Enforcement and the Building and Safety Department follow-up. He discussed the importance of staff's approach with the residents to convey the value of the permit process for safety purposes, which ultimately protects the homeowners.

Councilmember Green inquired if a hotel is proposed at the Village at Bella Terra. Director Hess responded that the developer wants to keep the option open for either 500 residential units and a 200-room hotel, or 700 residential units. Manager Broeren discussed its evaluation at the General Plan Amendment level, stating that the conceptual site plan only includes 500 units, but staff is looking at amending the General Plan to allow the larger amount of growth if the developer chooses to do that. Staff and Council further discussed density of the residential units and proposed hotel.

Councilmember Carchio asked if the Pacific City project has increased its retail. Director Hess indicated that no increase has been suggested; retail remains at 10,000 square feet. Manager Broeren stated that staff had not heard of a recommendation to increase retail, and the alternative in the Environmental Impact Report (EIR) would reduce the retail from a traffic generating standpoint.

Council and staff discussed potential changes to the City's sign code, the status of the LeBard Park environmental issues, and the status of the EIR preparation for the City's former gun range site.

**(City Council/Redevelopment Agency) Study Session #2 Held — The Director of Public Works Reviewed the Status of Current Capital Improvement Projects**

Administrator Emery called on Travis Hopkins, Public Works Director, who gave a PowerPoint report titled *Current Capital Improvement Projects Update*, that included the following information: 2007/08 Capital Improvement Projects, Arterial Rehabilitation - Completed and Designed, Residential Slurry Projects Completed, Street Widening Projects, Brookhurst Street Frontage Median Landscape Projects, Redevelopment Area Funds for Street and Alley Rehabilitation Projects, Tree Petition Streets, Traffic Projects, Downtown Water Main Replacement, Project and Water Main Replacement Project on Gregory Lane, Facility Improvements (entry node signage and fire station remodels), City Hall Seismic Retrofit, Sewer Lift Station Projects and Awards, and Other Projects, including Parks and Beaches, Water Quality and Facilities.

Councilmember Hardy asked which side of the street is targeted for widening on Atlanta Avenue, between Huntington and Delaware streets, and Director Hopkins confirmed the south side.

Councilmember Green asked if all projects listed under "Traffic Projects" would be completed by end of summer, and Director Hopkins confirmed.

Councilmember Coerper asked if our City's entry node signs are lit at night, and Director Hopkins confirmed, adding that staff is awaiting two approvals on two signs.

Council and staff discussed the sewer lift stations, their landscape beautification projects and the various areas they service.

**Motion to Recess to Closed Session — 4:51 PM**

A motion was made by Coerper, second Bohr to recess to Closed Session on the following items. The motion carried by consensus of all present, none absent.

(City Council) Closed Session — Pursuant to Government Code Section 54956.8, the City Council recessed to Closed Session to give instructions concerning price and terms of payment to the City's Negotiator, Deputy City Administrator Bob Hall, regarding negotiations with the Huntington Beach City School District for the purchase or exchange of up to 10.12 acres of real property located at 20451 Craimer Lane in Huntington Beach and the purchase, sale or exchange of APN 114-150-94 in the City of Huntington Beach.

(City Council) Closed Session — Pursuant to Government Code Section 54957.6, the City Council recessed to Closed Session to meet with its designated labor negotiators: Paul Emery, Interim City Administrator; Bob Hall, Deputy City Administrator; Michele Carr, Director of Human Resources; Dan Vilella, Finance Director; Duane Olson, Fire Chief, regarding labor negotiations with FMA.

(City Council) Closed Session — Pursuant to Government Code Section 54956.9(b)(3)(A), the City Council recessed to Closed Session to confer with its attorney regarding pending litigation. Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed. Number of Potential Cases: Unknown at this time. Subject: Meet and Confer requirements of the Myers Milias Brown Act.

#### **Reconvened City Council/Redevelopment Agency Meeting — 6:01 PM**

**City Attorney Jennifer McGrath Reported No Action Taken During Closed Session Which Required A Reporting Pursuant to Government Code §54957.1(a) (3) (B).**

#### **City Council/Redevelopment Agency Roll Call**

Present: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
Absent: None

**Pledge of Allegiance/Flag Salute** — Led by Tiger Cub Pack #557

**Invocation** — Provided by Councilmember Coerper

Mayor Cook dedicated tonight's meeting in memory of Warren Biscailuz, a former 30-year employee with the City's Police Department who served as jail supervisor and dispatcher.

#### **The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced the following communications received by the City Clerk's Office after distribution of the agenda packet:

Communications received from the following individuals were received pertaining to Local Coastal Program Amendment (LCPA) 01-06 as modified (Parkside Estates) and the adoption of Resolution No. 2008-32, amending the LCPA: Marcelle Aube, Raymond Aube, John Barrett, Valerie Barrett, John Carmody, Fred and Belen Cordova, Steve Crowley, Diane Csiky, Bill Cuppy, Ian Dooley, Peter Evans, Kevin Frers, Dale and Virgie Gabelman, Kathryne Gibson, Michael Gibson, Juli and Zach Halopoff, James Hanna, Bridgett Harris, Cindy Hunt, Ivette Iha, Donna Kacin, Kyle Kemplin, Darran Knight, Diana Knight, Robert Lafey, Ellen LaMotte, Joan Lasher, John Lippold, Donna Kacin, Joanne La, David Margolis, Robert A. Marnett, Helen

Monteleone, Richard K. Moore, Doug Nichols, Brent A. Oldham, Kimberly A. Oldham, Sigrid Ortega, Lois and Leonard Paul, Robert and Trina Richter, John Rinde, Dan Rocha, Frits Roosen, Elaine Roth, Tom Savage, Doris Schoonmaker, Ronald Schoonmaker, Stephen Selby, Gina Soto, Ethan Sun, Crystal Suzuki, Dennis Sweeney, Stephen and Sharon Trenka, Charles Vranek, John Wang, Douglas A. Wood, Cindy Andreassen, John E. Andreassen, Soloman Armond, Mary Jo Baretich, Melissa Bayles, Juliann Blake, David Carlberg, Brian Foist, Jana Gersonde, Majan Gersonde, Mark Gersonde, Mike Grumet, Chairman, Huntington Beach Chamber of Commerce, William and Ellen Halopoff, David Hoesly, Dean Maher, Carl Martens, Eric Miller, Richard K. Moore, Dean and Lucy Mouren-Laurens, Lenny Munari, Eileen Murphy, Dan Rocha, Brian Rodden, Alexa Rodden, Tami Rodell, Noel and Claudia Ross, Sharon, Tony Shrikian, Scott A. Snedeker, Brandine Stand, Judy Todd and Dan Kee, Dennis Towgood, Jean Towgood, Richard Valdes, Mary Lou Watkins Moore, Barbara Zoellner, Sue Hermitage, Chris Snedeker, Dave and Gretchen, Steve Barnhart, Arthur Donahur, the Rubel Family, Colleen Ponchak, Lynda Sims and Gerald Chapman, President of Bolsa Chica Land Trust.

PowerPoint communication submitted by Bob Hall, Deputy City Administrator and titled *LeBard School Site Purchase*.

Communication submitted by Bob Hall, Deputy City Administrator, dated June 16, 2008, and titled *Change in Recommended Action on agenda item F-2: MOU between the City of Huntington Beach and the Huntington Beach City School District for future negotiations regarding the acquisition of LeBard School site*.

Communication submitted by Norm Westwell, dated June 16, 2008 and titled *G-1a Support*.

#### **The Following Communications Were Distributed During the Meeting**

Communication submitted by Richard Moore, Library Board, undated and titled *The Kids From Nowhere, Huntington Beach Reads One Book - Year Two*.

