

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

Tuesday, September 6, 2005  
5:10 P.M. - Room B-8  
6:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audiotape of the 5:10 p.m. portion of this meeting  
and a videotape of the 6:00 p.m. portion of this meeting  
are on file in the Office of the City Clerk.

The 4:00 p.m. portion of the meeting was recessed by Deputy City Clerk Kelly Mandic to 5:00 p.m. in Room B-8 due to a lack of quorum.

**Call to Order**

Mayor Hardy called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:10 p.m. in Room B-8.

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

Present: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
Absent: None

**Public Comments** - None

**The City Clerk Announced No Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced no Late Communications regarding agenda items had been received by her office following distribution of the agenda packet.

**Motion to Recess to Closed Session – Approved**

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

**(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 **Vera Galitzen v. City of Huntington Beach**, Orange County Superior Court Case No. 05CC05802. Subject: **Vera Galitzen v. City of Huntington Beach**. (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 **Maneck Bhujwala v. City of Huntington Beach**, Orange County Superior Court Case No. 05CC02532. Subject: **Maneck Bhujwala v. City of Huntington Beach**. (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Penelope Culbreth-Graft, City Administrator; Dan Villella, Finance Officer; and Irma Youssefieh, Human Resources Manager regarding labor relations matters – meet and confer with the following employee organizations: **SCLEA and MSOA**. Subject: **Labor Relations – Meet & Confer**. (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.8 to give instructions to the City's Negotiator, **Deputy City Attorney Leonie Mulvihill**, regarding negotiations with **Fountain Valley School District** concerning the purchase of the property located at **9191 Pioneer Drive**. Instruction will concern: Both price and terms of payment. Subject: **Real Property Negotiations re: Purchase of Property Located at 9191 Pioneer Drive**. (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.8 to give instructions to the City's Negotiator, **Deputy City Attorney Leonie Mulvihill**, regarding negotiations with **Fountain Valley School District** concerning the purchase of the property located at **10251 Yorktown Avenue**. Instruction will concern: Both price and terms of payment. Subject: **Real Property Negotiations re: Purchase of Property Located at 10251 Yorktown Avenue**. (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – 6:11 P.M. – Council Chambers.**

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

Present: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
Absent: None

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

Mayor Hardy 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.

Fire Chief Duane Olson made an announcement about public safety in the Chambers, asking those standing in the back of the room to relocate to the seats in the adjacent rooms.

Mayor Hardy announced the passing of Fire Department employee Marianne Vinson on September 6, 2005 and of Chauncey Alexander, long time community activist, on August 30, 2005.

**Pledge of Allegiance** – Led by Mayor Hardy

**Invocation** – Led by Father Christian Mondor, Saints Simon and Jude

#### **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 Susan Worthy dated September 2, 2005 titled "*Business Improvement District (BID) complaint.*"

Communication submitted by Gregory K. Herr, Planning and Resources Specialist of the Irvine Ranch Water District (IRWD) stating the IRWD considers the response to their May 27, 2005 comment letter for the Draft Recirculated Environmental Impact Report (DREIR) to be inadequate.

Communication submitted by Margaret Carlberg dated August 31, 2005 supporting the construction of the Poseidon Water Treatment Facility in Huntington Beach.

Communication submitted by John Trommald dated September 1, 2005 supporting Poseidon Resources.

Communication submitted by Stephanie Chow received by the City Clerk's office September 2, 2005 in favor of approving the proposed Huntington Beach water treatment facility.

Communication submitted by Bob Polkow dated September 6, 2005 in favor of approving the proposed Huntington Beach water treatment facility.

Communication submitted by Ann Tweedy dated September 1, 2005 in opposition to the development of the proposed Huntington Beach water treatment facility.

Communication submitted by Jill Fabian dated September 6, 2005 stating opposition to the seawater desalination project (Poseidon.)

Communication submitted by Mike Grumet dated September 6, 2005 stating support for the seawater desalination project.

E-mail from the Hblifeguy@aol.com dated September 6, 2005 stating support for the desalination project.

Communication from Ronald A. Van Blarcom of Van Blarcom, Leibold, McClendon & Mann, P.C. the firm that represents Poseidon Resources Corporation dated September 6, 2005 and titled *Certification of Recirculated Environmental Impact Report No. 00-02 (Seawater Desalination Project at Huntington Beach); Agenda Item D-4a for the September 6, 2005 Council Meeting* stating the REIR meets all of the legal requirements imposed under CEQA and requesting that Council certify the REIR.

Communication from Billy Owens, Sr. Vice President of Poseidon Resources dated September 6, 2005 requesting twenty (20) minutes at the Public Hearing on the seawater desalination project to present Poseidon's view on the proposal for the city and for the record of the hearing.

Communication from Allan L. Roeder, City Manager, City of Costa Mesa dated September 6, 2005 titled *Environmental Impact Report 00-02; Seawater Desalination Project in Huntington Beach* requesting information provided with the letter be included as part of the Public Record.

Communication from Billy Owens, Sr. Vice President of Poseidon Resources dated September 6, 2005 transmitting comments for the record regarding Agenda Items D-4a and D-4b and requesting certification of the Recirculated EIR, Administrative Approval of CUP/CDP and outlining other items for clarification.

Communications delivered to City Councilmembers via the U.S. Post Office, e-mail or hand delivered and received after packet distribution of August 31, 2005 and prior to 4 p.m. September 6, 2005. Emails in support – 15, opposition – 62; Postcards in support - 525, opposition - 740; Letters in support – 12, opposition – 7. The numbers indicate item count only and do not indicate the number of households or individuals.

Communication from James C. Hughes of McKenna Long & Aldridge, Attorneys at Law dated September 6, 2005 titled *Bella Terra Shopping Center, Proposed Zoning Amendment to Specific Plan No. 13* stating opposition to the proposal in its entirety and advising that adoption of the proposal with respect to SP 13 is legally impermissible.

Communication submitted by Tom Luster, Energy and Ocean Resources Unit, California Coastal Commission dated September 6, 2005 titled *Proposed Certification of EIR for Poseidon Desalination Facility*.

Communication submitted by Jim Adams, undated, titled *Citizens for Clean Water, affiliated with the LA/O Building & Construction Trades Council*, which is a collection of 63 letters in support of the Poseidon Resources desalination project.

**The Following Additional Late Communications Were Submitted During the Meeting:**

Communication submitted by Jim Adams dated September 6, 2005 titled *Public Hearing for the proposed Poseidon Desalination Project*, in support.

Communication submitted by Randy Kokal dated September 19, 2002 titled *Poseidon Seawater Desalination Project Draft Environmental Impact Report (EIR No. 00-02)*, which is an inter-department communication from Howard Zelefsky, Planning Director to Planning Commission members.

PowerPoint slide report submitted by Edward DeMeulle, undated, titled *Leadership – The Essence of Leadership is Vision*.

PowerPoint slide report submitted by Eileen Murphy, undated, titled *Desalination Task Force Members*.

Two communications submitted by David and Tim Geddes: a PowerPoint slide report, undated, titled *Poseidon Pipeline Obstacles and Impacts* and a document containing 104 signatures titled *Southeast Huntington Beach Neighborhood Petition Opposing the Poseidon Resources Corp. Desalination Plant*.

PowerPoint slide report submitted by Dr. Bob Smith, undated, titled *Observation 1*.

