

**Regular Minutes
City Council/Redevelopment Agency
City of Huntington Beach**

Monday, August 16, 2004
5:00 P.M. - Room B-8
7:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

An audiotape of the 5:00 p.m. portion of this meeting
and a videotape of the 7:00 p.m. portion of this meeting
are on file in the Office of the City Clerk.

Call to Order

Mayor Green called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:04 p.m. in Room B-8.

City Council/Redevelopment Agency Meeting Roll Call

Present: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen
Absent: None

(City Council/Redevelopment Agency) Study Session Held - Presentation Made by the Fire Department Regarding Weapons of Mass Destruction (WMD) Program (340.80)

Chuck Reynolds, Program Manager of Weapons of Mass Destruction, made an oral presentation in the absence of Fire Chief Duane Olson. He discussed the grants received, resources shared with the Cities of Anaheim and Santa Ana, the Orange County Terrorism Working Group, and the Hazardous Materials Team.

Councilmembers asked questions regarding communications with other agencies, funding trails and training exercises that include other agencies as well as the Huntington Beach staff.

Fire Captain Greg Funderburk introduced other members of the Hazardous Materials Team who were present: Jim Holman, Ken Strang and Kevin Fetterman. Captain Funderburk described the capabilities of the tools on display, which he stated had been purchased with grant dollars.

Council inquiries followed regarding response time for the devices and battery capacities. Captain Funderburk discussed battery protocol and showed the responder kit for nerve agent antidote.

Further discussion ensued regarding unit resources, computers and internet access to other agencies, and books.

Council inquired about the value of the equipment on display for the meeting, to which the reply was that some devices were valued up to \$45,000.00 each, with over a million dollars worth of equipment in the room.

Motion to Recess to Closed Session – Approved

A motion was made by Sullivan, second Coerper to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen

NOES: None

ABSENT: None

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Penelope Culbreth-Graft, City Administrator; William P. Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; Kenneth Small, Chief of Police; Duane Olson, Fire Chief; and Steven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding labor relations matters – meet and confer with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated**. Subject: **Labor Relations – Meet & Confer**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation, which has been initiated formally and to which the city is a party. The title of the litigation is **Carlos Gonzales v. City of Huntington Beach**, WCAB Case No. ANA 0361664; ANA 036363; ANA 0363673; ANA 0364108: Claim No. COHB-85-2148; COHB-00-0037. Subject: **Carlos Gonzales v. City of Huntington Beach**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(b)(3)(A) 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: one. Subject: **Potential Litigation re: proposed settlement between Paramount Petroleum and City of Huntington Beach**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(b)(3)(A) 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: **Potential Litigation re: Enforcement of Covenants, Conditions and Restrictions for Affordable Housing**. (120.80)

Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.

City Council- Redevelopment Agency Roll Call

Present: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen

Absent: None

No Actions Taken Which Require a Reporting Pursuant to Government Code §54957.1(a) (3) (B)).

Mayor Green asked City Attorney Jennifer McGrath if there were any actions taken by the City Council or Redevelopment Agency in Closed Session that required a reporting. City Attorney McGrath responded that there were no actions to report.

The Mayor announced that the meeting is dedicated to Detective Bob Winstein who passed away on August 3, 2004.

Pledge of Allegiance – Led by Mayor Cathy Green

Invocation – Led by Councilmember Gil Coerper

The City Clerk Announced Late Communications

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication submitted by the City Clerk's Office dated August 16, 2004 which is a correction of typographical errors regarding: **D-3 and D-4** - Public hearing date from August 126, 2004 to August **16**, 2004; and **E-8** - Amount of contract from \$2,093.662.85 to \$2,093,662.85.

Communication submitted by George and Colleen Phipps dated August 12, 2004 addressed to Joan L. Flynn, City Clerk supporting the denial of appeal filed by the Moulin Rouge.

Communication submitted by Catherine Stahl dated August 12, 2004 addressed to Joan L. Flynn, City Clerk asking that the Moulin Rouge entertainment permit remain revoked.

Communication submitted by Floyd Belsito, Esq. on behalf of the Moulin Rouge, which is an undated packet of information inclusive of noise surveys, security incident reports, correspondence with the Huntington Beach Police Department, and other miscellaneous documents.

Communication submitted by David F. Gondek of Lewis Brisbois Bisgaard & Smith LLP dated August 16, 2004 titled *Consideration of Preparation of An Ordinance Amendment Huntington Beach Municipal Code Chapter 234 – Mobilehome Park Conversions*.

The Following Additional Late Communications Were Submitted During the Meeting:

Communication submitted by Jim Barker dated July 31, 2004 titled *Poletown Supreme Court restricts government rights to take land*.

Communication submitted by Kathy Vaughn, undated, titled *Pacific Mobile Home Residents GSMOL Region 5*.

Communication submitted by Andrea Hiser dated August 16, 2004 titled *Just Compensation*.

Communication submitted by Marianne Johnson, undated and untitled, which is a collection of photographs of several homes located within the Cabrillo Mobile Home Park.