Communication submitted by Clint Orr, undated and titled *Letter of Intent to Purchase 120 Pacific Coast Highway*, to Michael Gagnet of Makar Properties.

PowerPoint Communication submitted by Mark Bixby, undated and titled *Bolsa Chica Land Trust Parkside LCPA Modifications*.

#### **Special Announcement — Orange County Transit Authority (OCTA) Special "Dump the Pump Week"**

Mayor Debbie Cook announced OCTA's special "Dump the Pump" Week, June 16-20, intended to encourage the public to use alternative transportation. She announced that in today's Orange County Register and on the OCTA website, coupons were available for all-day free passes to be honored any day starting today through Friday, June 20. Mayor Cook informed the public that she had posted a map at the front table that shows all routes offered by OCTA.

#### **Presentation — Youth Sports Grant Awards**

Mayor Cook called on Dr. David Bloom, Community Services Commission Chair, who presented Youth Sports Grant Awards. Dr. Bloom stated that these awards culminated a six-month application process and announced accomplishments achieved by all participants. Dr.

Bloom introduced recipients from Edison Aquatics, Edison Baseball, Huntington High School Boosters, Huntington Beach Field Hockey, Huntington Valley Little League, North Huntington Beach Football Club, North Huntington Beach Girls Softball and Ocean View Little League.

**Presentation — Municipal Water District (MWD) of Orange County's Water Conservation Poster Slogan Contest**

Mayor Cook called on Travis Hopkins, Public Works Director, who called on Bill Crisp, City of Huntington Beach Water Conservation Coordinator, to join him as he presented commendations to three Huntington Beach Students, winners of the MWD of Orange County's *Water Conservation Poster/Slogan Contest*, whose art/slogans will be featured in the annual calendar. He introduced recipients of the Essay Contests (K-6) Kodi Reyes - Poster Winner, Charlie Himmelberger - Slogan Contest, and Emily Erickson - Grand Prize Slogan Winner. Director Hopkins presented each winner with an enlarged copy of their winning slogans and City of Huntington Beach Water Division hats.

**Presentation — David Daley**

Mayor Cook recognized David Daley, Marina High School graduate, for his perfect attendance from Kindergarten through High School at all Huntington Beach schools. She presented Mr. Daley with a commendation for his superb accomplishment.

**Mayor's Award — Richard "Rick" Amadril**

Mayor Cook was joined by Dan Vilella, Finance Director, who presented the Mayor's Award to Rick Amadril, Central Services Manager. Director Vilella described Manager Amadril's positions held and integral roles played in major projects during his 33-year tenure with the City. He described his integrity, work ethic and outstanding skills of fiscal responsibility. Manager Amadril thanked Council and Director Vilella for tonight's award and introduced family members present.

**Public Comments**

(The numbers following speakers' comments reflect the approximate point in time in the archived video the speaker appears at <http://www.surfcity-hb.org/government/agendas>)

**Riley Mailman** spoke in support of the City building a state-of-the-art skateboard park in Huntington Beach, and recommended Team Pain, Inc., to design the new park. He invited Council and the public to attend a barbecue, skate session and raffle drawings on June 21 at 12:00 PM, Hurley International Warehouse, 1945 Placentia, Costa Mesa. (22:31)

**Molly Kiefer** spoke in support of a new skateboard park to be built in Huntington Beach, urging Council not to copy the park currently located at Huntington Beach High School. She also invited the Council and the public to attend next weekend's barbecue/fundraiser, and mentioned products donated for the raffle drawings. (23:46)

**Barry Marmion**, resident and owner of Pocket Pistol Skates in Huntington Beach, offered his support to build a new skateboard park in Huntington Beach. He informed Council that he is working with Hurley International to raise funds to build a new skateboard park, and thanked Jim Engle, Community Services Director, for his efforts and support. (25:28)

**Aubrey Zepeda** spoke favorably of the local skateboard population that is skyrocketing and urged Council to build a new sufficient, legal, skateboard park in Huntington Beach. (26:38)

**Robin Brown**, resident on Los Patos Avenue, informed Council of a dispute that she is experiencing with the Public Works Department involving a home construction project that requires a final inspection by the Public Works Department which won't occur until she provides sidewalk, curb and gutter improvements. She discussed her inability to refinance her home to pay for the improvements without a final inspection. (27:36)

Mayor Cook asked speaker Brown to complete an interest card so that she could be contacted for further discussion on this matter.

**Steve Olim**, resident of Huntington Beach, informed Council that on June 2, the City of Fountain Valley City Council took action to deny a proposal to display the motto "In God We Trust" in their Council Chambers. He voiced agreement with Fountain Valley Councilmembers Gus Ayer and Cheryl Brothers, and read quotes from an unidentified source of their opposition to the motto's display. He also voiced opposition to a quote of support he read made by Fountain Valley Mayor Pro Tem Guy Carrozzo. (31:25)

**Clint Orr** voiced disappointment of the recent closure of the former AMC theatres in the downtown area. He provided copies to Council of two Letters of Intent to negotiate the purchase of 120 Pacific Coast Highway for a new Surfing Museum, and the purchase of 112, 114, 116 Second Street /114 Pacific Coast Highway to build a new "Golden Bear" theatre. (34:49)

**Peter Townend**, resident of Huntington Beach, stated his support for a new skateboard park to be built at Worthy Park's Pay n' Play site to replace the skateboard park scheduled for demolition on Main Street. He stated his understanding that the Huntington Beach School District offered \$75,000 to rebuild a skateboard park, and mentioned potential grant funds by the Tony Hawk Foundation. He offered his services and the services of others in the skateboard industry who are willing to move this along. (37:58)

Cathy Green commented that her understanding of the \$75,000 offered by the School District and referenced by speaker Townend was to demolish the Main Street skateboard park. Jim Engle, Community Services Director, added that the School District agreed to demolish the Main Street skateboard park and, in addition, offered \$75,000 towards the development of a new skateboard park with two conditions: that it be built at the Worthy site and be built within three years.

**Don McGee** voiced opposition to the financial costs of replicating historical arches at Main Street and Pacific Coast Highway, as proposed in commemoration of the City's Centennial anniversary. He voiced concerns of the United States Intelligence Community's budget and association with private parties that support and perpetuate the war in Iraq. (41:13)

#### **(City Council) AB 1234 Disclosure Reporting**

A report was submitted by Mayor Pro Tem Bohr, which is available in the City Clerk's Office.

Councilmember Hansen reported attending the Orange County Business Council's "One Voice, Two Capitols 2008," Annual State Advocacy Trip to Sacramento on June 10-12.

**(City Council) Human Relations Task Force "Reads One Book Club"**

Councilmember Green reported that last year the Human Relations Task Force inaugurated the Huntington Beach "Reads One Book" program, and noted last year's book selection was *Three Cups of Tea* by Greg Mortenson. She stated that this year's Reads One Book selection is *The Kids From Nowhere: The Story Behind the Arctic Educational Miracle*, by George Guthridge. She described the book as an inspiring true story of a teacher who moved to a small village on an island in the Bering Sea off the coast of Alaska in 1982 to teach at a small school. She noted that the Task Force believes this story captures the essence of its mission to understand and learn about different cultures. She added that the chosen book would be a great tool to spark conversation of diversity, and she called on Richard Moore of the Library Board to add further comment. Member Moore noted the author has stated that funds raised by the sale of the book would build a school in Pakistan, and discussed the link between last year's book selection and this year's selection.

Mayor Cook discussed last year's successful book signing event when Greg Mortenson, author of *Three Cups of Tea*, appeared before an audience of 1,200 people at Huntington Beach High School.