PowerPoint slide report submitted by Topper Horack, undated, titled *Recirculated Environmental Impact Report (REIR) No. 00-02, Seawater Desalination Facility*.

Communication submitted by Shannon Pankratz dated December 14, 2004 titled *The Poseidon Plant: Desalination in Huntington Beach*.

PowerPoint report submitted by Jan Vandersloot, undated, titled *Deficiencies in DREIR for Poseidon Desalination Facility relating to Biological Impacts including Entrainment, Impingement, and Salinity*.

Communication submitted by Connie Boardman dated April 9, 2001 titled *Comments of the City of Huntington Beach on the Presiding Member's Proposed Decision*, which is a copy of a document heard before the Energy Commission of the State of California.

PowerPoint slide report submitted by Marinka Horack, undated, titled *Negative Impact of a Private Pipeline and Traffic on Huntington Beach*.

PowerPoint report submitted by Councilmember Debbie Cook, undated, titled *Water-Energy Comparison*.

**Presentation** - Mayor Jill Hardy called on Ron McLin, President of the Huntington Beach Restaurant Association, who presented a check to JoAnne Rankin who is President of the Friends of the Children's Library and Principal Librarian Nanci Williams. The money was raised from the Taste of Huntington Beach event. (160.40)

**Presentation** - Mayor Jill Hardy called on Senior Services Supervisor Randy Pesqueira to introduce Council on Aging President Bob Dettloff. COA President Bob Dettloff presented a check for \$18,000 to the City of Huntington Beach Senior Services for their Care Management Program. (160.40)

**Presentation** - Mayor Jill Hardy presented commendations to the members of the South Huntington Beach Girls' Fastpitch Softball team called the "Surf City Heat." The team took second place in the Western B All-Star National Championships. (160.40)

#### **(City Council) Announcements Made Regarding Hurricane Katrina Efforts (120.85)**

Councilmember Coerper made an announcement about Hurricane Katrina and spoke regarding related fundraising efforts. Fire Chief Olson reported on collections of relief funds, and of deployment of two teams (four individuals) to help. He announced collections of funds are also being made at Pier Plaza. Councilmember Coerper announced \$50,000 donations from Aera Energy Systems. Police Chief reported on department members who volunteered to help in Louisiana. Mayor Hardy announced that donation items are still being collected at City Hall through September for the Second Harvest Food Bank, whose efforts will also benefit hurricane victims.

#### **Public Comments**

**Gerald Chapman** spoke regarding the Consent Calendar item pertaining to Resolution 2005-59 stating that he lives in the related assessment district. Mr. Chapman proposed Council direct money into the infrastructure fund rather than the general fund, and stated his opinion that funds should be used to the benefit of citizens.

**Reverend Bruce Templeton**, Minister of First Christian Church of Huntington Beach, expressed his appreciation for residents who participated in relief efforts, collecting 110,000 lbs of food & water and raising approximately \$60,000.00.

**Allen Baylis**, resident, spoke regarding the agenda item pertaining to lattice fence extensions with Neighborhood Notification stating concerns that fees required for notification cost more than material to construct the improvements.

**Mike Adams** spoke regarding the agenda item pertaining to a proposed amendment to Specific Plans voicing his concerns about the proposed changes and the appeal process for developers. Mr. Adams encouraged Council to continue with discussion of the item and to take no action at this meeting.

**Lindsay Parton**, spoke on behalf of DJM Capital Partners, Inc and J.H. Snyder Corp., asking Council to reconsider approving the agenda item pertaining to a proposed amendment to Specific Plans. Ms. Parton stated concerns about delays that she said will be caused in development projects by the changes.

**Je'net Krectner** spoke on behalf of the Second Harvest Food Bank and gave an update on food drive results. She announced donations made by the Huntington Beach Auto Dealers Association and collected at resident Erica Zelmer's block party. Ms. Krectner challenged each City resident to bring a case of water to City Hall to help with the relief effort.

**Dick Harlow**, Chairman of the Chamber of Commerce Community Development Committee spoke regarding the agenda item pertaining to a proposed amendment to Specific Plans and the Conditional Use Permit (C.U.P.) process. He requested Council hold a meeting to address concerns before action is taken. Mr. Harlow also stated concurrence with a previous speaker who asked surplus funds be sent to the infrastructure fund, with regards to the Consent Calendar item pertaining to Resolution 2005-59.

**Ron McLin** spoke in favor of the Downtown Business Improvement District (B.I.D.), of progress made by the district and goals set for the future.

**Norm Firecracker Westwell** asked Council to move the agenda item pertaining to the seawater desalination project (Poseidon) up on the agenda to be held after public comments.

**Carole Ann Wall**, affiliated with the Therapeutic Riding Center, described the services provided by the Center and announced an October fest fundraising event being held on September 11, 2005. Ms. Wall announced tickets include admission and dinner with many different activities, further information can be obtained at hbtrc.com or 960-4675 and Old World is donating services.

**Steve Stafford** voiced his opinion on the Consent Calendar item pertaining to an agreement between the City and the County for Animal Care Services stating that the City should operate its own animal control. Mr. Stafford also spoke on the agenda item pertaining to Verizon work on private streets, thanking Councilmember Cook for bringing the item to the Council and stating concerns about Verizon's construction.

**(City Council) Continued to September 19, 2005 - Verizon Work on Private Streets (120.90)**

The City Council considered a communication from Councilmember Cook transmitting the following **Statement of Issue**: Verizon's "Fiber to the Premises" (FTTP) project involves street work throughout most of Huntington Beach. Verizon is required to obtain a Utility Encroachment Permit from the Public Works Department for inspection of work within the public right-of-way. The construction work affecting street pavement and concrete sidewalk areas consists of boring and open cut trenching to install conduits through which the fiber optic cables will be pulled.

The Public Works Department has the ability to require street restoration and concrete replacement in the public right-of-way. On private streets, areas covered by homeowners associations (HOA), Verizon may request access to these areas directly through the HOA with no Public Works encroachment permit required. Most HOAs do not have the expertise to condition and inspect the work of Verizon's subcontractors.

It is important that these HOAs be provided the opportunity to retain professional assistance to properly oversee the work on their private streets and sidewalks. This assistance could be made available by private consulting inspection firms or through the city's Public Works Department.

**Recommended Action:**

1. Direct staff to develop a communication tool that provides HOAs the adopted standards for restoration of infrastructure so that each HOA may retain its own consulting inspection; and/or
2. Direct staff to develop a "template" agreement in coordination with the City Attorney's office that allows HOAs to compensate the city for inspection services. Include in the agreement the necessary releases of liability.

Each of these approaches would allow the HOAs to charge Verizon for the right to work on the private streets to offset the cost of inspection.

A motion was made by Cook, second Sullivan to continue the agenda item pertaining to Verizon work on private streets to the next regular Council Meeting September 19, 2005. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
NOES: None  
ABSENT: None

A motion was made by Hansen (no second) to suspend Public Comments on the seawater desalination project until the public hearing is opened. Mayor Pro Tem Sullivan stated his opposition to motion. Mayor Hardy also stated opposition.

A substitute motion was made by Bohr, second Sullivan to move the agenda item pertaining to the seawater desalination project to before the other public hearings. Mayor Hardy stated her opposition to the motion.