Communication submitted by Susan Worthy, undated, titled *Merchants Against The Building Improvement District*.

Presentation made by Mayor Cathy Green who called on Janice Hansen to introduce the Wave Riders. Amy Hansen (13), Alyssa Hansen (11), Nicholas Johnsen (12) and Kaycee Johnsen (11) are four young people who were awarded a grand prize in the National Toy Challenge 2004 for inventing their version of the ultimate boogie board. Amy and Alyssa are from Irvine and Nicholas and Kaycee are from Huntington Beach. The Mayor presented each Wave Rider with a commendation from the City Council. (160.40)

Presentation made by Mayor Cathy Green who called on Jim Engle to introduce Ron Shenkman and Bruce Shuman from Rainbow Disposal who presented a check for \$3,000 for Project Self-Sufficiency. (160.40)

Presentation made by Mayor Cathy Green who called on Jim Engle to introduce Ron Shenkman and Bruce Shuman from Rainbow Disposal who presented a check for \$7,500 to be used to purchase trash receptacles for the Sports Complex. (160.40)

Presentation made by Mayor Cathy Green who called on Shipley Nature Center President Juana Mueller to present commendations to supporters of the restoration of the Shipley Nature Center. Ms. Mueller also announced an Open House being held on September 18, 2004 from 10:00am to 3:00pm at the Nature Center. (160.40)

Presentation made by Mayor Cathy Green who presented a commendation to Huntington Beach resident and member of the Fire Department's Community Emergency Response Team (CERT), Phil Burtis, whose heroic efforts saved the life of a young near-drowning victim. (160.40)

Mayor Pro Tem Hardy left the meeting.

Mayor's Award presented by Mayor Cathy Green who was joined by Administrative Services Director Clay Martin to present the Mayor's Award to Senior Budget Analyst John Roulette. John was recognized for his hard work, consistent productivity, efficiency, and good customer service since 1975. (160.40)

Councilmember Boardman announced that she would be requesting to bring Agenda item H-2b forward after Public Comments.

Public Comments

Stella Lambretta spoke on behalf of Cabrillo Mobile Home Park residents requesting that the proposed conversion ordinance be adopted and that the homes be sold or relocated at fair market value.

Steven Cooper cautioned that denial of the proposed mobile home conversion ordinance may result in a class action suit, and spoke regarding eminent domain.

Jim Barker, Secretary/Treasurer of the Huntington Beach Mobile Homeowners Association (HBMOA), stated that he speaks for over 3,000 homeowners in eighteen parks in Huntington Beach in requesting Council maintain "in place" value and a greater amount of relocation compensation. Mr. Barker asked concerned homeowners in the Chambers to raise a hand in order to demonstrate their attendance and concern.

Kathy Vaughan informed Council of the existence of manufactured homes that are not “mobile” and brought a petition with over 150 signatures in favor of the proposed mobile home conversion ordinance. Ms. Vaughan also described her park, Pacific Mobile Homes.

Al Caraccia, Los Amigos Mobile Home Park resident, spoke regarding his park as affordable housing. Mr. Caraccia asked the City Council to support “in place” value and relocation within 30 miles.

David F. Gondek, legal counsel to the Manufactured Housing Educational Trust (MHET), informed Council that he has reviewed the Municipal Code and the agenda item relating to mobile home park conversions on behalf of the Trust. Mr. Gondek voiced concerns with the proposed amendments to Chapter 234 conflicting with State Law. Mr. Gondek referred to the City Charter Section 803, the Fair Initiative Measure, and to a Late Communication he had submitted to the City Clerk.

Tom Gillespie thanked the City Council for its efforts to assist mobile home park residents and asked them to refer to the City Charter and to State efforts on behalf of citizens for guidance.

Steve Gullage, State President of the Golden State Mobile Home Owners League (GSMOL), spoke in support of agenda item H-2b, mobile home park conversions. Mr. Gullage spoke in favor of “in-place” value for displaced mobile homeowners and a 20-mile relocation radius.

Michael and Andrea Hiser, residents of Huntington-By-The-Sea Mobile Home Park, spoke regarding the proposed mobile home park conversion ordinance and urged Council to approve it. Ms. Hiser distributed a handout titled *Just Compensation*.

Grace Sandlin reiterated her support for the proposed mobile home conversion ordinance using the “in-place” value formula.

Robert Lupo, board member of various mobile home owner associations, stated his opinion that since other cities have recognized the need for an updated mobile home conversion ordinance, Huntington Beach should do likewise. Mr. Lupo asked Council to represent the residents rather than the park owners, and mentioned the possibility of lawsuits.

Dick Hammond and Cindy Kelber-Ackley spoke in support of the proposed mobile home park conversion ordinance asking Council to show fairness.

Peter Albini recommended the mobile home park conversion ordinance reflect a market indicator rather than a dollar amount.

Marianne Johnson presented photographs of homes at Cabrillo Mobile Home Park and stated her opinion that homeowners incur most of the expenses.

