

**Minutes  
Study Session  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday October 15 2007  
4 00 P M - Room B-8  
6 00 P M - Council Chambers  
Civic Center 2000 Main Street  
Huntington Beach California 92648

**An audio recording of the 4 00 p m portion of this meeting  
and a video recording of the 6 00 p m portion of this meeting  
are on file in the Office of the City Clerk and are archived at  
[www.surfcity-hb.org](http://www.surfcity-hb.org)**

The 4 00 p m portion of the meeting was recessed by Deputy City Clerk Kelly Mandic to 4 30 p m in Room B-8 due to a lack of quorum

**Call to Order**

Mayor Coerper called the regular meeting of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4 32 p m in Room B-8 of the Huntington Beach Civic Center

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

Present       Bohr Carchio Cook Coerper Green Hansen and Hardy  
Absent       None

(Councilmember Hardy arrived at 4 37 p m )

**Assistant City Clerk Robin Lugar Announced Two Communications Pertaining to the Study Session Portion of the Meeting**

PowerPoint communication submitted by Chris Davis Administrative Analyst Senior undated and titled *Planning Department Fee Report* pertaining to Study Session #1

PowerPoint communication submitted by Dave Webb Acting Director of Public Works Operations dated October 15 2007 and titled *Water Supply Update City of Huntington Beach* pertaining to Study Session #2

**Public Comments** — None

**(City Council/Redevelopment Agency) Study Session #1 Held — Planning Department Fee Report — Discussion on Planning Department Development Fees and Process Improvements**

Acting City Administrator Paul Emery called on Planning Director Scott Hess who made a PowerPoint presentation that outlined the following information Planning Fee Methodology Other Departments Development Related Fees 2005 Fee Reductions Process Improvements

Pre-Application Application Processing and Customer Service Current Fees Common Public Hearing Planning Entitlements Comparison to Other Cities - Conditional Use Permits Variances Tentative Parcel Map Fees Lot Line Adjustment Fees and Coastal Development Permits Staff Recommendations Suggested Fee Reductions and Other Options for Reductions

Mayor Pro Tem Cook compared variance fees to other cities and asked Director Hess how the City of Laguna Beach determines building values to capture the additional fee added to its initial variance cost Director Hess gave options of possible calculations used to determine building value Mayor Pro Tem Cook also discussed the benefits of the comprehensive review process

Councilmember Green stated her support of the Development Assistance Team for joint review and preliminary plan approval within three weeks of application submittal on major projects prior to an applicant paying associated entitlement fees and prior to Planning Commission review She expressed concern for unidentified costs associated with loss of conceptual review Director Hess referenced 201 code requirement conditions of approval associated with the proposed First Christian Church project and elaborated on the current services provided

Councilmember Hardy expressed support of the comprehensive review process in particular to be required for all public hearing items to be considered by Council She also stated opposition to Environmental Assessment fees of historical buildings/dwellings being the property owner's financial liability since the City is responsible for designating buildings/dwellings as historic structures

Councilmember Carchio asked Director Hess for the estimated reduction in revenue if Council were to approve the suggested fee reductions He believes that comprehensive review is critical for downtown projects and recommended that requests for entertainment and dancing be considered as one permit He also supports the conceptual review idea and reduced fees for Green Building Director Hess clarified that applicants can meet with staff to discuss a project prior to submitting an application

Councilmember Bohr questioned the analysis conducted for staff's suggested fee reduction for variances with CUP and discussed exceptions that may affect the normal plan check process He thanked Planning staff for the comprehensive presentation and suggested that customers be made aware of their efforts to reduce fees

Councilmember Green expressed her appreciation to Planning staff for its continuity and improved rapid response to applicants however she believes reducing the level of comprehensive review could negatively impact the City

Mayor Coerper thanked Director Hess and the Planning staff for doing an outstanding job and indicated his desire to move forward with the Planning Fee and Development Process Program Director Hess indicated that he would return with a resolution to consider revised fees

Councilmember Bohr questioned additional reductions for Green Building Director Hess clarified newly proposed rates will apply only to the Planning application process not building permits as previously approved by Council

**(City Council/Redevelopment Agency) Study Session #2 Held — Water Supply Update and Conservation Efforts**

Acting City Administrator Paul Emery called on Acting Public Works Director-Operations Dave Webb who gave an overview of the City's water supply. Acting Director Webb called on Utilities Manager Howard Johnson who gave a PowerPoint presentation that outlined the following information: Orange County Water Challenges to Water from the Colorado River and Northern California; Current Supply and Demand Conditions; Western States - Dry Conditions; Colorado River in 8th Year Drought; California Getting Worse; Delta Pumping (Delta Smelt) Lawsuit and Decision; MET Response to Drought and Delta Pumping Decision; What We Know: The Future Governor's Water Program; MET's Integrated Regional Plan; Orange County Water Reliability Program; and Basin Pumping Percentage (BPP).

Councilmember Green asked about groundwater basin replenishment deliveries. Manager Johnson responded that Huntington Beach has 100% of our imported water demands; however, conservation is needed. The new water conservation position recently approved will be utilized to obtain bonds.

Manager Johnson discussed annexations involving Golden State Water Company and the Irvine Ranch Water District.

Councilmember Carchio asked if the Water Department has taken steps to inform the public to conserve water. Manager Johnson indicated that tremendous media efforts are being made by the Municipal Water District of Orange County and described the '20-Gallon Challenge' (each person uses no more than 20 gallons of water per day) an ongoing campaign to alert the public.

Councilmember Green asked if the City has guaranteed rates via a cooperative agreement. Manager Johnson responded that the City continues to recommend no more than a 5% fluctuation in rates.

Councilmember Hardy expressed concerns about per capita figures rising as population increases and reiterated her support of allocation based water fees.

Mayor Coerper thanked Manager Johnson for his presentation and confirmed that the Water Division continues to verify household water conservation.

**Call Closed Session of City Council/Redevelopment Agency — 5:40 p.m.**

Motion by Green, second Carchio, to recess to Closed Session on the following items. The motion carried by a consensus of all present.

(City Council) Closed Session – Pursuant to Government Code Section 54957.6, the Council shall recess to Closed Session to meet with its designated labor negotiators: Penelope Culbreth-Graft, City Administrator; Bob Hall, Deputy City Administrator; Michele Carr, Director of Human Resources; Dan Villella, Finance Director; and Renee Mayne, Chief Negotiator regarding labor negotiations with MEO, MEA, HBFA, and Non-Associated.

**Reconvene City Council/Redevelopment Agency Meeting — 6:04 p.m.**

**The City Attorney Reported No Actions Taken During Closed Session that Required a Reporting Pursuant to Government Code §54957.1(a)(3)(B)**

**City Council/Redevelopment Agency Roll Call**

Present       Bohr Carchio Cook Coerper Green Hansen and Hardy  
Absent       None

**Pledge of Allegiance/Flag Salute** - Led by Mayor Pro Tem Debbie Cook

**Invocation** - Conducted by Stephen Goldstein Family Federation for Peace and Unification

**Presentation — Junior Lifeguard Program**

Mayor Coerper called on Eagle Scout Candidate Brandon Weed to present a check to Dave Simcox from the Junior Lifeguard Program Candidate Weed described the Eagle Scout project he completed a year ago installing bike racks at the Huntington Beach Lifeguard Headquarters He stated how he raised monetary contributions for the project and upon its completion had \$391.45 left over that he was proudly presenting to the Junior Lifeguard Program this evening

**Presentation — Graffiti Rewards Program**

Mayor Coerper called on Chief of Police Ken Small to present checks to the first recipients of the \$500 Graffiti Rewards Program including Richard Sanchez Eric and Julie Shields and Kyle Story Chief Small gave an overview of the program and thanked the recipients for their ongoing efforts noting that the remaining checks would be mailed to the recipients who were unable to attend this evening's meeting Mayor Coerper thanked the recipients for their dedication to protect and preserve neighborhoods within Huntington Beach

**Presentation — Environmental Board Awards**

Mayor Coerper called on Environmental Board Chair Craig Justice who presented the 13th Annual Environmental Board Awards to the following recipients (1) Joe Mulligan State Superintendent of California State Parks for implementing a new beach trash collection system in conjunction with Rainbow Disposal for the Huntington State Beach (river jetties to Beach Boulevard) (2) John Scott resident and solar energy and clean water activist for implementing a solar power system for his home more than 20 years ago (3) Joan Flynn City Clerk for reducing the amount of paper used annually in the City Clerk's Office by using e-technology instead of paper and (4) Diana Lang resident and 13-year member of the Bolsa Chica Conservancy champion of keeping the Bolsa Chica Wetlands clean