Councilmember Bohr suggested amending the motion to continue the other three Public Hearing items on the agenda until September 19, 2005. The Second to the motion agreed. The motion carried by the following roll call vote:

AYES: Coerper, Sullivan, Hardy, Green, Bohr, Cook  
NOES: Hansen  
ABSENT: None

**(City Council) Public Hearing Continued to September 19, 2005 -- Resolution No. 2005-58 Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District for Fiscal Year 2005-2006 (460.30)**

The City Council considered a communication from the Acting Director of Economic Development transmitting the following **Statement of Issue**: At the City Council meeting of August 15, 2005 the City Council approved Resolution No. 2005-57. This action declared the

City's intention to levy an assessment for the Huntington Beach Hotel/Motel Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the Resolution, Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year.

**Recommended Action:** Motion to:

1. Conduct Public Hearing

and

2. Adopt City Council **Resolution No. 2005-58** – *“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 2005-2006.”*

On motion by Bohr, second Sullivan (Approved 6-1) the Public Hearing was continued to September 19, 2005.

**(City Council) Public Hearing Continued to September 19, 2005 – Resolution No. 2005-60 Approving an Annual Assessment Within the Huntington Beach Downtown Business Improvement District for Fiscal Year 2005-2006** (460.30)

The City Council considered a communication from the Acting Director of Economic Development transmitting the following **Statement of Issue:** At the City Council meeting of August 15, 2005, the City Council approved Resolution No. 2005-53. This action declared the City's intention to levy an assessment for the Huntington Beach Downtown Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the Resolution, BID Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year, assuming the protest threshold is not reached.

**Recommended Action:** Motion to:

1. Conduct public hearing.

and

2. Adopt City Council **Resolution No. 2005-60** *“A Resolution of the City Council of the City of Huntington Beach Approving An Annual Assessment Within the Huntington Beach Downtown Business Improvement District for Fiscal Year 2005-2006.”*

On motion by Bohr, second Sullivan (Approved 6-1) the Public Hearing was continued to September 19, 2005.

**(City Council) Public Hearing Continued to September 19, 2005 – Resolution No. 2005-61 Approving an Annual Assessment for the Huntington Beach Auto Dealers Business Improvement District for Fiscal Year 2005-2006.** (460.30)

The City Council considered a communication from the Acting Director of Economic Development transmitting the following **Statement of Issue:** At the City Council meeting of August 15, 2005, the City Council approved Resolution No. 2005-52. This action declared the

City's intention to levy an assessment for the Huntington Beach Auto Dealers Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the Resolution, BID Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year.

**Recommended Action:** Motion to:

1. Conduct Public Hearing

and

2. Adopt City Council **Resolution No. 2005-61** – *“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 2005-2006.”*

On motion by Bohr, second Sullivan (Approved 6-1) the Public Hearing was continued to September 19, 2005.

#### **Public Comments**

**John F Scott**, 33-year Southeast resident gave a PowerPoint report depicting various “Visions” of Southeast Huntington Beach and spoke in opposition to the proposed Poseidon Desalination Plant.

**Jerry Falabella**, homeowner since the 1970's, voiced concerns about what he stated were streets torn up due to sewer pipe and other construction and opposition to more street construction for a desalination pipeline. Mr. Falabella also voiced concern that water produced by the proposed plant will not be used in Huntington Beach, and the effects of the plant on the ocean and environment.

**Richard Kelly**, long-term resident, spoke regarding environmental concerns associated with the Poseidon project and asked Council to do what is best for the City and the City's beach.

**Gerald Caterina**, 25-year resident, voiced his opinion that the developer is behind all support for the desalination project. Mr. Caterina also spoke regarding property taxes, suggesting a contractual relationship between Poseidon and the City be formed to ensure the City receive a discounted rate for water.

**Joe Jeffrey**, 33-year resident, spoke in favor of the proposed desalination plant and refuted claims of those opposed to the project. He stated benefits of the project including no cost to the City, increased taxes collected by the City, improvement of the AES site, and job-creation. Mr. Jeffrey referred to the proposed plant as a win-win situation.

**Rich Kolander**, retired Boeing engineer, spoke to address claims made by Southeast Huntington Beach Neighborhood Association. Mr. Kolander refuted some comments made, including those made about the need for additional water sources in Huntington Beach, and asked Council to place more value on expert opinions.

**Shawn Thompson-McGarrigle**, registered civil engineer, urged Council to deny the seawater desalination project Conditional Use Permit and Coastal Development Permit. She stated her concerns included those with water quality and environmental. Ms. McGarrigle also expressed concerns about energy required to operate the proposed desalination plant.

**Michael Scavo**, referred to the AES plant construction and permits and spoke in favor of the proposed desalination plant and the need for more water in the City. Mr. Scavo also listed other benefits to the City, including increased tax income and emergency access to water.

**Tim Baker**, 36-year resident, stated his opposition to the proposed desalination plant due to pollution concerns.

**Bill Gregory**, 20-year resident representing the Huntington Beach/Seal Beach Chapter of Surfrider Foundation, spoke in opposition to Poseidon but not in opposition to seawater desalination. He stated his opinion that Poseidon has not addressed the water quality concerns. Mr. Gregory also stated his opinion the Environmental Impact Report (EIR) does not cover the benefits of conservation.

**Eric Owen**, 38-year resident, spoke in favor of the proposed desalination plant since it will increase the water supply.

**Monika Galluccio**, 12-year resident, voiced environmental concerns in opposition to the proposed desalination plant. She stated her opinion the ocean in Huntington Beach is "sick" and must be cleaned up, and gave examples of efforts made by her family to conserve and protect the environment. Ms. Galluccio asked Council to check the background of the Poseidon company before moving forward.

**Brittini Newman** spoke in opposition to the seawater desalination plant stating environmental concerns and enjoyment of a clean ocean.

**(City Council) Councilmember Coerper and Mayor Pro Tem Sullivan Reported on "3/1" Marine Battalion (110.20)**

Councilmember Coerper reported on the "3/1" Marine Battalion announcing that some marines are being sent back to Iraq. He also showed pictures of an event held at Camp Pendelton, and announced that his son returns from Iraq September 9, 2005. Mayor Pro Tem Sullivan also reported on the event and the sponsorship.

Mayor Hardy announced 9-11 Remembrance Event to be held at 11:00 a.m. at Pier Plaza on September 11, 2005.

**(City Administrator's Report) Penny Culbreth-Graft Recognized Three Outstanding Staff Members (100.30)**

City Administrator Penny Culbreth-Graft recognized three outstanding staff members who have filled roles in interim positions during the last few months. Public Works Director Robert Beardsley was recognized for his work as Interim Assistant City Administrator. Deputy City Administrator Paul Emery was recognized for his work as Interim Public Works Director. Information Services Business Manager Behzad Zamanian was recognized for his work as Interim Information Services Director.

**(City Council) Part 1 of 2 Parts of Public Hearing Held: Certified Recirculated Environmental Impact Report (REIR) No. 00-02 for Seawater Desalination Project (Poseidon) - Approved Resolution No. 2005-62. For Part 2 – See Agenda Item to Follow. (520.70)**

Mayor Hardy announced that this was the time noticed for a public hearing to consider the following:

**Applicant:** Poseidon Resources Corporation

**Request:** To analyze the potential environmental impacts associated with the implementation of a proposed 50 million gallons per day seawater desalination project.