Joey Racano spoke in favor of “in place” value for mobile home park conversions and stated his support for Councilmember Boardman’s agenda item numbers H-2a, H-2b, and H-2c.

Mary Jo Baretich, a member of the Mobile Home Advisory Board, requested a “yes” vote in support of the proposed amendment to the mobile home conversion ordinance.

Cheryl Cook, Pauline Robison, Carolyn Dick, Frances Brannen, John Cornick, Gerald Carlson, Barry Johnson, John McGregor, Thomas Cox, and Aimee Loflin all spoke in favor of the proposed mobile home conversion ordinance and the alleged inadequacy of the current measures.

Jean Nagy provided an update of the activities of the Tree Society, announcing a brochure will be included as an insert to the October water bill. Ms. Nagy spoke of tree plantings throughout the city's parks and thanked the Park, Tree and Landscape Division crew.

Linda Smith stressed that her home is not a trailer but a manufactured home - which greatly increases the difficulty of moving it. Ms. Smith stated that her park, Huntington-By-The-Sea, is up for closure in 2015 and opined that the homes range from \$50,000.00 to \$160,000.00 in value.

Steve Stafford spoke of problems encountered at his residence in Crystal Island, including what he alleges as improperly installed roofs and electric gate. Mr. Stafford spoke in opposition to the release of bonds on this tract.

Carol Downey spoke in rebuttal to some of the previous speakers on the topic of the mobile home park conversion ordinance. She stated that they do not speak for all park residents. Ms. Downey stated her support for a fair solution for all parties involved.

Rex Ricks spoke regarding the Long Beach Airport, stating that the FAA (Federal Aviation Agency) has recently been planning expansions of air flight paths. He announced an online petition at www.petitiononline.com/lqbaia. Mr. Ricks also stated his support for the mobile home conversion ordinance.

Norm "Firecracker" Westwell announced his candidacy as a Libertarian for City Council, State Assembly and the School Board. He thanked Police Chief Kenneth Small and Community Relations Officer Laurie Payne for their efforts informing citizens about the community meeting to review the proposed recreational vehicle parking ordinance scheduled for September 21, 2004 6:00 p.m. in the Council Chambers. Mr. Westwell inquired about street sweepers and parking tickets.

(City Council) Continued to a Date Unknown – Direct City Attorney to Return to Council Within 30 Days an Ordinance to Amend Huntington Beach Zoning and Subdivision Code Relating to Mobile Home Park Conversion (120.90)

A motion was made by Boardman, second Sullivan to continue the discussion of item H2b (Mobile Home Park Conversion Ordinance) to a time when all councilmembers, including Mayor Pro Tem Hardy, can be present. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen

NOES: None

ABSENT: Hardy

(City Administrator's Report) Dr. Penelope Culbreth-Graft Reported on Communication with the Vector Control District Regarding the West Nile Virus. (160.10)

City Administrator Penelope Culbreth-Graft announced that the County of Orange and former Mayor/Councilmember Peter Green have been in contact with the City staff. Councilmember Houchen had asked for an updated report on the status of West Nile Virus in the community. The City asked the Vector Control District for advice; to which the response was to wear protective clothing and use DEET, an insect repellent.

(City Administrator's Report) Dr. Penelope Culbreth-Graft Announced that Issues Raised by Councilmembers Relating to the Huntington Central Park Sports Complex would be Addressed in a Report Sometime the Week of August 16, 2004. (160.10)

The City Administrator announced the status of the above-captioned report.

(City Council) Public Hearing Held – Denied Appeal Filed by Applicant, Club Moulin Rouge, LLC of the Revocation of Entertainment Permit, ABC File No. 41-378238 (Located at 10142 Adams Avenue e/o Brookhurst Street) (420.40)

Police Chief Kenneth Small provided a brief oral report regarding conditions and stating reasons for the revocation of the permit. Chief Small summarized the communication included in the agenda packet.

Bill Pham, applicant/appellant and one of the Moulin Rouge club owners, spoke relative to efforts to mitigate noise, including the hiring of acoustic engineers, shutting down portions of the parking lot, and additional security guards. Mr. Pham contended problems arose due to a miscommunication and that it has not been established that the Moulin Rouge is a noise nuisance.

Chief Small clarified the Entertainment Permit violations and referred to Chapter 5.44.015 of the Municipal Code.

Discussion ensued amongst Council and Staff relative to the amounts of fines, how much of the fines have been paid and the methods used to inform the business owners of the citations issued.

City Treasurer Shari Freidenrich responded to Council's request to provide payment records for the fines in question to the Police Chief the following day.

Detective Krause reported on the police calls for service on noise complaints. Detective Krause confirmed that he had notified Mr. Pham of the city's intention to seek a Notice of Revocation of the Entertainment Permit.

Mayor Green declared the public hearing open.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

Prior to calling names for the public testimony, City Clerk Joan L. Flynn restated for the record the Late Communications announced earlier as it pertains to this public hearing.