**Mayor's Award — Kim Withey**

Mayor Coerper called on Library Director Ron Hayden to present the Mayor's Award to Library Specialist Senior Kim Withey Director Hayden described Ms Withey's accomplishments during her tenure with the City Mayor Coerper thanked Ms Withey for her dedicated service

### **Assistant City Clerk Lugar Announced Late Communications**

Communication submitted by Janet Doe dated October 8 2007 titled *First Christian Church* an email correspondence regarding Agenda Item D-2 the First Christian Church Public Hearing Item

Communication submitted by Thomas J Mays former Mayor and State Assemblyman dated October 11 2007 email correspondence titled *Appeal of First Christian Church Remodel/Expansion* pertaining to Public Hearing Item

Communication submitted by Richard W Millar Jr of Millar Hodges & Bemis Attorneys at Law dated October 15 2007 titled *First Christian Church Variance No 07-001 MNDD 06-008* pertaining to Public Hearing Item

Communication submitted by Travis Hopkins Acting Director of Public Works Engineering dated October 12 2007 and titled *Prioritized Use of Traffic Impact Fee Funds* pertaining to Consent Calendar Item E-3 the widening of Heil Avenue between Beach Boulevard and Silver Lane

Communication submitted by Travis Hopkins Acting Director of Public Works Engineering dated October 12 2007 and titled *Prioritized Use of Traffic Impact Fee Funds* pertaining to Consent Calendar Item E-4 the widening of Heil Avenue between Beach Boulevard and Silver Lane

### **Public Comments**

(The numbers following speakers comments reflect the approximate point in time in the archived video the speaker appears at [http //www surfcity-hb org/Government/Agendas/](http://www.surfcity-hb.org/Government/Agendas/))

**Doug Traub**, President of the Huntington Beach Conference and Visitors Bureau informed the Council of a pending lawsuit filed against the Bureau by a merchant family in Santa Cruz He described certain facts of the litigation and advised Council that negotiations with the plaintiff have not reached agreement and that the case is expected to proceed to court He indicated that to date all costs associated with defending the case have been borne by Chubb Insurance Companies not the Bureau (27 24)

**Stephanie Deagle**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) to build a Costco store and student housing on college property (31 12)

**Donna Lee Taylor** resident of Los Amigos Mobilehome Park spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation She urged Council to stop negotiating with Park owners and let the courts determine and uphold the intent of the ordinance (31 55)

**Mimi Des Forges**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to increased traffic and pedestrian congestion (35 35)

**Paul Billitzer**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to the elimination of Golden West College's athletic fields and increased traffic (36 55)

**Donna French**, resident of Goldenwest College Estates spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to increased noise and dust in her neighborhood. It is her understanding that this item will be considered by the College Board on November 19 2007 (40 10)

**Dianne Robinson**, resident of Goldenwest College Estates spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to what she perceives to be increased pollution traffic crime noise the loss of the athletic fields and facilities building under high tension wires and decrease in property values (42 24)

**Les Mittleman**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) and he referred to the unanimous decision to reject a similar proposal nine years ago. It is his opinion that the proposed project is on land that was donated for educational and public purposes as a community college not to be sold for commercial use. He opposes the elimination of the College's athletic programs and community Little Leagues and believes that the proposed project would be unethical (43 43)

**Jim Marshall**, resident of Huntington Beach and representative of POWER (Pet Owners Wants Equal Rights) spoke in opposition to adopting a mandatory spay/neuter ordinance. He proposed that monies targeted for this program be used to facilitate new infrastructure for the City (46 52)

**Teddi Alves**, 33-year resident spoke in opposition to adopting a mandatory spay/neuter ordinance. She mentioned the Democratic Board who had recently adopted a resolution to oppose the spay and neuter program. In her opinion a mandatory ordinance would violate pet owners' constitutional rights (48 55)

**Cara McGhee**, Goldenwest College Estates spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) and she voiced concerns of increased traffic and pedestrian congestion that would decrease the existing quality of life (52 00)

**Diane Amendola** spoke in opposition to adopting a mandatory spay/neuter ordinance. She informed Council that she is circulating a petition and described comments of support by signors. She would prefer that the City improve its infrastructure with the money targeted for the spay/neuter program (55 09)

**Mort Evans** spoke in opposition to adopting a mandatory spay/neuter ordinance due to his perception of associated expense of the program and its violation of personal rights (58 21)

**Jennifer Costantinidis** spoke in opposition to adopting a mandatory spay/neuter ordinance and stated her opinion that this program would be a violation of citizens' rights (59 45)

**Alex Martinez** spoke in opposition to adopting a mandatory spay/neuter ordinance. He referenced statistics of the number of dogs euthanized outside of pet owners' request for medical reasons. He believes the ordinance would violate the personal rights of Huntington Beach residents (1 00 35)

**Carol Hamilton** spoke in opposition to adopting a mandatory spay/neuter ordinance and stated her opinion that an ordinance would violate the property rights of Huntington Beach residents (1 03 51)

**Ruth Hull-Richter**, Chairman of the Patrick Henry Democratic Club of America described how the Club unanimously passed a resolution in opposition to adopting a mandatory spay/neuter ordinance as did the Executive Board of the Orange County party It is her opinion that this program would eliminate the quality pedigree process that could produce a champion dog and would result in huge revenue losses for the City of Huntington Beach (1 05 45)

**Debbi Bent**, resident of Huntington Beach spoke in opposition to adopting a mandatory spay/neuter ordinance challenging animal care statistics referenced in Police Department communications (1 08 35)

**Bobby Ray** spoke in opposition to adopting a mandatory spay/neuter ordinance In his opinion an ordinance would be unlawful and violates the constitutional rights of pet owners (1 11 43)

**Karen Ray** spoke in opposition to adopting a mandatory spay/neuter ordinance describing three fiscal years of euthanization statistics and research that reflects the number of dogs euthanized has significantly diminished She supports free spay and neuter services and increased grants for cities to fund the programs (1 14 50)

**Marie Carriere**, resident of Huntington Beach spoke in opposition to adopting a mandatory spay/neuter ordinance (1 18 18)

**Richard Reinbolt**, resident of Huntington Beach spoke in support of a proposed resolution to impeach President George W Bush and Vice-President Dick Cheney (1 18 48)

**Gus Mau**, resident of Huntington Beach spoke in support of a proposed resolution to impeach President George W Bush and Vice-President Dick Cheney (1 22 08)

**Robert Sternberg**, resident of Huntington Beach spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) and the possibility of taking public land and converting it to public use He asked if a legal review has been conducted and thanked Councilmember Jill Hardy for her request to conduct further review (1 25 07)

Councilmember Hardy asked Acting City Administrator Paul Emery if an interested party list could be created for contact when a future public meeting is scheduled and Administrator Emery responded affirmatively

**Cathie Turner**, Executive Director of Concerned Dog Owners of California spoke in opposition to adopting a mandatory spay/neuter ordinance She reported that the California Veterinary Board no longer supports any legislation in Sacramento and she suggested a Town Forum Meeting be scheduled to address the problems and negative implications of the proposed ordinance (1 30 23)

**Norma Rodriguez**, representing the homeowners at 16751 Green Street voiced her concern regarding the illegal condo conversion issue and urged Council to address outstanding issues She described substandard conditions at the Green Street property including plumbing issues

acoustic walls that were not completed termite inspection clearance and of a driveway that is sinking and cracking (1 33 25)

**Steve Stafford** spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to the elimination of the existing athletic fields along Gothard Street and the proposed extension of Hoover Avenue He also noted that during the past year raw sewage has been dumped into the gutter at Warner and Pacific Coast Highway at the Mobil Gas Station site He indicated that the Fire Department investigated the site but the business owner has yet to remedy the problem (1 35 40)

**Helga Lothert** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation (1 38 21)

**John McGregor** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation (1 39 37)

**Allen Baylis**, resident of Huntington Beach spoke in opposition to mandated dress codes adopting a mandatory spay/neuter ordinance and the proposed Automated Red Light Program (1 41 28)

