

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

Monday, November 15, 2004  
5:00 P.M. - Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

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

**Call to Order**

Mayor Green called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:00 p.m. in Room B-8.

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

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

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

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

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

**(City Council) Closed Session** - Pursuant to Government Code Section 54956.9(c) to confer with City Attorney regarding pending litigation based on existing facts & circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation. Number of Potential Cases: 1 to 200. Subject: **Potential Litigation** (120.80)

**(City Council) Closed Session** - Pursuant to Government Code Section 54956.9(a) to confer with its City Attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is Praise Christian Center v. City of Huntington Beach, et al.; United States District Court Case No. SACV03-1504 GLT. Subject: **Praise Christian Center v. City of Huntington Beach, et al.** (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; Clay Martin, Director of Administrative Services; and Irma Youssefieh, Human Resources Manager regarding labor relations matters – meet and confer with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** Subject: **Labor Relations – Meet & Confer.** (120.80)

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

**City Council- Redevelopment Agency Roll Call**

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

Absent: None

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

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

**(City Council) Public Hearing Continued to November 29, 2004 to Consider (1.) Approval of Zoning Text Amendment No. 04-03 Amending Huntington Beach Zoning and Subdivision Ordinance (ZSO) Chapter 250 Relating to a Tentative Parcel Map Exemption for Condominium Conversions - Approve for Introduction Ordinance No. 3690 and (2.) Approve Adoption of Resolution No. 2004- 91 Establishing the Affordable Housing In-Lieu Fee Authorized by Zoning and Subdivision Ordinance (ZSO) Chapter 235 Relating to Condominium Conversions (450.20)**

City Attorney McGrath requested this item be continued to the November 29, 2004 meeting.

A motion was made by Boardman, second Cook to continue the public hearing to November 29, 2004. The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

**(City Council) Reopen Public Testimony Section of the Public Hearing to Consider Approval of Zoning Text Amendment (ZTA) No. 03-01 (Through Lot Development Standards) Amending Chapters 203, 210 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, Accessory Structures and Fencing and Yards.**

A motion was made by Boardman, second Hardy to reopen the public testimony section of the above public hearing. The motion carried by the following roll call vote:

AYES: Coerper, Hardy, Green, Boardman, Cook, Winchell

NOES: None

ABSENT: None

ABSTAIN: Sullivan

**Pledge of Allegiance – Led by Mayor Cathy Green**

**Invocation – Led by Father Christian Mondor, Sts. Simon & Jude**

**The City Clerk Announced Late Communications**

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

A PowerPoint presentation dated November 15, 2004 titled *Through Lot Development Standards* submitted by the Planning Department.

Communication submitted by Adrienne Parks dated November 15, 2004 titled *Opening "Closed" Public Testimony re: D-1 Through Lots Amendment*.

Communication submitted by Adrienne Parks dated November 15, 2004 titled *To: Planning Commission, City of Huntington Beach, Zoning Amendment 03-01 (backyards)* consisting of a letter, a package of 31 copies of photographs of newly constructed walls, articles about retaining walls, and elevation drawings.

Communication submitted by Jeffrey M. Oderman of Rutan & Tucker, LLP dated November 12, 2004 titled *November 15, 2004, Public Hearing to Consider Adoption of Affordable Housing In-Lieu Fee for Pre-June 1, 2004, "Non-Permitted" Condominium Conversions*.

Communication submitted by Thomas D. Tucker of Pulse Marketing dated October 31, 2004 (untitled).

Communication submitted by Bob Polkow dated November 11, 2004 titled *Opposition to Agenda item F-1*.

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

A PowerPoint report submitted by Adrienne Parks dated November 15, 2004 titled *Retaining Walls 101*.

Communication submitted by Michael Gerard dated Fall 2004 titled *Surfing America*.

Communication submitted by Heide Palikan, undated, titled *17032 Saybrook Wall on Westport 100" Tall, 16992 Fairfield Wall on Westport 99" Tall*, etc. which is a collection of copies of photographs of walls.

Communication submitted by Adrienne Parks, undated, titled *Suggested Retaining Wall Options*.

**Presentation** made by Mayor Cathy Green who called on Fire Chief Duane Olson and Junior Girl Scout Troop 208 with Leader Leyla Wagner and Treasurer Leslie Shigemasa to present a check for the purchase of infant car seats for the Huntington Beach Fire Department emergency ambulance units. The Troop raised \$560 and six car seats were purchased. (160.40)

**Presentation** made by Mayor Cathy Green who called on representatives from Cannery Hamilton Properties LLC – Glenn Anderson, Dianne Seefried and Mary Urashima – to present a check for \$10,000 to Fire Chief Duane Olson and Emergency Services Coordinator Gloria Morrison to stock a cargo container of supplies for community emergencies. Chief Olson thanked Cannery Hamilton for their support during the recent oil gusher cleanup. Cannery Hamilton representatives thanked the Community Emergency Response Team (CERT) volunteers for their efforts. (160.40)