Troy Smith, resident of Meredith Gardens, stated, in his opinion, the noise from music at the Moulin Rouge is very loud, as are the noises emanating from fights in the parking lot. Mr. Smith informed Council that he has not slept through a Friday or Saturday night in years due to these reasons.

Dai Phung spoke in opposition to granting the appeal and stated that he will sell his home, which is located behind the club, if the noise concerns are not addressed.

Alyssa Phung informed Council of her safety concerns regarding guns, fighting, and drunk drivers in the parking lot of the Moulin Rouge. Ms. Phung asserted that this situation endangers children in the area.

Ed Ramirez stated his opinion that the business at the Moulin Rouge is not conducive to the neighborhood in which it is located. Mr. Ramirez alleged that improvements in noise levels have occurred only in the last few days, and questioned the effectiveness of the hired security guards.

Floyd G. Belsito, attorney representing the applicant/appellant, spoke in reference to ambient noise levels at the Moulin Rouge and other local restaurants. Mr. Belsito suggested the formation of an ad hoc committee to develop rules and regulations for entertainment at the Moulin Rouge.

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

Councilmember Cook stated her reasons for supporting a revocation of the entertainment permit.

A motion was made by Coerper, second Cook to deny the appeal from the Moulin Rouge. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen

NOES: None

ABSENT: Hardy

(City Council) Public Hearing Held Pursuant to Resolution of Intent No. 2004-56 Adopted on July 19, 2004 to Consider the Formation of a Proposed Huntington Beach Downtown Business Improvement District (BID) – Approved Introduction of Ordinance No. 3661 as Amended in Exhibit B Relative to Apartments and Businesses Under 1,000 Square Feet (460.30)

Mayor Green announced that this was the time noticed for a public hearing to consider the formation of a proposed Huntington Beach Downtown Business Improvement District.

Economic Development Director David Biggs presented a PowerPoint report, which was included in the agenda packet. Mr. Biggs introduced Assistant Project Manager Christy Teague of his staff assigned to the project.

Inquiries from councilmembers followed relating to the inclusion of apartments in the Business Improvement District and for what types of expenses the funds generated will be used.

Mayor Green declared the protest public hearing open.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

City Clerk Joan L. Flynn announced that this was the time for the City Council to hear and consider all protests against the establishment of the Business Improvement District, the extent of the area, or the furnishing of specified types of improvements or activities within the area.

All written protests must have already been received by the start of this public hearing. A written protest may be withdrawn in writing at any time before the conclusion of this public hearing. A new protest may be made orally at this public hearing. If a business owner is making a new oral protest, and has not already filed a written protest, please state clearly your name, business name, business address and assessment amount protested.

If written protests are received from the owners of business in the proposed area which will pay 50 percent or more of the assessments proposed to be levied, and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to create the specified Business Improvement District or to levy the proposed assessment, shall be taken for a period of one year from this date. If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

At the conclusion of the public hearing to establish the Business Improvement District, the City Council may adopt, revise, change, reduce or modify the proposed assessment of the type or types of improvements and activities to be funded with the revenues from the assessments.

Steve Grabowski, owner of a United Parcel Service (UPS) store, spoke in support of the Business Improvement District.

Barbara Iman and **Dory Solis**, owners of the Black Pearl, stated their concern about the assessment formulas and proposed adoption of a third tier for small businesses less than 1,000 square feet.

Joe Shaw, Co-owner of California Greetings, spoke in support of the Business Improvement District, stating that in his opinion all of downtown will benefit from increased safety, marketing, and cleanliness.

Guy Guzzardo, owner of ME Helme House Furnishings, spoke in opposition to the Business Improvement District stating that in his opinion, it is not fair to all involved parties, that the assessment should not be mandatory, and that the survey process was inadequate.

Susan Worthy announced that a petition against the Business Improvement District has been started and a survey sent to business owners, which has resulted so far in 74 against, 4 in favor, one undecided and 5 returned to sender. Ms. Worthy distributed a late communication consisting of a copy of the postcard, a copy of the petition, and a copy of the list of business owners.

Keith Bohr spoke in favor of the Business Improvement District stating that it will allow downtown merchants to maximize their resources. Mr. Bohr also discussed how the categories of businesses were devised and how the expenditures would be chosen.

Norm "Firecracker" Westwell stated his concerns regarding the ballot process and the mandatory nature of the assessments. Mr. Westwell asserted his opinion that the project should be handled outside of government and should be voluntary.

Doug Traub, President of the Huntington Beach Conference and Visitor's Bureau, spoke in favor of the Business Improvement District as an ideal model to address the needs of the downtown area.

Steve Daniel, owner of Rocky Mountain Chocolate Factory, spoke in support of the Business Improvement District. Mr. Daniel referred to the success of BIDs that he participates in in other towns where he owns businesses and classified cleanup of the downtown area as a top priority.

Joe Carchio, owner of Jersey Joe's, asked the Council to give their individual opinions on the Business Improvement District. Mr. Carchio stated that in his opinion, business owners can better address the downtown issues.