**Mark Bixby** gave his 5th Annual PowerPoint Update on the Parkside Project by developer Shea Properties He mentioned that on October 16 2007 the County Board of Supervisors will be voting to approve an emergency levy repair project that far exceeds what Shea proposed at this site He also reported that for two consecutive years transients have established camps on the project site voicing concerns related to public health and safety wildlife and ongoing theft (1 43 57)

**Marc Winburn**, President of the Goldenwest Neighborhood Association indicated that the proposed joint venture between the City Costco and Golden West College (GWC) is not located within a redevelopment area and asked why public funds would be financing a public use development (1 47 04)

**Margaret Roy**, Huntington Beach mobile home resident spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation (1 49 04)

Assistant City Clerk Lugar announced on behalf of Economic Development Director Stanley Smalewitz that anyone interested in being kept informed about any future City of Huntington Beach public meetings concerning a proposed Costco please contact the Economic Development Department at 714 536 5582 or email [dpowell@surfcity-hb.org](mailto:dpowell@surfcity-hb.org)

**John Stern**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to potential for increased traffic and congestion He favors preserving the athletic fields on Gothard Street and the relocation of the high-tension electrical wires It is his opinion that the property's original deed was granted for public use only and suggested that the existing Levitz Furniture site be considered as an alternative location for a future Costco store (1 51 30)

**Jeff LeBow**, Huntington Beach resident spoke in favor of placing a resolution on the agenda to impeach President George W Bush and Vice-President Dick Cheney He supports the opinion that this is a non-partisan issue and urged Council's involvement he suggested a community forum be scheduled to seek the community and media input (1 54 44)

**Lenora Bausserman** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and she urged Council to stop negotiations with the Park owners (1 58 00)

**Rita Stonebraker** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and urged Council to support homeowners and stop negotiations with Park owners (1 59 29)

**Steve Gullage**, President Huntington Beach Mobile Homeowners Association spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation referencing sections of the California Government Code that defends all mobilehome owners relating to in-place value and relocation radius benefits. He would like the courts to decide the validity of the ordinance in hopes of enabling existing residents to prevail (2 00 58)

**Catherine DeLuca** spoke in opposition to adopting a mandatory spay/neuter ordinance and she believes the ordinance is an invasion of the constitutional rights of pet owners and voiced concerns regarding special interest groups and an agency affiliated with the proposed ordinance that stands to gain \$25 000 by its passing (2 04 35)

**Jack Brooks** spoke in opposition to adopting a mandatory spay/neuter ordinance and referenced statistics of spayed and neutered animals and what he believes are the legal ramifications associated with microchipping animals (2 07 28)

**Kathryn Lui** spoke in opposition to adopting a mandatory spay/neuter ordinance and voiced concerns of the City conducting what she believes would be illegal home searches related to her personal animals. She also spoke in opposition to the Heil Street widening project between Beach Boulevard and Silver Street (2 10 43)

**Robert Parker** in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) specifically the proposed apartments for student housing (2 13 58)

**Robert Gardner**, Huntington Shorecliff Mobile Home Park resident spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation (2 16 58)

**John Strada** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation. He referenced the previous unanimous passing of the ordinance and urged Council to protect the mobile home residents of Huntington Beach (2 20 06)

**Mary Jo Baretich**, resident of Cabrillo Mobilehome Park spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and urged Council to stop negotiating with the Park owners who have initiated the lawsuit (2 23 36)

**Robert Lupo**, Golden State Manufactured-Home Owners League spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation since he believes Park owners are misusing their rights (2 25 46)

**Thomas Lash**, resident of Huntington Beach thanked Council for listening to his concerns over the past six meetings and stated his assumption that the Council planned to agendaize discussion of the current administration i.e. President George W. Bush and Vice-President Dick Cheney. He announced that anyone wanting to contact his group and support a resolution could reach him at 714 964 2162 (2 30 04)

**Sue Sternberg** spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) stating her support of a Costco store at another location more suitable for high-density buildings and increased vehicular traffic (2 32 08)

**Roger Criswell**, Huntington Shorecliff Mobile Home Park owner spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation as originally passed in 2004 (2 33 42)

**William Seymour**, resident of Huntington Shorecliff Mobilehome Park spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and urged Council to direct the City Attorney to stop negotiating with the three Park owners who initiated the lawsuit (2 35 42)

**Arminda Criswell** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and urged Council to protect the rights of over 6 000 owners who live in the City's mobilehome parks (2 37 26)

**Don McGee** spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation and urged Council to defend the actions of previous Councilmembers He voiced concerns that the rights of mobilehome owners are being sold out by the City by negotiating with Park owners (2 38 44)

**Cassidy Summers**, Huntington Beach Impeach spoke in favor of the Council placing a resolution on the agenda to impeach President George W Bush and Vice-President Dick Cheney stating his opposition to the war in Iraq (2 42 25)

**Gene Senger**, resident of Westminster spoke in opposition to the proposed joint venture between the City Costco and Golden West College (GWC) due to the potential of putting small business owners out of business He also believes that the threat of eliminating classes or the potential loss of the College altogether would be a negative impact to the community (2 45 36)

**Sharon Dana**, Huntington Shorecliff Mobile Home Park spoke in support of Council's defense of the Mobilehome Conversion Ordinance currently in litigation (2 48 50)

**Renee Tarnow** spoke in support of the condominium conversion restitution fund being reverted back to the condominium owners She offered her services to the City/City Attorney to assist with the initiation of the application process on behalf of the impacted condominium owners (2 50 42)

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

PowerPoint communication submitted by Tom Livengood Planning Commissioner undated and titled *First Christian Church* pertaining to Agenda Item D-2 Appeal of First Christian Church Remodel and Expansion Project

PowerPoint communication submitted by Jim Engle Director of Community Services dated October 15 2007 titled *Approve Conceptual Design and Location of Seven Permanent Public Restrooms along Bluff Top Park Between 9th and Seapoint and Approve the Proposed Concept Design and Placement of Playground Equipment* pertaining to Agenda Items F-1 and F 2

PowerPoint communication submitted by Jennifer McGrath City Attorney dated October 15 2007 titled *Condo Conversion Restitution Fund* pertaining to Agenda Item F-3 restitution for victims of illegal condominium conversions

Communication submitted by Renee Tarnow dated October 15 2007 untitled a letter pertaining to Agenda Item F-3 restitution for victims of illegal condominium conversions

Communication submitted by Bobby Ray undated and titled *Corporeal Property Exhibits A - D* an excerpt of Black's Law Fourth Edition pertaining to the City's adoption of a mandatory spay/neuter ordinance

Compact Disc submitted by Mark Bixby dated October 15 2007 titled *Fifth Annual Parkside Update*

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

Councilmember Green reported her attendance at the OCTA Regional Planning and Highways Committee meeting held earlier today and discussed action involving evaluation of the physical feasibility of extending the SR 57 from its current terminus at I 5 State routes 22 and 57 interchange southerly to the I-405 Freeway within Santa Ana River Channel She also reported that the Sanitation District approved a CIP budget of \$43 million at Plant 1 and \$59 million at Plant 2 for years 2009 - 2016

Mayor Coerper called on Chief Small to announce a recent Police event he attended on Wednesday October 10 2007 Chief Small gave a PowerPoint presentation on the Annual Southern California Police Motorcycle Skills and Training Competition at Huntington State Beach

**City Administrator's Report — None**

**(City Council) Reviewed and Accepted Shari L. Freidenrich, City Treasurer's August 2007 Investment Summary Report Titled City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for August 2007**

Communication from City Treasurer Shari L. Freidenrich transmitted the Monthly Investment Report and Summary of Investments for August 2007

A motion was made by Green second Hansen to review and accept the Monthly Investment Report Following review of the report by motion of Council accept the Monthly Investment Report entitled Summary of Investment Portfolio Bond Proceeds and Deferred Compensation Activity for August 2007 pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach \*\*PowerPoint presentation titled August Treasurer's Report is included in the agenda packet The motion carried by the following roll call vote

AYES	Carchio Cook Coerper Green Hansen and Hardy
NOES	None
ABSENT	Bohr out of room

**(City Council) Public Hearing Held - Considered Appeal by the Huntington Beach Beer Company of the Revocation of the Entertainment Permit for Huntington Beach Beer Company located at 201 Main Street**