**Location:** 21730 Newland (east side, south of Edison Avenue)

**Project Planner:** Ricky Ramos, Associate Planner

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

Associate Planner Ricky Ramos gave a PowerPoint report titled *Recirculated Environmental Impact Report (REIR) No. 00-02, Seawater Desalination Facility*, which was included in the agenda packet.

Councilmembers made preliminary inquiries regarding impingement and entrainment reports, holding tanks, buffers between established and new pipelines, manifolding, urban runoff, and the difference between the EIR and the CUP/CDP. Staff responded to all inquiries and Public Works Director Robert F. Beardsley agreed to research the required distance between water and sewer lines. Principal Planner MaryBeth Broeren reported that the EIR is a report and the CUP/CDP are land use decisions. Planner Ramos then gave a PowerPoint report titled CUP No. 02-04/CDP No. 02-05, Poseidon Seawater Desalination Plant, which was included in the agenda packet.

Mayor Hardy declared the public hearing open.

Prior to announcing the public speakers, the City Clerk restated for the record the following Late Communications which pertain to this public hearing:

Communication submitted by Gregory K. Herr, Planning and Resources Specialist of the Irvine Ranch Water District (IRWD) stating the IRWD considers the response to their May 27, 2005 comment letter for the Draft Recirculated Environmental Impact Report (DREIR) to be inadequate.

Communication submitted by Margaret Carlberg dated August 31, 2005 supporting the construction of the Poseidon Water Treatment Facility in Huntington Beach.

Communication submitted by John Trommald dated September 1, 2005 supporting Poseidon Resources.

Communication submitted by Stephanie Chow received by the City Clerk's office September 2, 2005 in favor of approving the proposed Huntington Beach water treatment facility.

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E-mail from the Hblifeguy@aol.com dated September 6, 2005 stating support for the desalination project.

Communication from Ronald A. Van Blarcom of Van Blarcom, Leibold, McClendon & Mann, P.C. the firm that represents Poseidon Resources Corporation dated September 6, 2005 and titled *Certification of Recirculated Environmental Impact Report No. 00-02 (Seawater Desalination Project at Huntington Beach); Agenda Item D-4a for the September 6, 2005 Council Meeting* stating the REIR meets all of the legal requirements imposed under CEQA and requesting that Council certify the REIR.

Communication from Billy Owens, Sr. Vice President of Poseidon Resources dated September 6, 2005 requesting twenty (20) minutes at the Public Hearing on the seawater desalination project to present Poseidon's view on the proposal for the city and for the record of the hearing.

Communication from Allan L. Roeder, City Manager, City of Costa Mesa dated September 6, 2005 titled *Environmental Impact Report 00-02; Seawater Desalination Project in Huntington Beach* requesting information provided with the letter be included as part of the Public Record.

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Communication submitted by Tom Luster, Energy and Ocean Resources Unit, California Coastal Commission dated September 6, 2005 titled *Proposed Certification of EIR for Poseidon Desalination Facility*.

Communication submitted by Jim Adams, undated, titled *Citizens for Clean Water, affiliated with the LA/O Building & Construction Trades Council*, which is a collection of 63 letters in support of the Poseidon Resources desalination project.

**Billy Owen**, Applicant, commented on proposed Poseidon water pipelines and introduced two other speakers on behalf of the applicant. He also announced the names of three other individuals representing Poseidon who were available to answer questions.

**Andy Kingman**, CEO of Poseidon Resources, presented a PowerPoint report that gave an overview of Poseidon's background and successes, the project, and the proposed facility outlining the benefits to the City.

**Ron Devine**, pipeline construction engineer for Poseidon, gave a PowerPoint report detailing the proposed pipeline route and clarifying the difference between a water pipeline and a sewer pipeline.

Council discussion was held regarding preliminary supply agreements, sizes of pipes and pressure inside pipes, level of the water table, pipe crossings, hours of operation, examples of unpredictable emergencies, heat treatment, power shortages, chemicals used at the facility, and water rates.

### **Public Comments**

**Dean Albright**, affiliated with Huntington Beach Tomorrow, referred to a communication he had previously distributed to Council. He spoke of dam and water tours, water treatment plants, and projected the 20-year need for water sources. Mr. Albright suggested the CUP be discussed at a later date.

**Nancy Donaven** voiced findings and recommendations made by a task force she said was in opposition to the proposed Poseidon plant. Ms. Donaven stated disadvantages of the project to the City, and asked Council not to certify the EIR.

**Joe Carchio**, Downtown Huntington Beach restaurant owner, spoke in favor of the project and of an increased water supply. Mr. Carchio also announced a September 11 all day fundraiser from noon to 9 p.m. with funds to be given to the Red Cross, and the sponsorship of a hurricane-affected family.

**Ms. El-Ahraf** spoke on behalf of Dr. Amer El-Ahraf, professor for environmental health, in opposition to the desalination plant citing environmental concerns. Ms. El-Ahraf asked Council to find the EIR inadequate as some experts have.

**Ed Zschoche**, 32-year South Huntington Beach resident, voiced concerns for quality of life in his neighborhood and opposition to the proposed plant. Mr. Zschoche gave examples of other areas of the City that were redeveloped to the benefit of property values.

**Craig Keshishian** spoke on behalf of Congressman Dana Rohrabacher and read a letter from the Congressman addressed to the Mayor. The letter stated support for the project as an additional water source for Huntington Beach. Mr. Keshishian urged Council to certify the EIR.

**Brian Lochrie** spoke in favor of the project citing needs for water and tax dollars. Mr. Lochrie referred to water district findings that water needs will exceed demands by 2025, and that the proposed site for the plant is ideal.

**Eileen Murphy**, affiliated with Residents for Responsible Desalination, spoke in opposition to the project and asked Council to deny the EIR as inadequate. Ms. Murphy also spoke regarding desalination task force members and their mission.

**Merle Moshiri** referred to over 4,300 cards she said were submitted to Council in opposition to the proposed project. Ms. Moshiri thanked volunteers, and discredited claims made by Poseidon.

**Dr. Bob Smith**, Professor at California State University Long Beach, presented four observations in rebuttal to the EIR as detailed in a PowerPoint slide report.

**Ken Maylone** voiced his support for the proposed desalination project and displayed a chart to illustrate dispersion of the contents of the outfall pipe.

**Ron Van Blarcom**, Attorney for Poseidon with Van Blarcom, Leibold, McClendon & Mann, referred to a letter he submitted to Council and stated his availability for questions. Mr. Van Blarcom encouraged Council to follow the staff recommendation and certify the EIR.

**Jim Adams**, building & construction trade union attorney, spoke in support of approving the EIR and CUP stating the project is good for the community, will create jobs, and help ease drought. Mr. Adams refuted any negative impacts on marine life.

**Katie Ageson**, Southeast resident, spoke in support of the project. She stated 65% of residents in 92646 support the project, with over 3,000 cards submitted in support. Ms. Ageson cited benefits of the project and urged Council to approve it in order to fund needed local improvements.

**Eddie Barnes**, local surfer since 1959, spoke in support of the project and spoke regarding project labor agreements (PLAs). Mr. Barnes asked Council to work on a remedy for the water shortage today.

**Elaine Archibald**, water quality consultant for public and private agencies, spoke about studies that support the claim that the AES power plant is not contributing to local water quality issues. Mr. Archibald asked council to certify the EIR.

**Cathy Daugherty**, President of National Association of Women Business Owners, Orange County Chapter spoke in favor of the project as a solution to water supply concerns. Ms. Daugherty asked Council to support the project.