**City Administrator's Report**

Interim Administrator Paul Emery informed Council that staff has been working with tonight's public speaker, Robin Brown, for well over one year, and that she has filed a claim against the City. He asked Travis Hopkins, Public Works Director, to provide information to Council on this matter and offered their availability to meet with Ms. Brown and Council if a future meeting is scheduled.

**(City Council) Reviewed and Accepted Shari L. Freidenrich, City Treasurer's April 2008 Investment Summary Report Titled City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, Deferred Compensation, and Retiree Medical Trust Activity for April 2008**

Communication from City Treasurer Shari L. Freidenrich transmitting the Monthly Investment Report and Summary of Investments for April 2008.

Councilmember Carchio asked Treasurer Freidenrich if she knew this year's decreased percentage of sales tax compared to last year. Treasurer Freidenrich indicated that she didn't have that information readily available, but would provide follow-up. Mayor Cook commented that she thought the City's last quarter's sales tax was soft by \$250,000. Administrator Emery restated that staff would reconcile the numbers and provide updated data of sales tax, property tax, and transient occupancy tax projections, currently being studied in the City's budgetary process for FY 2008/09.

Councilmember Carchio stated that he recently read a newspaper article indicating that the City of Irvine had dipped into its reserve account due to declining revenue in sales and property tax sources. Staff discussed budgetary differences in local municipalities and Irvine's decision to increase its police personnel to provide additional services that directly impacted its budget.

A motion was made by Green, second Coerper to accept the Monthly Investment Report entitled Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for April 2008, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. PowerPoint presentation titled *April Treasurer's Report* is included in the agenda packet. The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**City Clerk's Report**

City Clerk Flynn announced election information for the upcoming General Municipal Election of November 4, 2008. She reported seats available for City Council (3), City Clerk (1), and City Treasurer (1), filing period for nomination papers and candidate statements, voter registration information and deadlines, and website information.

**(City Council) Public Hearing Held - Adopted Resolution No. 2008-29 Approving General Plan Amendment (GPA) No. 07-002 for the 2008-2014 Housing Element Update Which Identifies Specific Programs to Address the Community's Housing Needs, Including Adequate Site Provision, Removal of Governmental Constraints, the Preservation and Development of Affordable Housing and Equal Housing Opportunity**

Mayor Cook announced that this was the time noticed for a public hearing to consider a communication from the Director of Planning transmitting the following **Statement of Issue**: NOTICE IS HEREBY GIVEN that on Monday, June 16, 2008, at 6:00 p.m. in the City Council Chambers, 2000 Main Street, Huntington Beach, the City Council will hold a public hearing on the following planning and zoning items:

GENERAL PLAN AMENDMENT NO. 07-002 (2008-2014 HOUSING ELEMENT UPDATE):

Applicant: City of Huntington Beach

Request: To update the General Plan Housing Element for the 2008-2014 planning period pursuant to California Government Code Section 65588.

Location: Citywide

Project Planner: Jennifer Villasenor

Scott Hess, Director of Planning, called on Jennifer Villasenor, Associate Planner, who gave a PowerPoint report dated June 16, 2008, and titled *2008-2014 Housing Element GPA No. 07-002*, that included the following information: The Housing Element Request, Housing Element Process and Public Participation, Housing Goals, Regional Housing Need, Housing Resources, Beach/Edinger Corridor Specific Plan, Re-zoning for Exclusively Residential Uses, Opportunity Sites, Housing Programs, General Plan Consistency and Staff Recommendations.

Mayor Cook opened the public hearing.

**Roseann Andrus**, Project Manager for Child Care Connections, an Orange County United Way collaborative working to increase the development of child care facilities throughout Orange County, spoke. She stated that her firm identifies the need for affordable homes and affordable quality child care, and applauded the City for its commitment to affordable housing through its Inclusionary Housing Ordinance. She commended and thanked the Planning Department staff and consultants for its creation of the policy that promotes the production of child care facilities related to new housing development. She quoted statistical data of 10,000 children within Huntington Beach that qualify for the State's Department of Education funding for child care subsidy based upon their family's income. She also discussed density bonus incentives and environmental measures addressed in the Housing Element. (1:10:10)

There being no further persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor closed the public hearing.

A motion was made by Green, second Coerper to adopt **Resolution No. 2008-29**, "A Resolution of the City Council of the City of Huntington Beach Approving General Plan Amendment No. 07-002 Housing Element Update." The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**(City Council) Public Hearing Held — Adopted Resolution No. 2008-31 Acknowledging Receipt of the California Coastal Commission Action and Accepts and Agrees to Local Coastal Program Amendment (LCPA) No. 1-06 As Modified (Parkside Estates); and, Adopted Resolution No. 2008-32 Amending the Local Coastal Program by Amending the Coastal Element**

Mayor Cook announced that this was the time noticed for a public hearing to consider a communication from the Director of Planning transmitting the following **Statement of Issue**: NOTICE IS HEREBY GIVEN that on Monday, June 16, 2008, at 6:00 p.m. in the City Council Chambers, 2000 Main Street, Huntington Beach, the City Council will hold a public hearing on the following planning and zoning items:

**LOCAL COASTAL PROGRAM AMENDMENT NO. 1-06 (PARKSIDE ESTATES):**

Applicant: City of Huntington Beach

Request: 1) To accept modifications to the Huntington Beach Local Coastal Program Coastal Element approved by the California Coastal Commission on May 7, 2008 for LCPA No. 1-06. 2) To amend the City's Local Coastal Program Coastal Element to reflect the California Coastal Commission's modifications.

Location: The Parkside Estates project is proposed for 17301 Graham St. (west side of Graham, south of Kenilworth, adjacent to the East Garden Grove-Wintersburg Channel). The California Coastal Commission also approved modifications that have applicability to all properties in the coastal zone.

Project Planner: Mary Beth Broeren

Planning Manager Mary Beth Broeren gave a PowerPoint presentation, undated and titled *Local Coastal Program Amendment No. 1-06 (Parkside Estates)*, which included the following information: The Request to Accept and Modify the City's Local Coastal Program (LCP) - Coastal Element, Aerial Photo of the 50-Acre Site, Background-City Actions, City-Approved Land Use Plan in 2002, Background-Coastal Commission Actions in 2007, Commission-Approved Land Uses in 2007, Acre Comparison of City and Commission Approved Land Use Plans, Analysis of Plan Changes, Land Use Plan Per Coastal Commission Action, Analysis of Policy Changes and Staff Recommendations.

Mayor Cook asked for a comparison of site acreage from 2002, when Council approved the project, to date. Manager Broeren discussed the 49.5-acre site and clarified confusion associated with the original 45-acre site and the inclusion of the County's territory of five-acres purchased by Shea Homes.

Councilmember Hardy asked staff to explain the new policy referenced pertaining to altered, filled or degraded wetlands. Manager Broeren referred to Page D-2.110 in the staff report and read suggested Modification No. 11.

City Clerk Flynn restated for the record the 112 communications received by the City Clerk's Office after the distribution of the agenda packet.

Mayor Cook opened the public hearing.

**Ron Metzler**, applicant, gave a PowerPoint presentation, undated and titled *Shea Homes Parkside Estates LCPA 1-06 Approval*, which included the following information: Purpose of the City's Local Coastal Program Amendment (LCPA) review, Coastal Commission approval process, wetland studies, City benefits, natural treatment of urban runoff, infrastructure, plan changes, aerial photography, tidal flooding risks, flood map, a "compromise plan" of the City's original approval, the Coastal Commission staff's proposed plan and the Coastal Commission's approved LCPA land use plan, flood protection improvements and topographic changes. (1:31:38)

Councilmember Carchio asked Applicant Metzler to clarify the source of funds for the \$15 million targeted by FEMA for flood protection improvements. Applicant Metzler discussed flood protection improvements and the breakdown of costs borne by Shea Homes. He discussed meetings held with the County and its proposals on north and south sides of the development.