Mayor Green announced that if there are any businesses that want to withdraw a protest for the proposed Huntington Beach Downtown Business Improvement District, this was the time to write out the protest withdrawal and return it to the City Clerk. There being no persons present to speak further on the matter and there being no further protests filed, either written or oral, the Mayor declared the public hearing closed.

City Clerk Joan L. Flynn reported the percentage of assessments protested is 10.8%, or \$8,800 of the \$81,225 total assessment amount. Protests from 39 of the 302 businesses in the Business Improvement District boundaries were received.

Discussion ensued amongst Council and Staff regarding the assessment amount for very small businesses, whether apartments should be included, how the assessment would be administered, how local real estate agents would be assessed, and the distinction between first and second floor businesses.

(City Council) Motion Approved to Amend the Assessment Formula to Include a Category in Zone 1 for Retail/Restaurants less than 1,000 square feet (460.30)

A motion was made by Houchen, second ****inaudible**** to amend the assessment formula to include a category in Zone 1 for retail/restaurants less than 1,000 square feet at an assessment fee of \$250. The motion carried by the following roll call vote:

AYES: Coerper, Green, Boardman, Cook, Houchen
NOES: Sullivan
ABSENT: Hardy

(City Council) Motion Approved to Eliminate Apartments from the Assessment Formula of the Business Improvement District (460.30)

A motion was made by Cook, second Boardman to eliminate apartments from the assessment formula of the Business Improvement District. The motion carried by the following roll call vote:

AYES: Coerper, Boardman, Cook, Houchen
NOES: Sullivan, Green
ABSENT: Hardy

After the City Clerk read by title, a motion was made by Houchen, second Boardman to approve for introduction **Ordinance No. 3661** – *“An Ordinance of the City of Huntington Beach Establishing the Huntington Beach Downtown Business Improvement District” as amended* in Exhibit B to address the above two approved motions.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: Hardy

(City Council) Public Hearing Held – Adopted Resolution No. 2004-65 Approving an Annual Assessment Within the Huntington Beach Auto Dealers Association Business Improvement District (460.30)

Mayor Green announced that this was the time noticed for a public hearing to consider a resolution approving an annual assessment within the Huntington Beach Auto Dealers Association Business Improvement District for the 2004-2005 fiscal year.

The City Council considered a communication from the Economic Development Director David Biggs, which was included in the agenda packet.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

Mayor Green declared the public hearing open.

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

A motion was made by Houchen, second Sullivan to adopt City Council **Resolution No. 2004-65** – *“A Resolution of the City Council of the City of Huntington Beach Approving an Annual Assessment Within the Huntington Beach Auto Dealers Association Business Improvement District for Fiscal Year 2004-2005.”* The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen

NOES: None

ABSENT: Hardy

(City Council) Public Hearing Held - Adopted Resolution No. 2004-66 Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District Fiscal Year 2004-2005 (460.30)

Mayor Green announced that this was the time noticed for a public hearing to consider a resolution approving an annual assessment within the Huntington Beach Hotel/Motel Business Improvement District for the 2004-2005 fiscal year.

The City Council considered a communication from the Economic Development Director David Biggs, which was included in the agenda packet.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

Mayor Green declared the public hearing open.

Doug Traub declined his opportunity to speak on the matter.

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

A motion was made by Houchen, second Sullivan to adopt City Council **Resolution No. 2004-66** – “A Resolution of the City Council of the City of Huntington Beach Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District for Fiscal Year 2004-2005.” The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: Hardy

Consent Calendar – Items Removed for Separate Discussion

The following items were removed from the Consent Calendar for separate discussion:

(City Council) Resolution No. 2004-70 Regarding Candidate Statements

(City Council) City Clerk’s Report Listing Professional Services Agreements Filed in the City Clerk’s Office between May 1, 2004 through July 31, 2004

(City Council) Resolution No. 2004-67 Relating to Fees for Parking at the Sports Complex, Camping Facilities and Beach Parking Lots – Amends Citywide User Schedule Resolution No. 2003-65 (Supplemental Fee No. 2)

Consent Calendar – Items Approved

On motion by Sullivan, second Boardman Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: Hardy

(City Council) Approved Appropriation Police Chief to Enter into an Agreement to Assist With Background Investigation – Authorized Appropriation of Funds (320.45) – 1.

Approved and authorized the Police Chief to enter into an agreement with a private company to assist with background investigation services as assigned and approved by the Police Department; and **2.** Approved the appropriation of \$28,000 from the unreserved, undesignated General Fund Balance for background investigation services; and **3.** Authorized the Police Chief to expend up to \$28,000 for background investigation services. Submitted by the Police Chief. Funding Source: Appropriate \$28,000 for background investigations from the unreserved, undesignated General Fund Balance.