**Dale Dunn**, 39-year resident, spoke in support of the project. Mr. Dunn asked Council to get started now in planning for the future needs of citizens.

**Barbara Delgleize**, Representative for Orange County Association of Realtors, spoke in support of the project. Ms. Delgleize asked Council to consider the long term with this issue and to approve the project tonight.

**Jeff Graham**, environmentalist and marine biologist, spoke regarding studies he had made of the issues and his conclusion that a desalination plant works well with an energy plant. Mr. Graham stated his support for the project.

**Scott Jenkins**, physical oceanographer, spoke regarding further studies made since the initial EIR and summarized that minimal changes to the EIR were necessary.

**Jim McLaughlin**, Huntington Beach realtor, spoke in support of the desalination plant and urged Council to certify the EIR and approve the CUP.

**David Mayer**, representing the firm that conducted intake studies, addressed comments made earlier that evening about the AES study and impingement concerns. Mr. Mayer stated support for the project.

Councilmember Cook inquired if the previous speaker read the AES study submitted to the CEC, and if the study was final. Mr. Mayer stated that the study was not final.

Councilmember Green inquired if impingement or entrainment were at 100%. Mr. Mayer responded that there is zero impingement and 95% entrainment.

**Ed Means**, drinking water quality consultant, spoke regarding water supply reliability and the contribution of desalination projects as well as the water quality of water produced by desalination plants, in support of the project.

Councilmember Cook spoke regarding a Yuma, Arizona water treatment facility that discontinued operations due to expenses, asking for the previous speaker's opinion. Mr. Means responded, stating that water supplied by that facility is not configured for Southern California due to water rights issues.

Councilmember Green inquired about a statement made that, "We are two winters away from water rationing." Mr. Means clarified the statement. Councilmember Green also commented on desalination plant subsidies. Councilmember Cook stated that subsidies are only available to public agencies, and Mr. Means concurred.

**Bob Harrison**, 35-year resident, spoke in support of the project and benefits to the City. Mr. Harrison also stated disadvantages to the City if the project is not approved.

**Don MacAllister**, former Mayor and Councilmember, gave a PowerPoint presentation and stated his support for desalination as a means to supply needed water.

**Dave Stefanides**, Orange County Association of Realtors representative, spoke in support of the project and of assistance, in the form of water supply, to rest of the county.

**Reed Royalty**, President of Orange County Taxpayers Association, spoke in support of the project, asserting four reasons why it is a good idea for Huntington Beach.

Councilmember Cook asked the previous speaker if his association supports subsidies. Mr. Royalty responded that in general, they do not.

**Cathy Meschuk** thanked the Councilmembers for their efforts. She asked Council to think of children and seniors that will benefit from the project. Ms. Meschuk also cited benefits to the City from increased tax dollars, and encouraged support of the project.

**Joyce Riddell**, Huntington Beach Chamber of Commerce Representative and 92646 Zip Code resident, stated support for the project citing future water supply concerns, tax revenue benefits, and minimal environmental impact. Ms. Riddell urged Council to approve the EIR, the CUP, and the CDP.

Councilmember Cook announced there are currently no written agreements that will increase revenues to the City, and any property taxes must be used in the redevelopment area.

Mayor Hardy inquired who would assess the tax base for the plant. Both staff and Applicant reported, and submitted written information in the form of an economic and fiscal impact report to Council.

**Glenn Nolte**, business representative for plumbers and steamfitters, spoke in favor of the project on behalf of union members. Mr. Nolte thanked Council for its efforts, and also spoke regarding Project Labor Agreements (PLAs).

**Ray Roberts**, resident since 1978 in 92646 Zip Code, spoke in opposition to the proposed plant. He stated opposition to the AES plant, environmental concerns, and cautioned Council to obtain adequate bonds to cover any potential construction damage. Mr. Roberts asked how he can obtain campaign contribution information.

**Bob Polkow** spoke in support of the project and gave reasons why it would benefit the City and its citizens. Mr. Polkow urged Council to approve the item.

**Lou deBottari** spoke in favor of the project and referred to a rebuttal study submitted to the Department of Water and Power (DWP). Mr. DeBottari stated concerns if AES goes out of business.

**Doug Korthof**, speaking on behalf of California Earthcorps, voiced his opposition to the project, stressed alternatives, and cited concerns with the Tampa Bay project. He alleged large desalination plants are not economically viable. Mr. Korthof stated his opinion that the EIR is inadequate.

**Pete Minko**, resident, spoke in opposition to the project citing environmental concerns, concerns with turbine engines, and financial concerns. Mr. Minko asked Council to carefully consider speakers' motives.

**Clayton King**, resident since 1978, in Zip Code 92646 since 1988, stated dissatisfaction with Poseidon's presentation and reasons for opposing the project including existence of conservation alternatives. Mr. King stated concerns that there are no customers signed up for the water to be produced by the plant.

**Lynda Hernandez**, resident of 92646 Zip Code, stated opposition to the project and refuted claims that assert money will be provided to the City via increased tax dollars.

**Marinka Horack** presented a PowerPoint report and voiced her opposition to the project stating concerns with the EIR, the pipeline project, the Ascon-Nesi cleanup and traffic impacts from laying of the pipeline.

A motion was made by Green, second Cook pursuant to Resolution No. 2004-95, due to the hour of the evening, to continue with the public hearing. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
NOES: None  
ABSENT: None

**Eric Pendergraft**, General Manager of AES power plant and resident, spoke regarding AES operations, entrainment and impingement impacts, and other issues raised by opponents of the project.

**Edward DeMeulle**, Southeast Huntington Beach resident, presented a PowerPoint report and spoke in opposition to the project citing tourism concerns. Mr. DeMeulle spoke in favor of adding commercial rather than industry to southeast Huntington Beach and asked Council to deny the EIR

**John McGregor**, resident since 1969, refuted claims made on T-shirts worn by other meeting attendees, specifically regarding tax funds.

**David Geddes** spoke in opposition to the project and gave a PowerPoint report enumerating perceived obstacles and impacts. The three obstacles Mr. Geddes cited were: pipeline proximity to the Ascon-Nesi site, drainage channel issues, and the sewer pipeline.

**Tim Geddes** spoke in opposition to the project and gave more specific information relative to the obstacles addressed by the prior speaker.

**Scott Smith**, Huntington Beach resident, read a letter from a Tampa Bay resident. The letter cited concerns with the Florida water treatment project and advised Huntington Beach vote "No" on the desalination project. Mr. Smith asked Council to do due diligence with regards to the guarantee bonds.

**Paul Horgan**, resident of 92648 Zip Code, spoke in opposition to the project stating environmental concerns and a perceived lack of benefits to the City. Mr. Horgan asked Council to deny the EIR.

**Terry Schnitzer**, South Huntington Beach resident, spoke regarding the Guantanamo Bay desalination plant success from her experience living there. Ms. Schnitzer stated her support for the project.

**Milt Dardis**, 36-year 92646 Zip Code resident, spoke regarding the fiduciary responsibility councilmembers have to citizens to fully investigate Poseidon. Mr. Dardis stated his opposition to Poseidon.

**Julian Vochelli**, 32-year resident, voiced concerns with Poseidon's project history and opposition to the project.

**Douglas Cable**, 22-year resident, spoke in opposition to the project, questioning the validity of Poseidon's survey, and stating concerns about methane and other chemicals.