Communication from the Chief of Police transmitting the following

**Statement of Issue** NOTICE IS HEREBY GIVEN that on Monday October 15th 2007 at 6 00 p m in the City Council Chambers 2000 Main Street Huntington Beach the City Council will hold a public hearing to consider the appeal by HB Beer Company Inc of the revocation of the Entertainment Permit for HB Beer Company Inc which is located at 201 Main Street Suite E Huntington Beach California 92648

ON FILE A copy of the proposed request is on file in the City Clerk s Office 2000 Main Street Huntington Beach California 92648 for inspection by the public

(Councilmember Carchio recused himself from action on this item and left the room due to possible conflict of interest)

Acting City Administrator Paul Emery asked Chief Small to give an oral report related to revoking the entertainment permit for the Huntington Beach Beer Company Chief Small referenced municipal code violations documented on the premises

Mayor Coerper declared the public hearing open

**Mike Adams** representing business owner Cesar Pena urged the Council to uphold the appeal by the applicant as he reviewed the majority of incidents cited by the Police Department that occurred before the dancing permit was recently granted He discussed the heightened security system installed by the owner the voluntary additional ABC training for the Beer Company s management staff and employees (2) the corrective measures taken by the night manager to address incidents reported and that Mr Pena is willing to make additional changes as Council wishes

**Cesar Pena** owner of the Huntington Beach Beer Company stated for Council s reference the decline in Police calls to his establishment since the Fall of 2006 He reported the Beer Company s good standing on Main Street and the steps he has taken to improve the business and address the Police-related incidents previously reported

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

Councilmember Hansen asked Chief Small when the last meeting occurred between the Police Department and business owner Cesar Pena Chief Small indicated that he last met with Mr Pena prior to October during which Mr Pena resisted the Chief s conditions for a conditional entertainment permit Chief Small explained the events that led to permit revocation procedures Mr Pena stated his preference to maintain the dance permit as currently issued and would support a 30-60 day suspension for violations cited by the Police Department Chief Small stated that each police-related call reported on the Police log was confirmed by his staff to be related to Huntington Beach Beer Company Councilmember Hansen stated his support of Chief Small s attempts to resolve the issue and asked the City Attorney for direction on continuing the decision

City Attorney Jennifer McGrath recommended that Council deny appeal or continue to a date certain recommending that Mr Pena agree to terms laid out by Chief Small Councilmember Hansen Mr Pena Chief Small and Attorney McGrath discussed terms to the agreement and Councilmember Hansen proposed a motion to continue to November 5 and allow Chief Small and Mr Pena to arrive at an agreement for a Conditional Entertainment Permit

Councilmember Bohr asked and Chief Small confirmed that May 19 2007 was the latest violation date He also questioned the validity of enforcement for Condition No 4 of the entertainment permit (entertainment will not be audible beyond 50 feet of the building in any direction) He stated that people talking on the patio could transmit sound further than 50 feet and therefore the condition would be challengeable Chief Small responded that Condition 4 is taken directly from the Huntington Beach Municipal Code that applies to entertainment Councilmember Bohr stated his concern over allowing an establishment to have music and then recommending suspension of its dance permit

Councilmember Green asked Chief Small why this action is being presented now with no violations reported since May 2007 Chief Small indicated that he processed the entertainment permit revocation on July 2 2007 Discussion ensued regarding the lack of onsite ownership and good management at the Beer Company

Councilmember Hardy asked if the dancing permit was allowed over the summer and Chief Small confirmed Councilmember Hardy indicated that she spoke with one of the disc jockeys employed by the Beer Company and he discussed the rules and restrictions for dancing in the establishment Mr Pena discussed the change in personnel and management since May when the violations ceased to continue Councilmember Hardy confirmed with Mr Pena his willingness to work with Chief Small to reach an agreement

Councilmember Hansen indicated his support for all parties to seek a proactive solution He believes the Police Department is trying to create the best environment downtown and he would like to give full discretion to the Chief to resolve the dance permit issue amenably Chief Small stated his willingness to uphold the 6-month suspension of the dance permit and to credit the establishment for the three months already served

Mayor Coerper and Detective Brian Smith discussed the interaction that took place between the Police Department and Mr Pena about dance permit regulations and voiced concerns about Mr Pena s lack of cooperation Mr Pena communicated his intent to comply with the law and provide better management of the Beer Company

A motion was made by Hansen second Cook to continue the appeal to the next City Council meeting of November 5 2007 and allow the Chief of Police and business owner to negotiate an agreement for a conditional entertainment permit The motion carried by the following roll call vote

AYES	Bohr Cook Coerper Green Hansen and Hardy
NOES	None
ABSTAIN	Carchio

**(City Council) Public Hearing Held - Considered an Appeal by Mayor Pro Tem Debbie Cook of the Planning Commission's Approval of Mitigated Negative Declaration (MND) No 06-008/Conditional Use Permit (CUP) No 06-035 and Variance (VAR) No 07-001 for the First Christian Church Remodel and Expansion Located at 1207 Main Street**

Communication from the Director of Planning transmitting the following

**Statement of Issue** NOTICE IS HEREBY GIVEN that on Monday October 15 2007 at 6 00 PM in the City Council Chambers 2000 Main Street Huntington Beach the City Council will hold a public hearing on the following planning and zoning items

APPEAL OF PLANNING COMMISSION S APPROVAL OF MITIGATED NEGATIVE DECLARATION NO 06-008/ CONDITIONAL USE PERMIT NO 06-035/ VARIANCE NO 07-001 (FIRST CHRISTIAN CHURCH REMODEL/ EXPANSION)

Applicant Art Cueto Visioneering Studios

Appellant Mayo Pro Tem Debbie Cook

Request MND To analyze the potential environmental impacts associated with implementation of the proposed project CUP To permit the expansion and remodel of an existing church complex VAR To permit joint use parking (298 spaces) located at a distance in excess of 250 ft from the project site (at Huntington Beach High School) during the construction phase

Location 1207 Main Street 92648 (southeast corner of Adams Ave and 17th Street)

Project Planner Ron Santos

As an active member of First Christian Church Councilmember Hardy recused herself from action on this item and left the room

Acting City Administrator Paul Emery called on Associate Planner Ron Santos who gave a PowerPoint report on the First Christian Church appeal of Planning Commission's Approval of Mitigated Negative Declaration No 06-008/Conditional Use Permit No 06-035/Variance No 07-001 to include the project's proposal vicinity map project description Mitigated Negative Declaration Planning Commission's Action and Analysis

Mayor Coerper asked Tom Livengood Planning Commission Chair to come forward to give a Planning Commission report to Council

**Tom Livengood** Huntington Beach Planning Commission Chair discussed the Commission's review of the proposed project He provided a PowerPoint report that outlined the following information The Elimination of Parking Structure Permitted Seating for Church Services Special Activities/Events Outdoors Visual/Noise Mitigation Conditions/Codes/Nexus and Conditional Use Permit He discussed concerns raised related to trash pick-up locations and safety issues

Mayor Coerper declared the public hearing open

Assistant City Clerk Lugar restated for the record late communications received on this item including

Communication submitted by Janet Doe dated October 8 2007 titled *First Christian Church* an email correspondence regarding Agenda Item D-2 the First Christian Church Public Hearing Item

Communication submitted by Thomas J Mays former Mayor and State Assemblyman dated October 11 2007 email correspondence titled *Appeal of First Christian Church Remodel/Expansion* pertaining to Public Hearing Item

Communication submitted by Richard W Millar Jr of Millar Hodges & Bemis Attorneys at Law dated October 15 2007 titled *First Christian Church Variance No 07-001 MNDD 06-008* pertaining to Public Hearing Item

**Shelley Siracusa** spoke in support of the church project specifically the proposed cafe She expressed that the church has been a responsible neighbor over the years

**Steve Stafford** voiced concerns about additional traffic caused by shared parking on the high school parking lot and urged Council to mandate that patrons enter the high school off Utica Avenue

**Ron Austin**, resident on Shipley Street asked Council to address the unlimited unamplified sound trash pickup area and the Cafe proposed by the Church's expansion He urged Rainbow Disposal to reconfigure the design for the proposed trash pick up and for the church to continue meeting with Planning staff to further discuss his issues of interest

**Karen Gray**, resident on Shipley Street opposes what she considers a proposed commercial cafe in the middle of her neighborhood She cited similar cafes at other establishments of comparison that are located in remote locations not within a residential neighborhood

**David Treiman** resident on Shipley Street objects to the adoption of the Mitigated Negative Declaration because he believes it is illegal He referred to a letter for Council's consideration in which he stated his opinion of violations pertaining to California Environmental Quality Act (CEQA) and the need of a revised Mitigated Negative Declaration