Manager Broeren asked Bob Righetti, Public Works Engineering Consultant, to address Councilmember Carchio's question regarding the perception that the County was paying for site improvements. Consultant Righetti discussed the numerous meetings held between staff and the County when they were considering initiating the construction of the site's interim sheet piling and how the County indicated to staff and the Coastal Commission that they anticipated Shea Homes to finish the work that they were starting, and that their work provided a "Band-Aid" fix to the levy that was in serious decline. Councilmember Carchio thanked staff for clarifying that the County was not, in fact, funding the improvements.

**Ryker Coppa** presented a video clip titled *Shea Wetland Croakfest* which featured frog and bird sounds in the Bolsa Chica wetlands. (1:48:02)

**Ernest Bartolo**, 29-year resident, urged Council to proceed with the development proposed by Shea Homes and voiced support of the much-needed flood control improvements by Shea Homes. (1:50:53)

**Priscilla Wolz** informed Council that during a meeting at Marine View School on March 5, 2008, the district manager of the Orange County Flood Control Division (OCFCD) stated that flood insurance requirements are determined by Federal Emergency Management Agency (FEMA). She referred to a quote made by the OCFCD's district manager pertaining to mitigation measures and the ongoing requirements mandated by FEMA. (1:52:41)

**Flossie Horgan**, Bolsa Chica Land Trust, stated that the Land Trust believes that Shea Homes has engaged in years in unpermitted filling of wetlands. She referred to City staff reports prepared for the Planning Commission in 1995, that addressed land use violations and illegal filling of land/stock piling in the southeast area of the site. She displayed a color rendering titled *1998 Fill of WP*, and stated that the Land Trust believes in 1998, Shea Homes bulldozed the eight-foot high stockpiled dirt into the wetlands, both at Wintersburg Pond (WP) and the Environmental Protection Agency's (EPA) designated area. She directed Council's attention to a 2007 photo of the same location which showed the stockpile gone. She restated that the Land Trust believes that Shea Homes used this stockpile to fill the wetlands, and is therefore, not consistent with the project approved by the City of Huntington Beach in 2002, and should be denied. (1:55:50)

**Lorraine Prinsky** spoke in opposition to Shea Home's development of Parkside Estates and discussed her perception of inconsistencies in reporting wetland loss in the EPA area. She also discussed a reduction in the development footprint, and her support of 4:1 mitigation, urging Council to reject the LCPA modifications, denying its acceptance within the City's Coastal Element. (1:58:54)

**Monica Hamilton**, resident on Kenilworth Drive, spoke in opposition to the proposed project by Shea Homes, requesting staff continue mitigation measures and recommended a new California Environmental Quality Act (CEQA) process. She voiced concerns of Shea's Conditional Use Permit (CUP) pertaining to the proposed reduction of the eight-acre park, the unstated building density, and urged Council to continue this item. (2:01:50)

**Laer Pearce**, Community Relations Consultant for Shea Homes, asked Council to consider the 114 letters of support included in their packets as they deliberate this matter tonight. (2:04:47)

**Adam Rodell**, resident of Huntington Beach, spoke in support of the proposed development and flood control infrastructure improvements by Shea Homes. He discussed the catastrophic floods and associated costs of damage experienced by Hurricane Katrina. He cited inflated development costs from when this project was first approved by Council in 2002, to date, and identified financial benefits to the community he believes would occur by project approval. He discussed how the flood zone properties affect the real estate market, and restated his support of the project. (2:06:07)

**Gerald Chapman**, President of the Bolsa Chica Land Trust, explained that one of the goals of the Land Trust is to see that the Coastal Act is followed and upheld. He identified opposition to the Parkside project since Council's approval in 2002, and the additional data by the Land Trust which, in his opinion, merits re-evaluation of the project by the current Council. He discussed letters that Council received from residents who live outside of the project area who support the

benefits of the project's \$15 million infrastructure improvements. He identified costs of the emergency strengthening of the Wintersburg Channel levies done with County funds, stating that the developer's parent company is performing the work at no cost to Shea Homes. He stated his opinion that this project violates the Coastal Act in significant ways and urged Council's denial. (2:09:36)

**Kristen Coppa**, realtor, resident adjacent to the subject property and member of Bolsa Chica Land Trust, gave a PowerPoint report titled *The WP Wetland Hydrology*, stating her opinion that the Land Trust believes the Coastal Commissioners erred in disregarding analyses that concluded that Wintersburg Pond is a wetland. She stated that the Wintersburg Pond consistently ponds in most rain years, and referred to her report of historical hydrology which illustrated consecutive days of ground level ponding and aerial photographs during the respective years identified. She requested Council reject the Coastal Commission's LCPA modifications based upon hydrology alone, stating the Wintersburg Pond should be considered a wetland. (2:12:28)

**Mark Bixby**, Bolsa Chica Land Trust, voiced opposition to the proposed LCPA No. 1-06 and continued with the PowerPoint report as presented by the previous speaker. He referred to the Wintersburg Pond hydrophytic vegetation as surveyed on June 30, 2007, discussed in detail vegetation species he found sorted by cumulative coverage across all quadrants, indicating that hydrophytic vegetation species were preponderant at every sampling. He restated that WP is a wetland and urged Council to reject the Coastal Commission's LCPA modifications. (2:15:08)

**Julie Bixby**, Bolsa Chica Land Trust, spoke in opposition to modifications to the LCPA No. 1-06 approved by the California Coastal Commission and amending the LCP for Parkside Estates. She continued with the PowerPoint report and discussed unpermitted development by Shea Homes, and removal of the dirt piles. It is her opinion that the developer has been grading without permits under the guise of farming. She compared photos taken in 1995 and 1996, to photos taken in 2007, which illustrated footprint and topography changes of the site, before and after Shea bought the property from Metropolitan Water District (MWD). She stated illustrated changes were caused by grading, not farming, and urged Council to reject the Coastal Commission's LCPA modifications. (2:17:49)

**Jan Vandersloot**, Bolsa Chica Land Trust, continued with the PowerPoint report and discussed the filling of EPA wetland and the birth of the agricultural pond wetland, addressing a decade of topography alterations of the site. He stated the Land Trust's opinion that unpermitted development has occurred, the EPA wetland was filled by Shea, the Land Trust fully supports the Coastal Commission's GIS staff recommendation of 4:1 wetland mitigation, and urged Council to reject the Coastal Commission's LCPA modifications of 1:1 wetland mitigation. (2:20:55)

**Paul Arms**, Bolsa Chica Land Trust, stated the Land Trust's opposition to the Coastal Commission's recommended reduced ratio from 4:1 mitigation restoration, to 1:1 wetland mitigation replacement. He stated the Trust's basis and precedent for upholding the 4:1 mitigation ratio, and urged Council to reject the Coastal Commission's LCPA. (2:24:24)

**Douglas Stewart**, resident on Kenilworth Drive adjacent to the project, discussed his observance of ponding and grading at the site for many years. He stated his real concern was for the viability of the project's environmental impact, noting the significant developments that have occurred since the current EIR was certified in 2002. It is his opinion that subsequent developments, coupled with wetlands identified on the site by the Coastal Commission, the reduced size of development and increased density should trigger the CEQA process to re-evaluate the EIR. He concluded by voicing concerns of the de-watering plans for the project, and urged Council to postpone a vote on this matter tonight until the issues raised can be resolved. (2:28:05)

There being no further persons present to speak on the matter and there being no additional protests filed, either written or oral, the Mayor closed the public hearing.