(City Council) Approved Appointments of Stephanie Paggi and Christopher Hoff to the Allied Arts Board for a Term to Expire June 30, 2008 (110.20) – 1. Appointed **Stephanie Paggi** to the Allied Arts Board for a term to expire June 30, 2008; and **2.** Appointed **Christopher Hoff** to the Allied Arts Board for a term to expire June 30, 2008. Submitted by the Community Services Director and as recommended by Council Liaisons Councilmember Connie Boardman and Councilmember Pam Houchen. Funding Source: Not applicable.

(City Council) Approved Reappointment of John Myers and Appointments of Elizabeth Smith and Dr. David Hubbard to the Community Services Commission for a Term Effective July 1, 2004 Through June 30, 2008 (110.20) – 1. Reappointed **John Myers** as the Huntington Beach Union High School District representative to the Community Services Commission for a four-year term. The term will be from July 1, 2004 through June 30, 2008; and **2.** Appointed the following school district representatives to the Community Services Commission: **Elizabeth Smith**, Coast Community College District; **Dr. David Hubbard**, Westminster School District. The term for these appointments will be from July 1, 2004 through June 30, 2008. Submitted by the Community Services Director and as recommended by Council Liaisons Mayor Cathy Green and Councilmember Dave Sullivan. Funding Source: Not applicable.

(City Council) Approved Appointments of Billie Kennedy and Debra Watkins to the Historic Resources Board for a Term to Expire June 30, 2008 (110.20) – 1. Appointed **Billie Kennedy** to the Historic Resources Board for a term to expire June 30, 2008; and **2.** Appointed **Debra Watkins** to the Historic Resources Board for a term to expire June 30, 2008. Submitted by the Community Services Director and as recommended by Council Liaisons Mayor Pro Tem Jill Hardy and Councilmember Dave Sullivan. Funding Source: Not applicable.

(City Council) Accepted Bid and Awarded Construction Contract to Sancon Technologies for the Ross Quarter Section Sewer Rehabilitation Project (Roughly Bounded by Heil Avenue, I-405 Freeway, Warner Avenue and Newland Street); CC-1215 (600.60) 1. Accepted the lowest responsive and responsible bid submitted by Sancon Technologies, Inc. in the amount of \$586,512; and **2.** Authorized the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: A reimbursable grant from the Orange County Sanitation District (OCSD) will fund one-half of the project cost. Funds for the project are budgeted in the Sewer Service Fund CIP. The engineer's cost estimate is \$820,000.

(City Council) Accepted Bid and Awarded Construction Contract to Sully-Miller Contracting Company for the 2003/2004 Pavement Rehabilitation Project (Located on Portions of Brookhurst Street, Bushard Street, Edwards Street, Warner Avenue, and Davenport Island, Hooker Drive and Hughes Drive); CC-1222 (600.50)
1. Accepted the lowest responsive and responsible bid submitted by Sully-Miller Contracting Co., in the amount of \$2,093,662.85 for the 2003/2004 Pavement Rehabilitation Project, CC-1222; and **2.** Authorized the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: Funds for the project are budgeted through Measure M Funds, Street Improvements Account Fund. The engineer's estimate was \$2,543,000.

(City Council) Adopted Resolution of Intention No. 2004-68 Re: Establishment of Proposed City of Huntington Beach Community Facilities District No. 2004-1 (The Strand) - Adopted Resolution No. 2004-69 Declaring Necessity for Proposed City of Huntington Beach Community Facilities District No. 2004-1 to Incur Bonded Indebtedness (CIM/Huntington, LLC Disposition and Development Agreement – Blocks 104/105) (350.30) – 1. Adopted Resolution No. 2004-68 – *“Resolution of Intention of the City Council of the City of Huntington Beach with Respect to Establishment of Proposed City of Huntington Beach Community Facilities District No. 2004-1 (The Strand);”* and **2.** Adopted Resolution No. 2004-69 – *“Resolution of the City Council of the City of Huntington Beach Declaring Necessity for Proposed City of Huntington Beach Community Facilities District No. 2004-1 (The Strand) to Incur a Bonded Indebtedness.”* Submitted by the Public Works Director. Funding Source: None as a result of this action (Future bond proceeds not to exceed \$15 million).

(City Council) Adopted Resolution No. 2004-70 Regarding the Fee Payment of Candidate Statements Relative to Indigent Status (620.10)

Councilmember Coerper requested this item be removed from the Consent Calendar to ask for clarification on how and when the fees would be paid by the qualifying candidates. City Clerk Joan L. Flynn, City Attorney Jennifer McGrath and City Administrator Penny Culbreth-Grath reported.

A motion was made by Coerper, second Boardman to adopt **Resolution No. 2004-70** – “A Resolution of the City Council of the City of Huntington Beach Adopting Regulations for Candidates for Elective Office Pertaining to Candidates’ Statements Submitted to the Voters at an Election.” The motion carried by the following roll call vote:

AYES: Coerper, Green, Boardman, Cook, Houchen
 NOES: Sullivan
 ABSENT: Hardy

(City Council) Received and Filed City Clerk’s Report Listing Professional Services Agreements Filed in the City Clerk’s Office between May 1, 2004 through July 31, 2004 (600.05)

Councilmember Cook requested this item be removed from the Consent Calendar in order to recommend adding another column to the report. This added column would list funds expended from other than City funds. She noted that many of the contracts are reimbursed by a third party.