**Barry Yaffee** Huntington Beach resident spoke in support of the Church expansion and indicated that the church has always been a responsible neighbor

**Tom Mays**, 35 year resident and member of First Christian Church spoke in support of the proposed Church expansion and described the benefits to the City by its modernization He also explained how the Church intends to work with the City Treasurer to determine allowable tax benefits to the City

**Devin Dwyer**, resident spoke in favor of the Church's expansion and described for the Council the vote and steps taken by the Planning Commission

**Bruce Templeton**, Pastor of First Christian Church stated his commitment to stay on course with the church expansion He described his work with the Planning staff and the architectural designs selected to comply with planning staff requirements and enhance the surrounding neighborhood He discussed compromises the church has made in relation to the restrictions implemented since the beginning of the proposed project and he urged the Council to overturn the appeal

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

Mayor Pro Tem Cook explained why she appealed the project and thanked the Planning Commission for its hard work on the project She stated her abundance of caution to appeal the project without having the opportunity to meet with staff before she left on vacation Upon her return and after meeting with staff she concluded that the mitigated negative declaration correctly stated the project before the Council In terms of the proposed cafe she doesn't consider it to be a restaurant since learning that it will only include packaged foods and based on the wording of the condition the Council could step in if the food service went beyond packaged foods In terms of the trash location it is grandfathered in for that location and she does not believe there will be additional trash pickups or that there is anything that the Council can do about the location Further a permanent outdoor sound system was confirmed as prohibited and the Church would have the ability to apply for a temporary use permit (TUP) for events that would involve outdoor amplified sound

Councilmember Green asked the City Attorney whether there were any legal problems or obstacles with this project and the City Attorney answered that after a review they were comfortable with the project proceeding Councilmember Green restated conditions on the project Outdoor dining for the cafe is restricted to the hours of 9 00 a m – 6 00 p m Permanent outdoor sound systems are prohibited and the applicant would come to the city for any temporary uses

Councilmember Carchio announced for the record that the church is doing wonderful things by upgrading its facility and bringing the community and families back together

Mayor Coerper stated his support and addressed his opinion of the vibrant colors shown on the renderings displayed in Chambers Reverend Bruce Templeton described the colors chosen for the youth ministry buildings Mayor Coerper asked whether or not the current design provides for a secured campus to protect the children and Reverend Templeton stated that there is no street access to the buildings without coming through the interior of the campus where adult supervision is present

A motion was made by Cook second Green to approve Mitigated Negative Declaration No 06-008/Conditional Use Permit No 06-035/Variance No 07-001 with suggested findings mitigation measures and conditions of approval The motion carried by the following roll call vote

AYES	Cook Carchio Coerper Bohr Green and Hansen
NOES	None
ABSTAIN	Hardy

FINDINGS MITIGATION MEASURES AND CONDITIONS OF APPROVAL MITIGATED NEGATIVE DECLARATION NO 06-008/ CONDITIONAL USE PERMIT NO 06-035/ VARIANCE NO 07-001

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO 06-008

- 1 Mitigated Negative Declaration No 06-008 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines It was advertised and available for a public comment period of over twenty (20) days Comments received during

the comment period were considered by the City Council prior to action on the Mitigated Negative Declaration and Conditional Use Permit No 06-035/ Variance No 07-001

- 2 Mitigation measures incorporated into the conditions of approval avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. There is no substantial evidence in light of the whole record before the City Council that the project as modified by elimination of the proposed parking structure, the addition of a sound wall along the northerly side of the Tidal Court, the limiting of hours for outdoor dining, restricting seating capacity to not exceed 1,450 persons, designating bus pick-up and drop-off areas, prohibiting permanent outdoor sound systems of any kind, and further as mitigated through the conditions of approval of Conditional Use Permit No 06-035/ Variance No 07-001, will have a significant effect on the environment.

#### FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO 06-035

- 1 Conditional Use Permit No 06-035 to permit the expansion and remodel of an existing church complex will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. A mitigated negative declaration was prepared which analyzed the project's potential to generate detrimental impacts on surrounding properties. The study concluded that mitigation measures incorporated into the conditions of approval avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The Mitigated Negative Declaration is supported by a Phase 1 environmental site assessment, traffic noise, geotechnical, and air quality studies. The project will provide adequate parking in accordance with applicable code requirements, on-site and via the use of joint use parking offsite.
- 2 Conditional Use Permit No 06-035 will be compatible with surrounding uses because it provides for the continuation, modernization, and expansion of an existing long-standing (the site was developed for use as a church in the mid-1950s) community serving use which is consistent with the applicable General Plan Land Use and Zoning designations. Proposed buildings feature a contemporary design and architectural features which minimize the visual bulk and mass of the buildings and provides for compatibility with surrounding land uses. All of the proposed buildings comply with the applicable height limit in the zone and provide adequate setbacks from adjacent residential properties. The project was recommended for approval by the Design Review Board.
- 3 Conditional Use Permit No 06-035 will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, including the Public-Semipublic zone permitted uses, minimum parking requirements, with the exception of the requested variance to the Joint Use Parking requirements, maximum building height, maximum floor area ratio, and minimum building setbacks.
- 4 The granting of Conditional Use Permit No 06-035 will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

Land Use Element

Objective LU 9 4 Provide for the inclusion of recreational institutional religious educational and services uses that support resident needs within residential neighborhoods

Objective LU 13 1 Provide for the continuation of existing and development of new uses such as governmental administrative public safety human service cultural educational infrastructure religious and other uses that support the needs of existing and future residents and businesses

Policy LU 13 1 1 Allow for the continuation of existing public and private institutional cultural educational and health uses at their present locations and development of new uses in areas designated on the Land Use Plan Map in accordance with Policy LU 7 1 1

Policy LU13 1 2 Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to City review and approval

#### Public Facilities and Public Services Element

Policy PF 4 3 2 Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities such as churches temples other religious buildings hospitals and schools

Conditional Use Permit No 06-035 provides for the continuation and expansion of existing religious educational and pre-school services which support the needs of the surrounding community The proposed joint use parking and associated variance ensure that adequate parking is provided to serve the proposed use

#### FINDINGS FOR APPROVAL - VARIANCE NO 07-001

- 1 The granting of Variance No 07-001 to allow joint use parking (298 spaces) located at a distance in excess of 250 ft from the project site will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification Properties which are being redeveloped in the City of Huntington Beach are typically allowed to continue to operate with reduced parking availability during construction with approval of a parking management plan or other mechanism to ensure adequate parking is provided and adverse impacts to surrounding properties are minimized The applicant is proposing shuttle service between the joint use parking lot and the subject property as its mechanism to ensure no detrimental impacts will result from the distance between the two properties Other examples of similar privileges enjoyed by other properties include commercial centers which are permitted to operate with reduced parking for limited periods of time while a portion of the available parking is displaced by Christmas tree displays or parking lot sales and other churches which are permitted to operate with reduced parking on site during festivals which encumber parking areas
- 2 Because of special circumstances applicable to the subject property including its location and surroundings the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification The special circumstances applicable to the subject property includes its location in proximity to a use (Huntington Beach High School) which underutilizes its on site

parking coincident with the peak parking demands of the subject property Without the granting of the variance the subject property would be required to provide parking on-site which generally (excepting a single day each week) exceeds its parking demand and would thereby be deprived of the privilege to provide parking at a rate which corresponds to its typical parking demand and the privilege to continue to operate until such time as construction of required on-site parking can be completed

- 3 The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights The requested variance is necessary to allow the church to meet its parking requirements and continue to operate during its construction phase
- 4 The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification The church will provide shuttle service between the joint use parking lot and the project site in order to mitigate the distance between the two properties and support the use of the joint use parking
- 5 The granting of the variance will not adversely affect the General Plan It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property including the following objectives and policies Land Use Element Objective LU 8 1 Maintain the pattern of existing land uses while providing opportunities for the evolution including intensification and re-use of selected sub areas in order to improve their character and identity Policy LU 9 4 3 Encourage the development and public use of City/School District joint use facilities where City parks and school facilities adjoin on another in order to maximize the use of property minimize the cost of development and enhance the recreational and educational opportunities for the community

#### Circulation Element

Goal CE 5 Provide sufficient well designed and convenient on and off street parking facilities throughout the City

#### MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS

- 1 The project shall provide (1) on-site attenuation of increased storm water flow and/or (2) construction of upsized storm drain facilities in Main Street per the City adopted 2005 Drainage Master Plan
- 2 A 7-ft tall noise barrier (masonry wall) shall be constructed along the southerly side of the children s play areas

#### CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT 06-035/ VARIANCE NO 07-001

- 1 The project plans received and dated June 28 2007 shall be the conceptually approved design with the following modifications
  - a The driveway entrances shall have textured and colored pavement (behind sidewalk on private property) for a minimum depth of 20 feet

- b All freestanding low walls planter walls handrails benches and other similar improvements within the hardscape and courtyard areas shall be designed to deter skateboarding
  - c The outdoor dining area shall not exceed 400 sq ft and shall be depicted on the site plan
  - d The proposed parking structure shall be eliminated and replaced with surface-level parking designed in accordance with HBZSO standards
  - e The project shall provide approximately 450 surface-level parking spaces (including 49 off-site parking spaces at Smith Elementary School)
  - f The combined seating capacity and/or assembly area for the three assembly buildings (Worship Center Chapel Multi-Purpose Building) shall be limited based on available on-site surface level parking and the 49 off-site (Smith Elementary School) parking spaces (to approximately 1 450 seats or equivalent assembly area) pursuant to HBZSO parking requirements
  - g A seven foot tall masonry wall shall be constructed along the northerly side of the Tidal Plaza
- 2 Incorporating sustainable or green building practices into the design of the proposed structures and associated site improvements is highly encouraged Sustainable building practices may include (but are not limited to) those recommended by the U S Green Building Council s Leadership in Energy and Environmental Design (LEED) Program certification <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19> or Build It Green s Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>)
  - 3 At least 14 days prior to any grading activity the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number Prior to issuance of the grading permit a copy of the notice and list of recipients shall be submitted to the Planning Department
  - 4 New structure(s) cannot be occupied and the final building permit(s) cannot be approved until an as-built photometric study has been submitted to the Planning Department demonstrating that all on-site lighting has been designed installed and shielded so as to not produce glare or adverse impacts on adjacent properties consistent with conceptual photometric study referenced in Mitigated Negative Declaration No 06-008
  - 5 The use shall comply with the following
    - a Only the uses described in the project narrative received and dated July 10 2007 shall be permitted

- b Hours of operation for the various uses shall be consistent with the project narrative received and dated July 10 2007 except that outdoor dining shall be permitted only between the hours of 9 00 a m and 6 00 p m daily
- c Concurrent attendance/ seating capacity for church services shall not exceed 1 450 persons at any time The church shall submit floor plans to the Planning Department which depicts the proposed/modified seating configuration during concurrent use of the three assembly buildings and demonstrates how the 1 450 capacity limit will be achieved
- d Permanent outdoor sound system(s) of any kind shall be prohibited at all times
- e Use of parking areas for uses other than parking shall be prohibited at all times unless otherwise approved via a Temporary Activity Permit or Temporary Use Permit
- f Joint Use Parking at Huntington Beach High School (HBHS) shall terminate within 30 months of commencement of construction Church services shall be suspended and/or restricted based upon the availability of parking on-site and at Smith School pursuant to applicable HBZSO parking standards Upon (or prior to) termination of Joint Use Parking at HBHS the church shall submit to the Planning Department for review and approval a parking area plan and an amended schedule for church services that demonstrates compliance with applicable parking requirements Following termination of Joint Use Parking at HBHS all church services shall be suspended until such time as the Planning Department has approved a plan and schedule demonstrating compliance with applicable parking requirements At any time the church may also file an Entitlement Plan Amendment application to the Planning Commission to request approval for Joint Use Parking at HBHS beyond the initial 30 month period
- g The church shall provide shuttle service between the joint use parking lot at Huntington Beach High School and the church property before and after church services on Sundays The frequency of the shuttles shall be adjusted as necessary to accommodate the demand
- h The church shall regularly encourage church members and parents of children attending pre-school to utilize on-site and authorized joint use parking lots and shall discourage on-street parking
- i Bus drop-off and pick-up shall occur only in the designated area of the parking lot southwesterly of the Worship Center

#### INDEMNIFICATION AND HOLD HARMLESS CONDITION

The owner of the property which is the subject of this project and the project applicant if different from the property owner and each of their heirs successors and assigns shall defend indemnify and hold harmless the City of Huntington Beach and its agents officers and employees from any claim action or proceedings liability cost including attorney's fees and costs against the City or its agents officers or employees to attack set aside void or annul any approval of the City including but not limited to any approval granted by the City Council Planning Commission or Design Review Board concerning this project The City shall promptly notify the applicant of any claim action or proceeding and should cooperate fully in the defense thereof

**(City Council) Public Hearing Held - Adopted Resolution No 2007-71 Setting Forth an Affordable Housing In-Lieu Fee for New Residential Projects Consisting of Three to Nine Units**

Communication from the Director of Planning transmitting the following

**Statement of Issue** NOTICE IS HEREBY GIVEN that on Monday October 15 2007 at 6 00 p m in the City Council Chambers 2000 Main Street Huntington Beach the City Council will hold a public hearing on the following planning and zoning items

**AFFORDABLE HOUSING IN-LIEU FEE**

Applicant City of Huntington Beach 2000 Main Street Huntington Beach CA 92648

Request To establish an affordable housing in-lieu fee for new residential projects that consist of three to nine units

Location Citywide

Project Planner Mary Beth Broeren

NOTICE IS HEREBY GIVEN that Items No 1 is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3)

Councilmember Carchio recommended a flat fee for all units with 3-9 units instead of using a sliding scale

Mayor Coerper declared the public hearing open

**Mike Adams**, representing the Huntington Beach Chamber of Commerce and Dick Harlow thanked staff for preparing this item for consideration since the in-lieu fee option was first introduced in 1992 He stated his agreement with Councilmember Carchio's recommendation of a flat fee rate for all small projects and he hopes this can be considered during future meetings of the Housing Element He asked for clarification noted in Keyser Marston Associates (KMA) report of in-lieu fee option broken down for the 3-9 unit count and the fee adjustment of 12% for inflationary factor for the increases that occurred in 2006 The 12% increase that was achieved in 2006 has been lost in 2007 and Mr Adams hopes that the fees will be based upon the 2005 numbers which comes out to a top number of \$15 000 for the 9-unit projects Also he asked for clarification that an annual review/adjustment would occur in alignment with market conditions He stated his support of Council's consideration of an in-lieu fee option for larger projects as well

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

Councilmember Hansen asked for clarification of Mr Adams comments regarding the calculation assumptions Planning Director Scott Hess responded that the calculations are based on the 2006 numbers and referred Council to Provisions 6 & 7 of the Resolution where a review every two years was indicated Kathe Head Principal with Keyser Marston Associates stated that she updated the resolution to reflect the numbers of January 2006 and it would be

her recommendation to conduct an annual review to be most fair in accordance with market rates

Councilmember Bohr thanked Councilmembers Hansen and Hardy for their diligent work on this issue and acknowledged the benefit to the development community for projects

A motion was made by Hansen second Bohr to 1) Adopt **Resolution No 2007-71**, *A Resolution of the City Council of the City of Huntington Beach Setting Forth an Affordable Housing In-Lieu Fee as Authorized by Zoning and Subdivision Ordinance 3687 Section 230 26* and 2) Direct staff to process a Zoning Text Amendment to amend Section 230 26 to incorporate recommendations outlined in the Keyser Marston Associates report dated January 23 2006 as amended to eliminate Provision 6 of the Resolution The motion carried by the following roll call vote

AYES Cook Carchio Coerper Bohr Green Hansen and Hardy  
NOES None

**(City Council) Public Hearing Held - Adopted Ordinance No 3784 Amending Huntington Beach Municipal Code Section 17 56 060 - the Huntington Beach Fire Code, Regarding Permissible Sprinkler Omissions Approved for Introduction September 17, 2007**

Communication from the Fire Chief transmitting the following

**Statement of Issue** NOTICE IS HEREBY GIVEN that on Monday October 15 2007 at 7 00 p m in the City Council Chambers 2000 Main Street Huntington Beach the City Council will hold a Public Hearing regarding Ordinance No 3784 Ordinance No 3784 will amend Huntington Beach Municipal Code Chapter 17 56 which adopted the Uniform Fire Code 2000 Edition and the California Fire Code 2001 edition including Appendices I-A I-B I-C II-A II-C II-D II-E II K II-H III-A III-C and IV-A The amendment concerns permissible fire sprinkler omissions