Councilmember Hardy asked for the park requirements on the remaining residential space. Manager Broeren responded that park requirements are based upon a formula under the Quimby Act, and explained that the applicant would have to comply with the park dedication requirements identified in the City's zoning and subdivision ordinance. She estimated the park requirements at two acres, but stated that a revised tract map would dictate the final size.

Councilmember Hardy asked if FEMA has verified that improvements to the Wintersburg Channel since 2002 would change the flood insurance requirements. Consultant Righetti identified a standing letter issued by FEMA that is still in place, and explained that as conditional letters of map revisions accumulate, FEMA will respond by producing a final map with elevation revisions. Councilmember Hardy asked if there is any guarantee of flood insurance being reduced, and Consultant Righetti explained how flood insurance is based upon building elevation, stating if buildings are elevated beyond a designated point, owners are no longer subject to the flood plain designation. Council and staff discussed flood insurance requirements for existing homes based upon a conditional letter of map revision (CLOMAR).

Councilmember Hardy asked if FEMA had instituted changes as a result of Hurricane Katrina. Staff explained that existing requirements remain in place, with a few minor exceptions due to technology. Manager Broeren also discussed the project's density designation of RL (seven units per acre), versus alternate recommendations of RM (15 units per acre).

Applicant Metzler clarified watershed map issues that were referred to by public speakers which resulted in FEMA's adjustments in flood insurance requirements from CLOMAR to LOMAR (letter of map revision).

Councilmember Coerper asked what the County has done to the flood control channel to date and asked if there are any guarantees that it won't flood. Applicant Metzler described the history, qualifications and reputation of the JF Shea Company, but stated that unfortunately, there are no guarantees that heavy rainfall will not cause the channel to flood.

Councilmember Coerper requested clarification of a speaker's comment regarding repairs to the levy along the flood control area. Applicant Metzler described the conditions necessary before a letter of map revision will certify the levy, stating the County's objective was not to build a certifiable levy, but to put in sheet pile to take care of the immediate threat of flood. Councilmember Coerper questioned who would maintain the flood control channel. Applicant Metzler explained that FEMA will be the permit body of the levy. Councilmember Coerper questioned how Shea would make it better for the 7,000 homeowners impacted by the project. Consultant

Righetti indicated that major threats from behind the levy would be managed by the developer and tie into the bluff to close the gap from flood waters going into the city. He added that this would be a combined three-party effort to build a certifiable levy so that the water won't flow into the residential areas.

Councilmember Green questioned why this matter is before Council to be approved or denied, and asked what the ramifications were of denial. Staff indicated that the Coastal Act regulates the City to accept Coastal Commission modifications made prior to certification of the Land Use Plan. If rejected, the developer would have the option to start the process all over again.

Councilmember Green asked staff to discuss characteristics of a wetland and the characteristic differences of the bean fields. Manager Broeren explained that this area was farmed for over 50 years and designated and developed residential by the General Plan since the early 1970s. She identified three characteristics of distinction to be hydrology, hydrophytic vegetation and hydrophytic soil. She discussed the significant review by the Coastal Commission that included hydrology and ponding standards, and it was collectively agreed that the Wintersburg Pond area was not designated wetlands.

Project Biologist Tony Bomkamp of Glenn Lukos Associates for Shea Parkside, spoke at the request of Council and discussed the Land Trust's presentation of croaking frogs. He recognized that the EPA wetland area identified at the Coastal Commission hearing in November, would be restored, adding that the Wintersburg Pond wetland has been the subject of most intense studies on this site, explaining seven and 14-day standards of determining wetland areas. Since a 14-day ponding standard determination is required, it was concluded that the Wintersburg Pond did not meet the wetland standard, and was therefore rejected by the Coastal Commission.

Mayor Cook questioned the absence of fill dirt as presented by speakers in the 1995 report, and Applicant Metzler referred to topographic changes presented in the report, and discussed the riding area from which water drainage occurred. He also addressed impacts of rainfall, and discussed efforts to fill the ditch to allow the continuance of farming.

Councilmember Green asked Applicant Metzler to address the 4:1 ratio mitigation dispute. Manager Broeren described the testimony provided on the 4:1 mitigation, stating the requirement is typically required to fill in wetlands, and gave examples of filling in the Warner Pond with 4:1 mitigation since it was determined filling in a wetland area. In this instance, there is no filling of wetland area, citing Coastal Commission's comments and staff's support that a 4:1 mitigation would not be appropriate at this site.

Mayor Cook asked staff to address the 4:1 mitigation identified in the 2002 Environmental Impact Report. Manager Broeren responded that the 4:1 mitigation was specifically in reference to the County Parcel area, where patchy pickleweed and eucalyptus ESHA (environmentally sensitive habitat areas) were found. She added that since some of the area was significantly degraded because there was residential that encroached into that area, the 4:1 mitigation was required, and which now under the Plan as approved by the Coastal Commission, would be fully protected.

Steve Kaufman, Attorney for Shea Homes, identified that mitigation can be a problem when it is used to compensate for interim habitat (value that is lost), and in this case, since the EPA area was farmed, there wasn't any habitat value lost. He stated that the Commission explained this when it adopted its findings that they had drawn a line of demarcation in this circumstance

between the development area and the large area to be preserved. He clarified that 4:1 mitigation is used for salt marsh, and 3:1 for freshwater marsh, stating that mitigation is not a mutable proposition, it comes with a lot of discretion and the Coastal Commission listened to the arguments made on both sides and the nuances of this project, and came to the conclusion that, in this particular instance, 4:1 mitigation was not required.

Councilmember Green asked if the City could modify the proposed development's size tonight, and staff indicated that any change made to the proposal would mean that the City did not accept the proposed project, and the entitlement process would need to start over.

Mayor Cook questioned the recommendation made to reduce the 4:1 mitigation and asked speaker Horgan to come forward for response. Speaker Horgan stated her opinion that it was staff's recommendation to reduce the 4:1 mitigation, and further addressed modifications to the FEMA agreement.

Councilmember Coerper asked speaker Horgan if tonight's presentation was a replica of the previous presentation before the Planning Commission, and speaker Horgan indicated that it was not exactly the same, but close, stating that in 2002, the Planning Commission approved the project by 4-3 vote.

Mayor Pro Tem Bohr indicated that he attended the Coastal Commission hearing during which he listened to six hours of testimony, and thanked everyone who participated in tonight's process. He offered Applicant Ron Metzler one more opportunity to summarize his proposal, and Applicant Metzler stated that Shea made no solicitation of FEMA on any request as alleged earlier by one of tonight's public speakers. He added that it has taken in excess of five years to get this far, and that tonight's presentation was very similar to what Council saw in November. He discussed the Wintersburg Pond area studies, soil chemistry, ponding, hydrology, and he read one comment by the Coastal Commission related to farming opportunities on this site.

Mayor Pro Tem Bohr asked staff to contribute a response to the mitigation requirements and Manager Broeren responded by addressing the 4:1 mitigation, noting that the Coastal Commission staff had 11 suggested modifications, which were approved by the Coastal Commission, adding that none of the modifications required 4:1 mitigation. She noted that the only reference to the 4:1 mitigation was in the findings of the report, but it was never presented as a recommendation of Coastal Commission staff.

Manager Broeren then addressed a comment made by speaker Chapman of Judge O'Connell's statement for the Bolsa Chica project that if a project is approved because of financial benefits it is not appropriate. She noted that in its action of 2002 and as was discussed tonight, the Council approved the entitlements for the Parkside Estates project because the project was consistent with the City's General Plan and Land Use Plan. She added that the property has been designated as residential by the City since 1971, and the proposed project is consistent with that designation. She acknowledged the benefits that the project brings to the City, which is commonly done for all projects; however, she stated that was neither the reason for the City's action in 2002, nor the Coastal Commission's approval in 2007.