A motion was made by Cook, second Boardman to receive and file the *List of Professional Services Contracts Approved by Department Heads Pursuant to Huntington Beach Municipal Code Chapter 3.03* and submitted to the City Clerk’s Office for the period May 1, 2004 through July 31, 2004. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

(City Council) Adopted Resolution No. 2004-67, as Amended to Eliminate the Discount for Residents, Relating to Fees for Parking at the Sports Complex, Camping Facilities and Beach Parking Lots – Amends Citywide User Schedule Resolution No. 2003-65 (Supplemental Fee No. 2) (340.20)

Councilmember Cook requested this item be removed from the Consent Calendar in order to clarify fee increases and the legality of a resident discount.

A motion was made by Cook, second Boardman to adopt **Resolution No. 2004-67** – “A Resolution of the City Council of the City of Huntington Beach Amending Resolution No. 2003-65 Entitled, “A Resolution of the City Council of the City of Huntington Beach Establishing a Citywide User Schedule for Charges for Facility Rentals and Recreation Services” (Supplemental Fee Resolution No. 2) Relating to Fees for Parking at the Sports Complex, Camping Facilities and Beach Parking Lots.” **as amended** to eliminate the discount for residents. The motion carried by the following roll call vote:

AYES: Sullivan, Boardman, Cook, Houchen
 NOES: Coerper
 ABSENT: Hardy
 ABSTAIN: Green

(City Council) Adopted Resolution No. 2004-71 Levying a Retirement Property Tax Rate for Fiscal Year 2004-2005 of .00696% Representing Cost of Pre-1978 Benefits (340.90)

The City Council considered a communication from the City Attorney and Administrative Services Director transmitting the following **Statement of Issue**: Should the City adopt a tax rate consistent with the City Charter and California State Law? The fiscal year 2004-2005 General Fund proposed budget includes estimated retirement tax revenue of \$1.4 million to fund a portion of cost of the pre-1978 employee retirement benefits. The remaining costs will be paid from other available city revenue.

City Attorney Jennifer McGrath gave an oral report.

A motion was made by Sullivan, second Coerper to adopt **Resolution No. 2004-71** – “*A Resolution of the City Council of the City of Huntington Beach Levying a Retirement Property Tax for Fiscal Year 2004-2005 to Pay for Pre-1978 Employee Retirement Benefits,*” of .00696% of assessed value (approximately \$7.00 per \$100,000 of assessed value).

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

(City Council) Adopted Ordinance No. 3658 Amending Chapter 14.55 of the Huntington Beach Municipal Code Relating to Annual CPIU (Consumer Price Index for all Urban Consumers) Adjustment for Sewer Service (300.20)

After the City Clerk read by title, a motion was made by Boardman, second Coerper to adopt **Ordinance No. 3658** - “*An Ordinance of the City of Huntington Beach Amending Chapter 14.55 of the Huntington Beach Municipal Code Relating to Annual CPIU Adjustment for Sewer Service*” amending Chapter 14.55 of the Huntington Beach Municipal Code Relating to Rates, Charges, Annual CPIU (Consumer Price Index for all Urban Consumers) Adjustments and Billing Methodology for the Sewer Service Charge. (Approved for introduction at the August 2, 2004 Council Meeting.) The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

(City Council) Adopted Ordinance No. 3659 Amending Chapter 13.52 of the Huntington Beach Municipal Code Relating to Public Buildings and Cellular Phone Use (210.10)

After the City Clerk read by title, a motion was made by Boardman, second Sullivan to adopt **Ordinance No. 3659** – “*An Ordinance of the City of Huntington Beach Amending Chapter 13.52 of the Municipal Code Relating to Public Buildings and Cellular Phone Use.*” (Approved for introduction as amended at the August 2, 2004 Council Meeting.)

The motion carried by roll call vote.

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

(City Council) Adopted Ordinance No. 3660 Amending Chapters 10.04, 10.60, and 10.68 of the Huntington Beach Municipal Code Relating to Parking (560.20)

After the City Clerk read by title, a motion was made by Sullivan, second Boardman to adopt **Ordinance No. 3660** – *“An Ordinance of the City of Huntington Beach Amending Chapters 10.04, 10.60, and 10.68 of the Huntington Beach Municipal Code Relating to Parking.”* (Approved for introduction at the August 2, 2004 Council Meeting.)

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: Hardy

(City Council) Approved for Introduction Ordinance No. 3662 Amending Chapter 2.86 of the Huntington Beach Municipal Code Relating to the Powers and Duties of the Library Director (700.10)

The City Council considered a communication from the City Attorney transmitting the following **Statement of Issue:** Whether or not to adopt Ordinance No. 3662. This ordinance would give enforcement powers/duties to the Library Director to issue administrative citations.