**Flossie Horgan** voiced her opposition to Poseidon citing examples of failed projects and stated Poseidon's record of performance is questionable.

**Dr. Dallas Weaver**, resident since 1975, referred to a letter from Mr. Luster he had downloaded from the website of those in opposition to the project. Dr. Weaver alleged statements made in the letter are incorrect or misleading.

**Elaine Booth** spoke on behalf of Women for Orange County stating opposition to the project and support for greater conservation. Ms. Booth urged Council to vote "No."

**Steve Spanier**, with the Orange County chapter of Reclaimdemocracy.org, stated his concern with private access to a public trust such as water.

**Joe Geever**, Southern California Regional Manager of the Surfrider Foundation, spoke in opposition to the project stating that the EIR is flawed. Mr. Geever voiced concern for the mortality of marine life.

**Stephanie Pacheco** urged a "No" vote on the project citing energy concerns, noise concerns from turbine pumps, funding concerns, and potential for improvement in the area of conservation.

**Carol Hughes**, 30-year resident, spoke in opposition to the project stating concerns with impact on beaches, pollution, and with the Tampa Bay treatment plant.

**Larry Porter** urged Council to find the Poseidon EIR insufficient. Mr. Porter referred to comments made on postcards with the majority citing inadequacies.

**Victor Leipzig** stated he is a longtime environmentalist and supporter of the seawater desalination project. Mr. Leipzig voiced his support of the project as being less destructive than some other options.

Councilmember Cook commented on the Desalination Task Force, reclaimed water, and emergency water needs.

**Conner Everts**, former Water Board Member in Ojai, spoke in opposition to the project citing plant failures and lack of a water shortage. He asked Council to consider conservation and to vote "No" on the project.

**Delaney Gerlich**, affiliated with Statewide Desalination Response Group, stated her opposition to the project and concerns with energy usage, marine life mortality, and expenses.

**Sarah Abramson**, with Heal the Bay, asked Council to deny the REIR based on inadequacies including what she referred to as flawed biological studies. She encouraged Council to deny the project.

**Pat McCully**, 38-year 92646 Zip Code resident, stated support for desalination plants, however stated opinion that plant must be public rather than private.

**Randy Kokal**, former Planning Commission Chair, spoke in opposition to the proposed plant stating that important information was withheld from planning staff in the past. Mr. Kokal asked Council to deny the project.

**Pete Hemphill** spoke in opposition to the project and commented on synergy and other issues.

**Cindy Cross** spoke in support of the project and asked Council to look beyond 20-25 years for water resources. She also stated she does not support a public plant.

**Eben Sprague** voiced his opposition to the project citing gridlock concerns.

**Vern Nelson**, affiliated with Dr. Richard Lara, Democratic Candidate for the State Assembly read a letter in opposition to the plant stating a lack of water shortage, urban runoff, and other issues. Mr. Nelson urged Council to vote against the project.

**Jan Vandersloot** voiced his opposition to the project and gave a PowerPoint slide report that illustrated deficiencies in the EIR as well as entrainment, impingement, and salinity concerns.

**Martin Ageson**, Southeast Huntington Beach resident, spoke in support of the project citing disaster concerns and the resulting potential need for water. Mr. Ageson urged Council to act and support the project.

**Norm "Firecracker" Westwell** spoke in favor of the project asking Council to welcome Poseidon and approve the desalination project. He stated benefits including no cost to the taxpayer and referred to industrial zoning of area. Mr. Westwell referred to the water supply as a public safety issue.

**Connie Boardman**, 92646 Zip Code resident, voiced her opposition to the project citing concerns with the impact of the AES Plant on the environment. Ms. Boardman stated her opinion that the EIR is inadequate and referred to a brief submitted to the C.F.C., which she stated she would provide for Council's review.

**Teresa Young**, environmental biologist, stated her concerns with filtering systems at desalination plants and with salinity. Ms. Young also stated concerns with "modeling" and stated that the related technology is not quite ready.

**Shannon Pankrate**, UCLA student in environmental engineering, urged Council to oppose the desalination plant. Ms. Pankrate stated other solutions are more cost effective, and that she is concerned with bacterial issues resulting from AES Plant.

**John Earl**, labor organizer, spoke in opposition to the project asking individuals to think long term about the environmental effects. Mr. Earl urged Council to deny the project.

**Chris Jepsen**, 32-year resident, spoke in opposition to the project stating his opinion it would have a negative impact on the City and citizens.

**Topper Horack** presented a PowerPoint report in opposition to the project.

**Monica Ruzich Hamilton** spoke on behalf of Huntington Beach Tomorrow and stated opposition to the project. Ms. Hamilton cited inadequacies of EIR and pipeline construction concerns among her reasons.

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 presented a PowerPoint report stressing that the energy crisis is much greater than the water crisis. She voiced her opposition to the project. Council discussion ensued regarding updating of the AES Power Plant, dry cooling, and energy use.

A motion was made by Cook, second Hardy to deny certification of the Recirculated Environmental Impact Report (REIR) No. 00-02. (vote to follow)

Councilmember Bohr stated concerns with comments made by individuals who oppose the project, stated his support for the EIR, and his interest in obtaining for further information on the CUP/CDP.

Councilmember Coerper stated his support for the EIR and for the staff recommendation.

Mayor Pro Tem Sullivan stated reasons for finding the EIR deficient including pipeline construction, dewatering concerns at the Ascon-Nesi berm, the lack of addressing "no project alternative," and tourism.

Councilmember Green stated reasons for certifying the EIR including concern that the City has less control over a public agency plant, adequacy of the EIR, and the need for additional water sources.

Councilmember Hansen stated concerns with the CUP/CDP land use and not with the EIR.

A substitute motion was made by Hansen, second Coerper to certify the EIR and deny the CUP/CDP. The motion was subsequently withdrawn.

Mayor Hardy spoke regarding growth impacts including traffic impacts and also about sea life mortality and other aspects of the EIR.

The original motion to deny certification of the REIR was voted on. The motion failed by the following roll call vote:

AYES: Sullivan, Hardy, Cook  
NOES: Hansen, Coerper, Green, Bohr  
ABSENT: None

A motion was made by Bohr, second Green to certify REIR No. 00-02 as adequate and complete in accordance with CEQA requirements by approving **Resolution No. 2005-62** "*A Resolution of the City Council of the City of Huntington Beach Certifying the Final Environmental Impact Report No. 00-02 (SCH#2001051092) for the Poseidon Seawater Desalination Project.*" The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Green, Bohr  
NOES: Sullivan, Hardy, Cook  
ABSENT: None

A motion was made by Bohr, second Coerper to give direction to staff to report back to Council October 17, 2005 on economic and other benefits to the City, to re-evaluate the Statement of Overriding Considerations, to report back on pipeline concerns, and to continue the CUP/CDP/CEQA/MMRP. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr  
NOES: Cook  
ABSENT: None

Mayor Pro Tem Sullivan restated his concerns with the process being chosen by Council.

Councilmember Hansen clarified that the project has not been approved at this point, only the EIR.