Mayor Pro Tem Bohr asked Duane Wentworth, City of Huntington Beach Public Works Contract Administrator, to summarize his comments made during the November Coastal Commission hearing pertaining to his inspections of the property. Administrator Wentworth explained that he was the grading inspector on that site from 1989 - 2001/02, and described his presence on the

site when the photos depicting bulldozer activity were taken that was used for weed abatement, not dirt movement. He referred to the pre-photos that illustrated fill of dirt with vegetation; and he explained that the after-pictures were shown when it was barren after the weed abatement. He referred to the photos shown of the eight-foot mound of dirt, and explained it to be a part of the original Slater ramp of 1960 when the Wintersburg channel was built, and some illegal fill put in by Smokey Stables in the early to mid-80s. Their operations (Smokey Stables) were stopped in 1989, red tags were issued, and their operations were forced into the entitlement process. Their operation ultimately got approval, and one condition was to remove the fill, but they never pulled permits, never did the work and the fill has been moved around from the farming operation. He informed Council that he spent 15 years in and out of the project, and he still has his field notes, specifically of his issued red tags.

Mayor Cook stated her disbelief that staff referred to the photos as weed abatement on that site, and if so, she believes it violates the California Department of Fish and Game rules.

Councilmember Carchio discussed difficult decisions to be made by City leaders and his appreciation for the hard work provided by environmental and Land Trust speakers. He discussed the proposed improvements and insurance rate reductions and stated his support for the Coastal Commission's decision.

Councilmember Hansen discussed the data studied over the past six years and more land dedication and preservation. He discussed methodologies of debate argued by the Coastal Commission's ability to arrive at the decision made and stated support for the recommended action by staff and the Coastal Commission.

Councilmember Green indicated that she was also at the November Coastal Commission hearing and listened to six hours of testimony, and described the zoning requirements for residential development, and the park that Shea has agreed to build with \$16 million in improvements, allowing FEMA to eliminate the flood insurance requirements for 7,000 homes. She stated support for the project as proposed, and thanked Manager Broeren for tonight's report.

Councilmember Hardy asked speakers to address the year in which a proposal was made to build a harbor in the Bolsa Chica. She stated opposition to the recommended action by staff and the Coastal Commission, indicating that she would be voting against the motion.

Mayor Cook stated that although she believes Shea is a wonderful home builder, she voiced disagreement with staff and the Coastal Commission's decision of tonight's recommended action. She also stated her opinion that the MWD should have offered this land to the public first for public ownership.

A motion was made by Hansen, second Green to 1) Adopt **Resolution No. 2008-31**, "A Resolution of the City Council of the City of Huntington Beach, California, Which Acknowledges Receipt of the Coastal Commission Action and Accepts and Agrees to Local Coastal Program Amendment No. 1-06 As Modified," and forward to the California Coastal Commission; 2) Adopt **Resolution No. 2008-32**, "A Resolution of the City Council of the City of Huntington Beach Amending the Local Coastal Program by Amending the Coastal Element." The motion carried by the following roll call vote:

AYES: Hansen, Bohr, Coerper, Green, and Carchio  
NOES: Hardy, and Cook

**Consent Calendar — Items Removed for Separate Discussion**

(City Council) Approve and Authorize the Mayor and City Clerk to Execute and Record With the Orange County Clerk Recorder the Memorandum of Termination of Lease Agreement for the Pay N' Play Racquetball Facility in Huntington Beach Community Park No. 845 (Worthy Park), Bordered by Utica Avenue, Main and Seventeenth Streets

**Consent Calendar — Items Approved**

A motion was made by Green, second Hansen to approve the following Consent Calendar items by affirmative vote. The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**(City Council/Redevelopment Agency) Approved Minutes** — Approved and adopted the minutes of the City Council/Redevelopment Agency regular meeting of June 2, 2008 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(City Council) Adopted Resolution No. 2008-27 to Establish the Annual Appropriation Limit of the Proceeds From Taxes in the Amount of \$602,877,623 for Fiscal Year 2008/2009, Pursuant to Article 13B of the State of California Constitution (Gann Appropriation Limit)** — Adopted Resolution No. 2008-27, "A Resolution of the City Council of the City of Huntington Beach Establishing the Appropriation Limit for Fiscal Year 2008-2009" of \$602,877,623. Submitted by the Director of Finance. **Funding Source:** Not applicable.

**(City Council) Adopted Resolution No. 2008-28 Amending the City's Classification Plan to Incorporate Changes Considered by the Personnel Commission at their Regularly Scheduled Meetings of February 20, 2008 and May 21, 2008** — Adopted Resolution No. 2008-28, "A Resolution of the City Council of the City of Huntington Beach Amending the City's Classification Plan by Deleting the Job Specification for the Position of Alarm Services Coordinator; Establishing a New Job Specification and Setting Compensation for the Position of Rideshare Coordinator; and Revising the Job Specification for the Position of Housing and Real Estate Manager and Changing the Job Title to Housing Manager." Submitted by the Director of Human Resources. **Funding Source:** Funding for the proposed compensation adjustment is included in the FY 2007-08 budget.

**(City Council) Approved and Authorized the Mayor and City Clerk to Execute a Services Contract Between the City of Huntington Beach and Turbo Data Systems (TDS), Inc. in the Amount of \$507,000 over a Three Year Term for Citation Processing Services** — Approved the Services Contract Between the City of Huntington Beach and Turbo Data Systems, Inc., for Citation Processing Services. Submitted by the City Treasurer. **Funding Source:** Appropriations are budgeted in the 2007/08 budget in the Other Contracts account, 10025201.69450. Appropriations have been requested for the 2008/09 budget.

**(City Council) Received and Filed the Annual Refuse Solid Waste Disposal Rate Certification Letter and Addendum From Rainbow Disposal Company Which Maintains Existing Residential Refuse Rates Through June 30, 2009, and Receive and File Rate Sheet for Commercial Solid Waste Disposal Service Effective July 1, 2008** — Maintained the existing residential refuse rate of \$0.6122 per unit per day (approximately \$18.62 per month) for the period from July 1, 2008 through June 30, 2009; and, Received and filed rate sheet for Commercial Solid Waste Disposal Service effective July 1, 2008. Submitted by the Director of Public Works. **Funding Source:** No funding is required for the recommended action.

**(City Council) Approved Project Plans and Specifications and Awarded Construction Contract in the Amount of \$912,214.20 to Imperial Paving Company for the Reconstruction of Various Residential Streets, MSC-452; Approved the Reallocation of \$87,000 from the Unprogrammed Community Development Block Grant (CDBG) Account; and, Authorized the Mayor and City Clerk to Execute Contract in a Form Approved by the City Attorney** — **1)** Approved the project plans and specifications; **2)** Accepted the lowest responsive and responsible bid submitted by Imperial Paving Company, in the amount of \$912,214.20 for MSC-452; **3)** Approved the reallocation of \$87,000 from the Unprogrammed CDBG Account 85782003 as follows: \$17,000 to account 85782011 (Forest Lane) and \$70,000 to account 85782012 (Audrey, Hollywood and Saratoga); and, **4)** Authorized the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney. Submitted by the Director of Public Works. **Funding Source:** Funds in the amount of \$826,000 have been designated for this project from Community Development Block Grant (CDBG) FY 2007/08, Streets Improvement, Business Units 85782011.82300, 85782012.82300, and 85882012.82300. Funds in the amount of \$87,000 are available in Unprogrammed CDBG funds, Business Unit 85782003 to complete the base and alternate bids for this project.