Acting City Administrator Emery called on Fire Chief Duane Olson who gave an oral report

Mayor Coerper declared the public hearing open

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

A motion was made by Hansen second Hardy to after City Clerk reads by title Adopt **Ordinance No 3784** *An Ordinance of the City of Huntington Beach Amending Municipal Code Chapter 17 56 - The Huntington Beach Fire Code - Pertaining to Sprinklers* The motion carried by the following roll call vote

AYES Bohr Carchio Cook Coerper Green Hansen and Hardy  
NOES None

**Consent Calendar**

A motion was made by Green second Hardy to approve all items on the Consent Calendar by affirmative roll call vote (Bohr recorded as abstaining on Consent Item regarding Edinger

Avenue Parkway Improvement Project due to possible conflict of interest) The motion carried by the following roll call vote The motion carried by the following roll call vote

AYES	Carchio Cook Coerper Green Hansen and Hardy
NOES	None
ABSTAIN	Bohr

**(City Council/Redevelopment Agency) Approved Minutes** — Approved and adopted the minutes of the City Council/Redevelopment Agency regular meeting of October 1 2007 as written and on file in the Office of the City Clerk Submitted by the City Clerk

**(City Council) Adopted Resolution No 2007-69** — **Amended the Memorandum of Understanding (MOU) Between the City and the Management Employees' Organization (MEO) By Adopting a Side Letter Agreement Pertaining to Unit Modification** - Adopted **Resolution No 2007-69** *A Resolution of the City of Huntington Beach Amending the Memorandum of Understanding Between the City and the Management Employees Organization* by Adopting the Side Letter of Agreement Pertaining to Unit Modification Submitted by the Director of Human Resources **Funding Source** No additional funding is required

**(City Council) Approved Agreement for Partial Land Purchase and Joint Escrow Instructions Between the City of Huntington Beach and Hidayat, LLC for Real Property Located at 7886 Alhambra Avenue to Complete Improvements for the Widening of Heil Avenue Between Beach Boulevard and Silver Lane** — Approved the Agreement for Acquisition of Real Property and Joint Escrow Instructions and authorize the Mayor and City Clerk to execute the Agreement and other related necessary documents Submitted by the Director of Economic Development and the Acting Director of Public Works-Engineering **Funding Source** Funds are budgeted in the Traffic Impact Fund Street Widening Land Purchase Account No 20690001 81000

**(City Council) Approved Agreement for Partial Land Purchase and Joint Escrow Instructions Between the City of Huntington Beach and Matt Dhillon, Jr for Real Property Located at 7902 Alhambra Avenue to Complete Improvements for the Widening of Heil Avenue Between Beach Boulevard and Silver Lane** — Approved the Agreement for Acquisition of Real Property and Joint Escrow Instructions and authorized the Mayor and City Clerk to execute the Agreement and other related necessary documents Submitted by the Director of Economic Development and the Acting Director of Public Works-Engineering **Funding Source** Funds are budgeted in the Traffic Impact Fund Street Widening Land Purchase Account No 20690001 81000

**City Council) Approved the Reappointments of Don Rice, David Guido and David Mootchnik to the Environmental Board, Each for a Second Four-Year Term Scheduled to Expire on June 30, 2011 as Recommended by Council Liaisons, Mayor Pro Tem Debbie Cook and Councilmember Keith Bohr** — Approved the reappointments of Don Rice David Guido and David Mootchnik to the Environmental Board their terms will expire June 20 2011 Submitted by the Council Liaisons Mayor Pro Tem Cook and Councilmember Bohr **Funding Source** Not applicable

**(City Council) Approved a Professional Services Agreement in the Amount of \$399,820 with PBS&J for Preparation of an Environmental Impact Report (EIR) for the Bella Terra Phase II Project located at 7777 Edinger Avenue, Approved a Reimbursement Agreement**

**in the Amount of \$399,820 with Bella Terra Phase II Associates, LLC to Fund the EIR, and, Authorized the Mayor and City Clerk to Sign —** 1) Approved the Professional Services Agreement in the amount of Three Hundred Ninety Nine Thousand Eight Hundred Twenty Dollars (\$399 820) as prepared by the City Attorney between the City and PBS&J and authorize the Mayor and City Clerk to sign and 2) Approved the Reimbursement Agreement in the amount of Three Hundred Ninety Nine Thousand Eight Hundred Twenty Dollars (\$399 820) as prepared by the City Attorney with Bella Terra Phase II Associates LLC and authorize the Mayor and City Clerk to sign Submitted by the Director of Planning **Funding Source** An appropriation of \$399 820 from the General Fund to the Planning Department Professional Services Account 10060201 69365 is required These funds will be offset by the attached reimbursement agreement with the developer of the project Bella Terra Phase II Associates LLC

**(City Council) Approved a Professional Services Agreement in the Amount of \$351,793 with PBS&J for Preparation of an Environmental Impact Report (EIR) for the Ripcurl Project, a Proposed Development of up to 500 Luxury Residential Units Above Approximately 15,000 Square Feet of Street Level Retail and Commercial Uses Located at 7302-7400 Center Avenue, Appropriated Funds in the Amount of \$351,793, and, Authorize the Mayor and City Clerk to Sign -** 1) Approved the Professional Services Contract in the amount of Three Hundred Fifty One Thousand Seven Hundred Ninety Three Dollars (\$351 793) as prepared by the City Attorney between the City and PBS&J and authorize the Mayor and City Clerk to sign and 2) Appropriated funds in the amount of \$351 793 from the City General Fund to the Planning Department Professional Services Account to account 10060201 69365 for the Professional Services Contract between the City and PBS&J which is funded by a reimbursement agreement Submitted by the Director of Planning **Funding Source** An appropriation of \$351 793 from the General Fund to the Planning Department Professional Services Account 10060201 69365 is required These funds will be offset by a reimbursement agreement with the developer of the project Red Oak Investments considered by Council in a separate item

**(City Council) Adopted Resolution No 2007-70 Authorizing Application for Funds for the Transportation Enhancement (TE) Program Under the 2005 Safe, Accountable, Flexible, Efficient Transportation Act - Legacy for Users for the Edinger Avenue Parkway Improvement Project - Adopted Resolution No 2007-70, A Resolution of the City Council of the City of Huntington Beach Authorizing Application for Funds for the Transportation Enhancement (TE) Program Under the 2005 Safe Accountable Flexible Efficient Transportation Act - Legacy For Users of the Edinger Avenue Parkway Improvement Project** Submitted by the Acting Director of Public Works-Engineering **Funding Source** Funding is not required for the resolution Should the City be successful in this application for TE grant funds a maximum reimbursement of \$156 000 would be available to the City Fifty percent of the City's \$244 000 share in matching funds would be funded through the General Fund account The Sea Isle Garden Club and Committee of 1000 have committed to contributing the remaining \$122 000 in matching private funds

(Councilmember Bohr announced for the record his abstention from voting on this item due to possible conflict of interest)

**(City Council) Approved Amendment No 13 to Cooperative Agreement No C-95-975 with Orange County Transportation Authority (OCTA) to Maintain Measure M Funding Eligibility -** Approved and authorized the Mayor and City Clerk to execute Amendment No 13 to Cooperate Agreement No C-95-975 between Orange County Transportation Authority and the City of Huntington Beach Submitted by the Acting Director of Public Works-Engineering

**Funding Source** No funding source is required for this action Authorized grants from the program currently total \$8.9 million over the next 4 years

**(City Council) Approved Amendment No. 1 to Agreement By and Between Mesa Consolidated Water District, Orange County Water District and the City of Huntington Beach for Interruptible Potable Water Service to Talbert Barrier Facilities** - Authorized the Mayor and City Clerk to execute Amendment Number 1 to Agreement by and between Mesa Consolidated Water District the City of Huntington Beach and Orange County Water District for Interruptible Potable Water Service to Talbert Barrier Facilities Submitted by the Acting Director of Public Works-Operations **Funding Source** All costs to the City will be reimbursed by OCWD

**(City Council) Approved Conceptual Design and Location of Seven (7) Permanent, Public Restrooms Along Bluff Top Park Between 9th Street and Seapoint Street**