**(City Council) Part 2 of 2 Parts of Public Hearing – Continued to October 17, 2005: Conditional Use Permit (CUP) No. 02-04 and Coastal Development Permit (CDP) 02-05 for Seawater Desalination Project (Poseidon) Forwarded by the Planning Commission. CEQA Statement of Findings and Fact with a Statement of Overriding Considerations. Mitigation Monitoring and Reporting Program. For Part 1 – See Preceding Agenda Item (520.70)**

Mayor Hardy announced that by motion approved in the previous agenda item, this item will be continued to the October 17, 2005 meeting.

**Applicant:** Poseidon Resources Corporation

**Request:** To construct a 50 million gallons per day seawater desalination project including a 10,120 sq. ft. administration building, a 38,090 sq. ft. reverse osmosis building, a 36,305 sq. ft. product water storage tank, and miscellaneous accessory structures on an 11-acre lease area. The proposed improvements include up to four miles of water transmission lines in Huntington Beach, one mile of which will be within the Coastal Zone, to connect to an existing regional transmission system in Costa Mesa. The project also includes perimeter landscaping and fencing along Newland Street and Edison Avenue.

**Location:** 21730 Newland (east side, south of Edison Avenue)

**Project Planner:** Ricky Ramos, Associate Planner

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

#### **Consent Calendar – Item Removed for Separate Discussion**

The following item was removed from the Consent Calendar for separate discussion:

(City Council) Resolution No. 2005-59 Declaring a Surplus of Funds from Assessment District No. 88-1 (Reservoir Hill) and Ordering the Disposition of said funds.

#### **Consent Calendar – Items Approved**

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

AYES: Hansen, Coerper, Sullivan, Hardy (abstained on 8/1/05 minutes), Green, Bohr, Cook (abstained on 8/1/05 minutes)

NOES: None

ABSENT: None

**(City Council/Redevelopment Agency) Approved and Adopted Minutes (120.65) -** Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of July 18 and August 1, 2005 and City Council/Redevelopment Agency Special Meeting of August 8, 2005 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(City Council) Accepted Resignation of Corinne Welch and Approved the Appointment of Mary Urashima to the Human Relations Task Force with a Term to Expire December 31, 2005 (110.20) –** Accepted the resignation of **Corinne Welch** and approved the appointment of **Mary Urashima** to the Human Relations Task Force with a term to expire December 31 2005 as recommended by City Councilmembers Debbie Cook and Gil Coerper. Submitted by Human

Relations Task Force Council Liaisons Councilmember Debbie Cook and Councilmember Gil Coerper. Funding Source: Not applicable.

**(City Council) Approved Agreement between the City and the County of Orange for Animal Care Services for Fiscal Year 2005-2006** (600.25) – **1.** Approved and authorized the Mayor and City Clerk to execute the contract between the City of Huntington Beach and the County of Orange for the provision of animal care services; and **2.** Authorized the Chief of Police to expend up to \$413,893 annually for animal care services. Submitted by the Chief of Police. Funding Source: The total contract amount of \$413,893 is budgeted in the 2005-2006 Police Department General Fund budget, Business Unit 10070102, object 69505. No additional appropriations are necessary.

**(City Council) Approved Map Check Agreement with Orange County** (600.25) Approved and authorized the Mayor and City Clerk to execute the Map Check Agreement between the City of Huntington Beach and the County of Orange. Submitted by the Public Works Director. Funding Source: Not required. Fees would be collected by the County.

**(City Council) Adopted Memorandum of Agreement between the State of California Department of Health Services (CDHS) and the City for Chempack Containers and Authorized the Creation of a Revenue/Expenditure Account for all the Necessary Retrofitting of a City Fire Station to Facilitate Acceptance of the Containers.** (600.20) **1.** Accepted the Memorandum of Agreement between the CDHS and the City of Huntington Beach for the acceptance of the CHEMPACKS, and **2.** Authorized the Fire Chief to expend funds to cover the retrofitting of a City fire station at a cost not to exceed \$12,000, and **3.** Approved the appropriation of \$12,000, from the unreserved, undesignated General Fund Balance, to be reimbursed by the CDHS. Submitted by the Fire Chief. Funding Source: If approved, funds, estimated up to \$12,000, will be appropriated from the unreserved, undesignated General Fund Balance, but will be fully reimbursed from the CDHS. No other matching or in-kind City funds are required to accept the CHEMPACKS.

**(City Council) Approved Amendment No. 1 to Agreement between the City and EIP Associates for Professional Planning Services for Preparation of an Environmental Impact Report (EIR) for The Strand (Located at blocks 104 and 105 Bounded by Pacific Coast Highway, Sixth Street, Walnut Avenue and the Alley Between Fifth Street and Main Street.)** (600.10) – **1.** Approved and Authorized the Mayor and City Clerk to execute Amendment No. 1 to the agreement between the City of Huntington Beach and EIP Associates for Professional Services Contract in the amount of \$14,928 for the preparation of Environmental Impact Report (EIR) No. 01-02 for The Strand; and **2.** Authorized the Director of Administrative Services to appropriate \$14,928 from the City's General Fund Balance to the Planning Department's Contractual Services Account number 10060201.69365; and **3.** Authorized the Director of Planning to expend \$14,928 for environmental consulting services related to Environmental Impact Report No. 01-02, pursuant to the Contract with EIP Associates. Submitted by the Acting Planning Director. Funding Source: The funding source will be Fourteen Thousand Nine Hundred Twenty-Eight (\$14,928.00) Dollars deposited with the City by the CIM Group pursuant to the approved Reimbursement Agreement. The City has already received the funds from CIM Group.

**(City Council) Accepted Annual Review of the Flood Management Plan (FMP) and Authorized Submittal to the Federal Emergency Management Agency (FEMA)** (550.50) Accepted the annual review of the Flood Management Plan as adequate and complete and forward it to FEMA. Submitted by the Acting Planning Director. Funding Source: Not applicable.

**(City Council) Reviewed and Approved Memorandum of Understanding (MOU) with the Orange County Auto Theft Task Force (O.C.A.T.T.) effective January 1, 2005 until January 1, 2010.** (600.25) Approved the Memorandum of Understanding (MOU) and authorized the Chief of Police to sign the new agreement. Submitted by the Police Chief. Funding Source: Not applicable.

**(City Council) Approved Planting Maintenance Agreement with the State Department of Transportation (Caltrans) for the Beach Boulevard Parkway Landscape Enhancement Project, CC-1229 (East side of Beach Boulevard between Taylor Drive and Sterling Avenue.)** (600.20) Authorized the Mayor and City Clerk to execute the State Highway Planting Maintenance Agreement in the City of Huntington Beach. Submitted by the Public Works Director. Funding Source: Landscape maintenance is budgeted in the General Fund, Landscape Maintenance Business Unit 10085602. Costs to maintain the frontage does not substantively increase the citywide budget.

**(City Council) Adopted Resolution No. 2005-63 Relating to Fees for Parking Pass at the Huntington Central Park Sports Complex – Amends Citywide User Schedule Resolution No. 2003-65 (Supplemental Fee No. 3)** (340.20) – Adopted **Resolution No. 2005-63** Amending Resolution No. 2003-65 Entitled, *“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. 3)* Relating to Fees for a Parking Pass for Parking at the Huntington Central Park Sports Complex. Submitted by the Community Services Director. Funding Source: Not applicable.