**(City Council) Adopted Resolution No. 2008-30 Delegating the Authority to the City Administrator or the Director of Public Works or his/her Designee to Execute Short Term Temporary Construction Leases Under \$30,000** — Authorized the Mayor and City Clerk to adopt and execute **Resolution No. 2008-30, "A Resolution of the City Council of the City of Huntington Beach Delegating the Authority to Execute Short Term Temporary Construction Leases."** Submitted by the Director of Public Works and the Director of Economic Development. **Funding Source:** Not applicable.

**(City Council) Approved Project Plans and Specifications and Awarded Construction Contract in the Amount of \$42,052 to California Professional Engineering for the In-Roadway Warning Lights Project on Bushard Street at Yellowstone Drive, CC-1329; and, Authorized the Mayor and City Clerk to Execute Contract in a Form Approved by the City Attorney** — **1)** Approved the project plans and specifications for the In-Roadway Warning Lights Project on Bushard Street at Yellowstone Drive, CC-1329; **2)** Accepted the lowest responsive and responsible bid submitted by California Professional Engineering, in the amount of \$42,052.00; and, **3)** Authorized the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney. Submitted by the Director of Public Works. **Funding Source:** Funds in the amount of \$70,000 were budgeted for this project in the General Fund, Transportation Engineering, Professional Services, 10085301.69365. The estimated cost of the project is \$107,000 which includes the purchase of electrical equipment by the City. The amount of \$37,000 will be reallocated from the General Fund Transportation Management operating budget to cover the shortfall.

**(Redevelopment Agency) Authorized the Chairman and Agency Clerk to Execute the Assumption Agreement with Yaron Levy, Yael Levy, and Sea Aire Apartments, LLC Owners of Sea Aire Apartments, an Affordable 36-Unit Apartment Complex Located at 725-733 Utica Avenue; and, Authorized the Chairman and Agency Clerk to Execute the Subordination Agreement Which Will Place the Agency's Loan With Sea Aire Apartments, LLC in Second Position to a New Loan Being Extended by Union Bank of California to Sea Aire Apartments, LLC; and, Authorized the Deputy Executive Director to Provide Written Confirmation of the Forgiveness of 11 Years of Loan Principal and Interest of the Affordable Housing Loan, as Provided by the Affordable Housing Agreement — 1)**

Authorized the Chairman and Agency Clerk to execute, as Holder, the *Assumption Agreement between the Redevelopment Agency of the City of Huntington Beach, and Yaron Levy, an individual, Yael Levy, an individual, and Sea Aire Apartments, LLC, a California limited liability company*; and, **2)** Authorized the Chairman and Agency Clerk to execute the Subordination Agreement which will place the Agency's loan with Sea Aire Apartments, LLC, in second position to the new loan being extended by Union Bank of California to Sea Aire Apartments, LLC; and, **3)** Authorized the Deputy Executive Director to provide written confirmation of the forgiveness of 11/30 of the affordable housing loan (principal and all accrued interest from May 2, 1997 through May 2, 2008) to the owners of 725-733 Utica Avenue, a 36-unit affordable housing complex. Submitted by the Deputy Executive Director. **Funding Source:** Approval of this request will not result in a cost to the Agency.

**(Redevelopment Agency) Approved and Authorized the Chairperson and Agency Clerk to Execute the Acquisition of Leasehold Interest Agreement With C.S.B. Partnership (Big O Tires) in the Amount of \$1,350,000 As Consideration for Displacement From the Real Property Purchased by the Redevelopment Agency Located at 7872 Edinger Avenue (APN 142-081-28); and, Appropriated \$1,350,000 from the Merged Redevelopment Agency Capital Projects Fund — 1)**

Approved the Acquisition of Leasehold Interest Agreement between the Redevelopment Agency of the City of Huntington Beach and C.S.B. Partnership; **2)** Authorized the Chairperson and Agency Clerk to sign and execute the Acquisition of Leasehold Interest Agreement; **3)** Authorized the Executive Director or designee to take any action and execute any and all documents and agreements necessary to implement this agreement; and, **4)** Appropriated \$1,350,000 from the Merged Redevelopment Agency Capital Projects Fund balance into account 30580101.81100. Submitted by the Deputy Executive Director. **Funding Source:** An appropriation of \$1,350,000 from the Undesignated Fund Balance Merged Redevelopment Agency Capital Projects Fund to the Redevelopment Agency business unit account (30580101.81100) is recommended.

**(City Council) Approved and Authorized the Mayor and City Clerk to Execute and Record With the Orange County Clerk Recorder the Memorandum of Termination of Lease Agreement for the Pay N' Play Racquetball Facility in Huntington Beach Community Park No. 845 (Worthy Park), Bordered by Utica Avenue, Main and Seventeenth Streets — 1)**

Authorized the Mayor and City Clerk to execute the Memorandum of Termination of Agreement Regarding Huntington Beach Community Park No. 845; and **2)** Directed the City Clerk to record same. Submitted by the Director of Community Services and the Director of Economic Development **Funding Source:** Not applicable.

Councilmember Carchio pulled this item from the Consent Calendar and asked Jim Engle, Community Services Director, if it would be feasible to build a new skateboard park at the Pay N' Play Racquetball Facility at Worthy Park, stating his support for a skateboard park to be built there.

Councilmember Hansen commented as a Council liaison on the skateboard park committee with the School District that from his perspective the skateboarders' behavior reported by the School District was not substantiated.

A motion was made by Carchio, second Green to 1) Authorize the Mayor and City Clerk to execute the *Memorandum of Termination of Agreement Regarding Huntington Beach Community Park No. 845*; and 2) Direct the City Clerk to record same. The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**(City Council) Approved a City Council Position on Legislation Pending Before the Federal, State, or Regional Governments as Recommended by the City Council Intergovernmental Relations Committee (IRC)**

Council considered a communication from Councilmember Jill Hardy, Chair on behalf of Intergovernmental Relations Committee Members Mayor Pro Tem Keith Bohr and Councilmember Don Hansen and transmitting the following

**Statement of Issue:** Approval of City Council positions as recommended by the City Council Intergovernmental Relations Committee (IRC) on legislation or budget issues pending before a federal, state, or regional government, and approval of the City's federal funding agenda for the year. **Funding Source:** Not applicable

Councilmember Hardy reported that she had one update and that was the Orange County Division of League of California Cities' Advocacy Committee voted unanimously to support AB 844.

A motion was made by Hardy, second Bohr to

1. SUPPORT AB 36 (Niello) — Public Employees Retirement Fund - As Amended 5/5/08
2. SUPPORT SB 1185 (Lowenthal) — Land Use: Subdivision Maps - As Amended on 4/23/08
3. SUPPORT SB 1391 (Padilla) — Water Reuse/Recycling - As Amended 4/21/08
4. SUPPORT AB 2938 (DeLeon) — Delta Diversions - As Amended 5/23/08
5. SUPPORT AB 844 (Berryhill) — Junk Dealers and Recyclers: Nonferrous Materials — As Amended 5/29/08
6. SUPPORT SB 227 (Harman/Silva) — Legislation Related to the Huntington Beach Readerboard — as most recently amended.

The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**(City Council) Approved the Memorandum of Understanding (MOU) Between the City of Huntington Beach and Huntington Beach City School District (HBCSD) for Future Negotiations Regarding Acquisition of LeBard School Site Located at 20451 Cramer Lane**

Council considered a communication from the Deputy City Administrator transmitting the following

**Statement of Issue:** The City of Huntington Beach has received notice from the Huntington Beach City School District of its intention to surplus the property commonly referred to as LeBard School site located at 20451 Cramer Lane in the City of Huntington Beach. On April 8, 2008, the City officially notified the school district of its intent to enter into negotiations to purchase all or part of LeBard School site. The City is now prepared to enter into a Memorandum of Understanding with the school district regarding said negotiations. Funding Source: Not applicable; only requesting permission to enter into an MOU at this time.