After the City Clerk read by title, a motion was made by Sullivan, second Boardman to approve for introduction **Ordinance No. 3662** entitled *“An Ordinance of the City of Huntington Beach Amending Chapter 2.86 of the Huntington Beach Municipal Code Relating to Powers and Duties of the Library Director.”* The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
NOES: None
ABSENT: Hardy

(City Council) Approved Mayor Cathy Green as the Voting Delegate and Mayor Pro Tem Jill Hardy as Alternate to the Annual League of California Cities Conference (120.25)

The City Council considered a communication from Mayor Cathy Green transmitting the following **Statement of Issue:** The Annual Conference for the League of California Cities will be held in Long Beach from Friday, September 17 through Sunday, September 19.

An important aspect of the annual conference is the annual business meeting when the membership takes action on conference resolutions. Each city is entitled to one vote in matters affecting municipal or League policy. The League has requested that we notify them no later than Friday, August 20, 2004 of the names of our delegate and alternate.

Traditionally the City Council has appointed the Mayor as its delegate. Since I am planning to attend the conference this year, I respectfully request that the Council appoint me as the City's official delegate. I would also request that Mayor Pro Tem Hardy be appointed as the alternate.

A motion was made by Boardman, second Sullivan to appoint **Mayor Cathy Green** to serve as the delegate and **Mayor Pro Tem Jill Hardy** to serve as the alternate delegate for the City of Huntington Beach at this year's Annual Conference of the League of California Cities, September 17th through September 19th. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

**(City Council) Directed Staff to Post Signs on Pier to Protect Wildlife – Approved
 Amendment to Place Signs Only in Fishing Areas (120.10)**

The City Council considered a communication from Councilmember Connie Boardman transmitting the following **Statement of Issue**: Each year dozens of Elegant Terns, Skimmers, Caspian Terns and their chicks die on the nesting islands at Bolsa Chica when one bird returns to the island with fishing line trailing from it. These birds nest very closely together and when one returns with fishing line, many become tangled up in the line and starve to death.

Often the birds become tangled as they grab at either a baitfish or other fish on a fishing line. The person fishing becomes panicked at the idea of harming the bird and cuts the line, leaving a long string of line for the bird to bring back to the nesting area. As cruel as it seems the best thing to do is to reel the bird in and cut the line as close to the bird as possible. Another alternative is to reel in the bird and take it to the Wetlands and Wildlife Care Center on Newland and Pacific Coast Highway.

While on vacation in the Eastern Sierra recently, I noticed signs around lakes and streams advising those fishing to be responsible with their discarded fishing line since wildlife and humans can get tangled in it. Since many of the terns that nest at Bolsa Chica fish in the water near our pier, I think similar signs on our pier could help alleviate the problem of breeding birds and their chicks becoming tangled in fishing line.

A motion was made by Boardman, second Cook to direct staff to post signs on our pier advising:
1. That wildlife and humans get caught in discarded fishing line and to throw away excess fishing line in a trash container rather than tossing it into the water or onto the pier; **and 2.** If a bird is mistakenly hooked, to cut the line as close to the bird as possible, even if that means having to reel it in; **and 3.** The location and phone number of the Wetlands and Wildlife Care Center.

Council discussion ensued relating to the costs involved and the placement of the signs. Councilmember Sullivan asked for an amendment to the motion to place the signs only in areas where fishermen congregate.

The **amended** motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
 NOES: None
 ABSENT: Hardy

(City Council) Directed Staff to Amend the Affordable Housing Ordinance and Return to Council (120.90)

The City Council considered communication from Councilmember Connie Boardman transmitting the following **Statement of Issue**: The City of Huntington Beach has had an affordable housing policy with respect to requiring new residential subdivisions to provide 10% of their units for low and moderate-income households. This policy implements the housing goals spelled out in the city’s certified Housing Element.

In 1993, the Planning Commission approved an Affordable Housing Ordinance that codified the policy that has been in place for 15 years, however, the ordinance was never formally adopted by the City Council.

A motion was made by Boardman, second Cook to direct staff to return to the City Council with the Affordable Housing Ordinance along with the appropriate modifications to reflect the necessary updates. The motion carried by the following roll call vote:

- AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen
- NOES: None
- ABSENT: Hardy

(City Council) Councilmember Coerper Recognized the Police Chief, the Fire Chief, and Staff (120.85)

Councilmember Coerper thanked Police Chief Kenneth Small for his outstanding work in regards to the public hearing. He also thanked Fire Chief Duane Olson and his staff for the Weapons of Mass Destruction Study Session.

(City Council) Mayor Green Offers Condolences to the Winstein Family. (120.85)

Mayor Cathy Green offered condolences to the Winstein Family for their loss.

Adjournment – City Council/Redevelopment Agency

Mayor Green adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, August 23, 2004, at 5:00 p.m., in the Council Chambers, Civic Center, 2000 Main Street Huntington Beach, California.

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-Chairman