**(City Council) Adopted as Amended Resolution No. 2005-59 Declaring a Surplus of Funds from Assessment District No. 88-1 (Reservoir Hill) and Ordering the Disposition of said funds.** (350.30)

The City Council considered a communication from the Finance Officer transmitting the following **Statement of Issue:** A City Council Resolution is required to declare the balance of the remaining Reservoir Hill Debt Service Fund to be surplus and order the disposition of the surplus to the City’s General Fund. Funding Source: Unappropriated Fund Balance, Reservoir Hill Debt Service Fund.

Mayor Pro Tem Sullivan requested that this agenda item be removed from the Consent Calendar to amend the resolution.

Councilmember Cook abstained due to potential conflict of interest.

A motion was made by Sullivan, second Coerper to **1.** Adopt **Resolution No. 2005-59**, “A Resolution of the City Council of The City of Huntington Beach Declaring A Surplus of Funds From Assessment District No. 88-1 (Reservoir Hill) and Ordering the Disposition of Said Funds;” and **2.** Appropriate remaining Unappropriated Fund Balance in the amount of approximately \$62,500 from the Reservoir Hill Debt Service Fund as a transfer to the City’s **Infrastructure Fund**, as amended. The motion carried by the following roll call vote:

AYES:	Hansen, Coerper, Sullivan, Hardy, Green, Bohr
NOES:	None
ABSENT:	None
ABSTAIN:	Cook

**(City Council) Approved City Council Position on Legislation Pending Before the Federal, State, or Regional Governments as Recommended by the City Council Intergovernmental Relations Committee (IRC) (640.90)**

The City Council considered a communication from Mayor Jill Hardy, Chair, Intergovernmental Relations Committee, on behalf of members, Councilmember Gil Coerper and Councilmember Keith Bohr transmitting the following **Statement of Issue**: Approve a City Council position on legislation pending before the federal, state or regional governments as recommend by the City Council Intergovernmental Relations Committee, and authorize the Mayor to communicate the city's position to the elected members of the state or federal legislators, governmental task force, or regional body. **Funding Source**: N/A

A motion was made by Coerper, second Bohr to:

1. **OPPOSE - S 1349 (Smith), HR 3146 (Blackburn), and S 1504 (Ensign)** - All of which would limit or prohibit a local government's ability to require a franchise fee for use of its right-of-way for telecommunications purposes.
2. **SUPPORT - The League of California Cities' Communications Principles as adopted by the League Board 07/05**
3. **SUPPORT AB 1333 (Frommer)** - Grease Waste Haulers as amended 08/15/05
4. **SUPPORT AB 1065 (Matthews)** - Kitchen Grease - Transporters as amended 06/23/05

The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr  
 NOES: None  
 ABSENT: Cook (out of room)

**(City Council) Adopted Ordinance No. 3721 Amending Chapter 13.48 of the Huntington Beach Municipal Code Relating to Animals in the Park (500.10)**

After the City Clerk read by title, a motion was made by Bohr, second Green to adopt **Ordinance No. 3721** - *"An Ordinance of the City of Huntington Beach Amending Chapter 13.48 of the Huntington Beach Municipal Code Relating to Animals in the Park."* (Approved for introduction August 15, 2005.) The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
 NOES: None  
 ABSENT: None

**(City Council) Approved for Introduction Ordinance No. 3722 Deleting Chapter 2.12 of the Huntington Beach Municipal Code with Reference to the Department of Administrative Services (700.10)**

After the City Clerk read by title, a motion was made by Sullivan, second Green to approve introduction of **Ordinance No. 3722** - *"An Ordinance of the City of Huntington Beach Deleting Chapter 2.12 of the Huntington Beach Municipal Code Relating to Administrative Services Department."* The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
 NOES: None  
 ABSENT: None

**(City Council) Approved Interior Property Lines and Lattice Fence Extensions with Notification to Properties that Abut the Interior Property Line (120.90)**

The City Council considered a communication from Mayor Jill Hardy transmitting the following **Statement of Issue:** At this time Councilmembers may report on items not specifically described on the agenda which are of interest to the community. No action or discussion may be taken except to provide staff direction to report back or to place the item on a future agenda. The City has recently adopted a series of amendments to the Huntington Beach Zoning and Subdivision Ordinance, commonly referred to as Permit Streamlining Phase II. In the process, Section 230.88, subsection A. Permitted Fences and Walls was amended to include an exception to permit two-foot lattice extensions to the top of a six-foot high fence on an interior property line. The exception allows the extension without building permits but requires Neighborhood Notification pursuant to Chapter 241. The notification process involves the noticing of all property owners and tenants within a 300 ft. radius of the subject property.

In the implementation of the recently adopted ordinance, it has been brought to my attention that the costs for the noticing requirements exceed the costs for the proposed improvements. In addition, the 300 ft. notification radius seems extreme when the issue is only between two properties that share an interior property line.

Therefore, I propose the City Council consider an amendment to these provisions and eliminate the Neighborhood Notification requirement for these types of fence improvements. I propose the notification process only involve those properties that abut the interior property line that propose the fence extension.

Councilmember Green inquired about requirements for exterior modifications and staff reported.

A motion was made by Cook, second Bohr to direct the Planning staff to prepare the appropriate zoning text amendments to eliminate the Neighborhood Notification requirement for these types of fence improvements and only notify those properties that abut the interior property line. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Bohr, Cook  
 NOES: None  
 ABSENT: None  
 ABSTAIN: Green

**(City Council) Approved as Amended – Proposed Amendment to Specific Plans (120.90)**

The City Council considered a communication from Mayor Jill Hardy transmitting the following **Statement of Issue:** Currently, certain Specific Plans permit modifications and review of development projects as follows:

- A. A minor modification to the Specific Plan is a simple amendment to the exhibits and/or text that does not change the meaning or intent of the Specific Plan. The Planning Director may accomplish this administratively with a report to the Planning Commission.
- B. A major modification to the Specific Plan is an amendment to the exhibits and/or text intended to change the meaning or intent of the Specific Plan Development Concept, Design Guidelines, or Development Regulations. This requires a Zoning Text Amendment and action by the Planning Commission and City Council.

C. All new development projects within the Specific Plan are implemented through a Site Plan Review process. A Site Plan Review can be administratively approved, conditionally approved, or denied by the Planning Director based upon findings described in the Specific Plan. Such findings include project consistency with the city's General Plan and Municipal Codes, compatibility with surrounding area, consistency with the Circulation Plan, and compliance with the provisions of the Specific Plan and other applicable regulations or special conditions required of the project. Action by the Planning Director shall be final unless appealed to the Planning Commission by the applicant within 10 calendar days.

In order for the City Council to be more involved in the implementation of this Specific Plan and have more control over the review of development projects within this Specific Plan, as well as other Specific Plans that contain similar language, I am recommending that the City Council consider the following motions:

A motion was made by Bohr, second Cook to approve the recommended action, **as amended** to direct staff to initiate a Zoning Text Amendment to change any Specific Plan that does not allow appeal of the Planning Director's or Zoning Administrator's approval to require (A) and (C) above to include a report to the City Council of the Planning Director's decision, and to permit **the City Councilmembers** to appeal the Planning Director's decision to the **City Council** within 10 calendar days. The motion carried by the following roll call vote:

AYES: Coerper, Sullivan, Hardy, Green, Bohr, Cook  
NOES: Hansen  
ABSENT: None

**Adjournment – City Council/Redevelopment Agency**

Mayor Hardy adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 3:50 a.m. Wednesday, September 7, 2005 to Monday, September 12, 2005, at 6:00 p.m., in 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-Chair