Deputy City Administrator, Bob Hall, presented a PowerPoint report that included background information on this surplus site, an aerial photo of the LeBard School site, an outline of the Naylor Act, the Huntington Beach City School District's interpretation of the Naylor Act related to the appraised value, and recommended deal points of the negotiated deal, aerial photo of the land swap site, additional recommended deal points of the negotiated deal, financing terms for the purchase of the site and staff's recommended action.

City Clerk Flynn restated for the record the late communication submitted by Bob Hall, Deputy City Administrator, dated June 16, 2008, and titled *Change in Recommended Action on agenda item F-2: MOU Between the City of Huntington Beach and the Huntington Beach City School District for Future Negotiations Regarding the Acquisition of LeBard School Site.*

Mayor Pro Tem Bohr referred to the Financing of Purchase portion of the report, and stated his preference to take action tonight for the benefit of the community who want to save the open space for Seaview Little League, and to show the School Board where the Council stands. He discussed the reasonable approach outlined in the Memorandum of Understanding between the City and the School District since the City is not putting up all cash, and he believes it is important that the City retain and execute the right to sell or lease the school site. He discussed logistics of the appraisal and the positive opportunities for the City to proceed with the proposed recommended action.

A motion was made by Bohr, second Green to authorize the Mayor and City Clerk to approve and execute the Memorandum of Understanding between the Huntington Beach City School District and the City of Huntington Beach for future negotiations regarding the acquisition of the LeBard School site, as presented. The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

**(City Council) Adopted Ordinance No. 3803 Amending Chapter 2.07 of the Huntington Beach Municipal Code (HBMC) Relating to Campaign Contribution Reform (Approved for Introduction June 2, 2008)**

A motion was made by Coerper, second Carchio to after City Clerk reads by title, **Adopt Ordinance No. 3803**, "*An Ordinance of the City of Huntington Beach Amending Chapter 2.07 of the Huntington Beach Municipal Code Relating to Campaign Reform*" by roll call vote. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Green, and Carchio  
NOES: Hardy, Bohr, and Cook

**(City Council) Submitted By Councilmember Don Hansen — Real Estate Agent's Business License**

Council considered a communication from Councilmember Hansen transmitting the following

**Statement of Issue:** The City's current Business License ordinance does not recognize the nature of a real estate industry's relationship between a licensed salesperson and a licensed broker. The current ordinance requires each salesperson and broker to pay a separate tax. The proposal is to develop a method in which the salesperson is recognized as an employee of the broker.

Councilmember Hansen discussed recent notices sent out by the City to a variety of individuals determined to not have an active business license when tax rolls showed Schedule Cs filed. He noted that during his recent conversations with local real estate brokers and agents, he learned of recent nuances to the way real estate is transacted, whereby brokers, not agents actually "transact" a sale. He indicated that he has recently met with leaders of the Orange County Association of Realtors to identify how the City can identify the brokers (via audits), and exempt the agents from requiring those licenses. Councilmember Hansen moved the recommended action. **(Discussion followed)**

Councilmember Coerper asked staff to differentiate between hair salon owners/hair stylists as it pertains to the required business license ordinance. Councilmember Hansen asserted that stylists work at the salon and provide independent services to their clients compared to real estate agents who negotiate deals and forward to brokers for final transaction.

Councilmember Coerper asked staff for specific identification of those required to have a business license, and Administrator Emery paraphrased the code as "anyone conducting business in the City of Huntington Beach is subject to the requirement of obtaining a business license."

Discussion ensued regarding categorical exemptions, and it was determined that the proposed exemption may be expanded beyond real estate agents, and it was agreed that the proposed ninety-day suspension would be used to further evaluate other professions.

Councilmember Green requested clarification of the criteria used for those individuals who received notification letters of extension, and Administrator Emery described the criteria and notification process. He added that subsequently, members of the Orange County Association of Realtors met with City staff and outlined challenges of doing business in today's real estate

industry. Administrator Emery noted that during the past 90-day review period, staff concluded that the business license ordinance needs to be amended. Since the business license audit period ended on June 9th, a notice of abeyance will be issued until this matter is resolved.

Councilmember Green asked staff if ramifications of this exemption have been determined. Administrator Emery discussed the electronic means now available to obtain information from the Franchise Tax Board that would allow the City to compile pertinent data and communicate with identified individuals.

Councilmember Carchio discussed the importance of designating fair and equitable categorical exemptions, stated his support for the proposed temporary 90-day suspension of the business license audits, and **made a second to the motion.**

Mayor Pro Tem Bohr voiced disappointment with the City mailing letters that requested five-year retroactivity of restitution, and stated his preference to mitigate the legal issues of this matter during the next 90 days.

Councilmember Coerper asked what the current business license amount is for an individual, and staff confirmed \$75.

Mayor Cook inquired what the policy reason is for a business license, and Attorney McGrath indicated that the City's business license program creates revenue generation.

Mayor Cook asked Attorney McGrath to look at other possible categories of exemption and Attorney McGrath voiced concerns of the restructured ordinance having the potential for "exemptions that eat up the rule." She requested Council's intent for various categories for her focus. Councilmember Hansen clarified, as the originator of the action, that his basis for categorical preference would be defined as "transactional," the person ultimately providing the service or the conduit for the service or exchange.

Council and Attorney McGrath discussed the City's purpose and obligation in charging a business license tax, and she further discussed the ability to write exemptions to the extent that it is not discriminatory in nature.

Mayor Cook called for the vote.

A motion was made by Hansen, second Carchio to **1) City Council direct staff to temporarily suspend for a period of 90 days, the business license audits directed at real estate professionals; and 2) Concurrently, begin evaluating the City of Huntington Beach's Business License Ordinance relating to real estate professionals and establish updated code language, if necessary.** The motion carried by the following roll call vote:

AYES: Hansen, Hardy, Bohr, Cook, Coerper, Green, and Carchio  
NOES: None

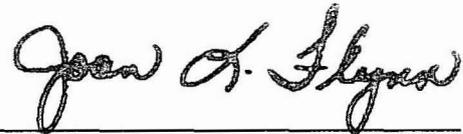
**Council Comments — (Not Agendized)**

Councilmember Coerper reported attending an Eagle Court of Honor celebration at the Council Chambers for Adam Lee Wiener on Saturday, June 14, and congratulated Mr. Wiener on being accepted for a full medical scholarship at the University of Merced; he reported attending the California Army National Guard Youth Challenge, sponsored by Major General William H. Wade II, Orange County Department of Education who presented the Sunburst Youth Academy Commencement Ceremony on Friday, June 13 at Cypress Community Center.

**City Council/Agency Adjournment**

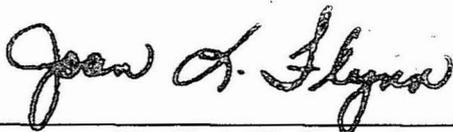
Mayor Cook adjourned the regular meeting at 10:18 PM to a Special Closed Session Meeting on Friday, June 20, 2008, at 9:00 AM, at the Hyatt Regency Huntington Beach Resort and Spa Hotel, Goldenwest Room, 21500 Pacific Coast Highway, Huntington Beach, California. The next regularly scheduled meeting will be Monday, July 7, 2008 at 4:00 PM, in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

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

**ATTEST:**



City Clerk-Clerk



Mayor-Chair