Communication from the Director of Community Services transmitting the following

**Statement of Issue** City Council directed staff to construct permanent restrooms at Bluff Top Park between 9th Street and Seapoint Street There is a need for City Council to approve the concept number and location of these permanent facilities **Funding Source** In FY 06/07 City Council approved \$2.4 million for this project in Account No. 30585201 from one-time Redevelopment Agency revenues

Acting City Administrator Paul Emery called on Community Services Director Jim Engle who gave an overview of the conceptual design and location of seven permanent restrooms along the Blufftop Park between 9th and Seapoint streets Director Engle called on Facilities Concessions and Development Manager Dave Dominguez who gave a PowerPoint report that highlighted proposed restroom locations design criteria design simulation conceptual design elements fact sheet interior design and recommended actions

Mayor Coerper asked if these restrooms are self-cleaning Manager Dominguez responded negatively due to the inflated costs and potential for vandalism Mayor Coerper thanked Councilmember Bohr for bringing this issue to Council for consideration

Councilmember Carchio asked if construction will start at all locations simultaneously and Director Engle responded affirmatively

Councilmember Bohr asked Director Engle for clarification of the type of toilets selected for the seven public restrooms The PowerPoint presentation showed manual flush toilets however Director Engle indicated that similar facilities used automatic flush systems and indicated he will confirm that option for this project

A motion was made by Green second Hardy to **1) Approve in concept the restroom design as presented for permanent restrooms at Bluff Top Park north of the pier and 2) Approve the location of seven restrooms as presented along Bluff Top Park between 9th Street and Seapoint Street** The motion carried by the following roll call vote

AYES	Carchio Coerper Bohr Green Hansen and Hardy
NOES	None
ABSENT	Cook out of room

**(City Council) Approved the Proposed Concept, Design and Placement of Playground Equipment**

Communication from the Director of Community Services transmitting the following

**Statement of Issue** Should the City Council approve the concept of placing play equipment on the city beach per design and location as recommended by the Community Services Commission Funding Source No funding source identified at this time Staff will seek grants and other methods to fund the project estimated at \$202 000

Acting City Administrator Paul Emery called on Community Services Director Jim Engle who gave an overview of the Beach Playground Equipment and Director Engle called on Facilities Concession and Development Manager Dave Dominguez who gave a PowerPoint report that included beach playground equipment locations design playground layouts and recommended actions

A motion was made by Green second Carchio to **1) Approve conceptual placement of play equipment on City beach with the intent to install the equipment once funding becomes available and 2) Approve proposed design and location of the conceptual playground** The motion carried by the following roll call vote

AYES Cook Carchio Coerper Bohr Green Hansen and Hardy  
NOES None

**(City Council) Provided Direction to the City Attorney of Appropriate Methodology for Determining Amount of Restitution to be Paid to Victims of Illegal Condominium Conversions and Schedule a Public Hearing on November 19, 2007 to Finalize Recommended Action**

Communication from the City Attorney transmitting the following

**Statement of Issue** In October 2006 Justice David Carter ordered restitution to be paid to the victims of the illegal condominium conversions The restitution is to be paid to the City of distribution to the victims Funding Source No funds are required

City Attorney Jennifer McGrath gave a brief PowerPoint presentation that outlined the following information History Criminal Sentence (including prison fines and mandatory restitution) Restitution (mandatory court-ordered amount and payment option based on ability to pay) Value of Restitution Who are the Good Faith Purchasers (original owners in 2004 current owners and only owners involved in the federal prosecution) How Should the Funds be Allocated Who Should be Notified and Recommended Action

Councilmember Bohr suggested that a Council ad-hoc committee be established to take more time to consider fair distribution of funds

Councilmember Green asked Attorney McGrath if she thought Justice David Carter would consider meeting with Council to answer outstanding questions Attorney McGrath described the claims process for restitution awards to be distributed among good-faith buyers who had no knowledge of illegal conversions Councilmember Green questioned if the City would pursue seizure of outstanding restitution orders by documented defendants and Attorney McGrath explained the ability to pay process

Councilmember Carchio offered the option of distributing funds by way of square footage

Mayor Pro Tem Cook asked if it was determined how many times the units were bought and sold before they were brought into compliance Attorney McGrath clarified good-faith purchasers prior to 2004 and that she would prefer to distribute the money on a per-unit basis with a claims process

Councilmember Hansen stated that he believes if a homeowner was fully notified that the illegal condo conversion was underway they should not get any of the disbursement funds Attorney McGrath indicated how to set the criteria for proof of good-faith owners to be eligible for disbursement

Councilmember Bohr asked how the hearing officer would make decisions about disbursements without Council input Attorney McGrath discussed the parameters for which the hearing officer will make the determinations

A motion was made by Cook second Green to **1) Award restitution on a per-unit basis before a hearing officer with established parameters and 2) Direct City Attorney to notify all current residents of the illegally converted condominiums of a public meeting on November 19 2007 to finalize the methodology for distribution of the restitution** The motion carried by the following roll call vote

AYES Cook Carchio Coerper Bohr Green Hansen and Hardy  
NOES None

**(City Council) Adopted Ordinance No 3785 to Prezone the Brightwater Development Project Area to the Brightwater Specific Plan with Coastal Zone Overlay and Prezone 0 065 Acres to Residential Low Density with Coastal Zone Overlay and Rezone 0 365 Acres Within the City of Huntington Beach from Residential Low Density With Coastal Zone Overlay to Brightwater Specific Plan with Coastal Zone Overlay (Zoning Map Amendment No 06-01) Approved for Introduction October 1, 2007**

A motion was made by Green second Bohr to after the City Clerk reads by title **Adopt Ordinance No 3785** *An Ordinance of the City of Huntington Beach Zoning and Subdivision Ordinance to Prezone the Brightwater Development Project Area Located in the County of Orange to the Brightwater Specific Plan with Coastal Zone Overlay and Prezone 0 065 Acres Located in Orange County to Residential Low Density with Coastal Zone Overlay and Rezone 0 365 Acres Within the City of Huntington Beach From Residential Low Density with Coastal Zone Overlay to Brightwater Specific Plan with Coastal Zone Overlay (Zoning Map Amendment No 06-01* by roll call vote The motion carried by the following roll call vote

AYES Cook Carchio Coerper Bohr Green Hansen and Hardy  
NOES None

**(City Council) Approved for Introduction Ordinance No 3786 Amending Huntington Beach Municipal Code Section 17 56 Adopting the California Fire Code, 2007 Edition and Schedule a Public Hearing for November 19, 2007**

Communication submitted by the Fire Chief transmitting the following

**Statement of Issue** Whether to adopt an ordinance amending Municipal Code Section 17 56 adopting the California Fire Code 2007 edition

A motion was made by Green second Hansen to after City Clerk reads by title 1) Approve Introduction of **Ordinance No 3786** *An Ordinance of the City of Huntington Beach Amending Huntington Beach Municipal Code Chapter 17 56 Adopting the California Fire Code* by roll call vote and 2) Direct the City Clerk to publish a Notice of a Public Hearing pursuant to Government Code Section 6066 and Schedule a Public Hearing for November 19 2007 The motion carried by the following roll call vote

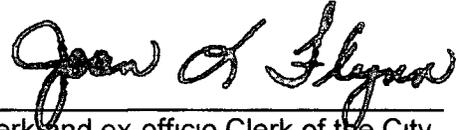
AYES	Cook Carchio Coerper Bohr Green Hansen and Hardy
NOES	None

**Council Comments (Not Agendized)**

Councilmember Carchio reported attending the Boys and Girls Club fundraiser on October 12 the Art Auction for Project Self Sufficiency on October 13 and noted that he was wearing a pink shirt and tie this evening in support of Breast Cancer Awareness month He reminded everyone to attend Surf City Nights tomorrow night

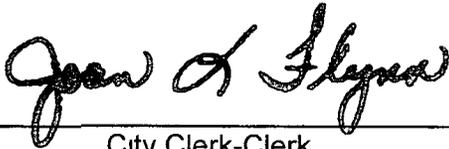
Mayor Coerper reported attending the Customer Service Day Celebration Luncheon on October 3 Old World Oktoberfest Parade at Old World German Restaurant on October 7 and the Annual Southern California Police Motorcycle Skills and Training Competition at Huntington State Beach on October 10

**Council/Agency Adjournment at 12 02 a m , October 16, to the next regularly scheduled meeting of Monday, November 5, 2007 at 4 00 p m , in Room B-8 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