**Presentation** made by Mayor Cathy Green who presented commendations of thanks to the Downtown Starbuck's and the Sugar Shack for their generosity during the fire at the Beachcomber. Fire Chief Duane Olson spoke regarding the fire, containment, and the provisions supplied to firefighters by the business owners. Store Manager Heather Marshall from Starbuck's and Michelle Turner from Sugar Shack accepted the commendations. (160.40)

**Presentation** made by Mayor Cathy Green who called on Michael Gerard of Surfing America to make a special announcement about the new headquarters for Surfing America. Mr. Gerard gave a PowerPoint report outlining the goals of Surfing America and also distributed copies of the Surfing America newsletter. (160.40)

**Presentation** made by Mayor Cathy Green who called on Orange County Register Retail Advertising Account Executive Allan Pabian to present the City with the "Best of Awards" in the categories chosen by Register readers. Huntington Beach was chosen as the "Best Place to Walk, Jog and Hike," "Best Parade," and "Best Place to Live." (160.40)

**Presentation** made by Mayor Cathy Green who recognized volunteers from Huntington Beach Hospital and CERT for their outstanding job providing flu vaccine at a clinic held on November 6, 2004. (160.40)

**Presentation** made by Mayor Cathy Green who awarded city employees who have provided exceptional service to the mayor during her year in office. Awards were given to City Council Administrative Assistant Cathy Fikes, Senior Administrative Analyst Pat Dapkus, and Community Relations Officer Laurie Payne. (160.40)

**(City Council) Announcements Made by Mayor Green – Ceremonies at the Pier - Firefighters from New York City to Present a Statue to Huntington Beach Firefighters Saturday November 20, 2004 beginning 4:00 p.m.; Lighting of the Pier, Sunday November 21, 2004 at 6:00 p.m.** (120.85)

Mayor Cathy Green announced that a ceremony will be held Saturday November 20, 2004 starting at 4:00 pm at the Pier. Firefighters from New York City will present our Huntington Beach Fire Department with a unique statue made from steel from the World Trade Center. The Mayor stated that the two fire departments have had a long-standing relationship and our city provided much support and assistance after the September 11th tragedy. The ceremony will feature patriotic singing, fire department pipe and drums, comments and the statue presentation at sunset. The public is invited to attend this special event.

On the evening of Sunday, November 21, 2004, the holidays will officially be kicked off with the lighting of the Pier at 6:00 pm. Santa Claus and the Mayor will flip the switch on the snowflakes lining the Pier at the "Light a Light of Love" ceremony. There will be musical presentations and visits with Santa following the ceremony.

**Public Comments**

**Tim Geddes** welcomed newly appointed Councilmember Grace Winchell, congratulated Councilmember Debbie Cook on her re-election, and thanked Councilmember Connie Boardman for her term of office. Mr. Geddes spoke in favor of fireworks at the beach and recommended a shuttle service concept for the City as a means of relieving traffic congestion and as a boom to tourism.

**Stephen C. Daniel**, President of the Downtown Huntington Beach Business Association, spoke in favor of the agenda item addressing promotional free parking during the holidays. Mr. Daniel, a downtown merchant, also spoke in support of fireworks at the beach.

**Ron McLin**, member of the Downtown Restaurant Association and the Downtown Business Association, spoke in favor of the proposed promotional free parking program. Mr. McLin also spoke in support of fireworks at the beach and commended the Fire Department for a job well done.

**Doug Traub**, President of the Huntington Beach Conference and Visitors Bureau (CVB), spoke in support of fireworks on the beach as a City tradition. Mr. Traub requested Council to postpone making a decision until a subcommittee could be formed to study the issue and discover remedies for potential problems.

**Randy Fuhrman** requested that Council deny the Beautification, Landscape and Trees (BLT) Committee's recommendation proposed in an agenda item presented in a Council Committee report.

**Joe Edmonds** spoke regarding notification mailings, recently increased from 300 to 500 feet, and requested Council revert back to 300 feet due to what is perceived as an added burden to applicants.

**Anna Schaber** spoke regarding volunteerism and a campaign letter from the Mayor. Ms. Schaber also spoke relative to parking and street sweeping fines, referring to them as hidden taxes.

**Merrilee Madrigal** spoke regarding the City's incurred indebtedness relative to the agenda item which addresses the Redevelopment Agency and The Strand. Ms. Madrigal asked Council to reinstate the Citizen Participation Advisory Board (CPAB) and for increased public participation.

**Gordon Smith** spoke regarding the Consent Calendar item that addresses expansion of the Wetlands and Wildlife Care Center and thanked the Redevelopment Agency for its support.

**Steve Stafford** brought before Council, a binder he stated contains documents that are allegedly fraudulent involving the Planning Department and a local developer. Additionally, Mr. Stafford asserted his opinion that a Consent Calendar item should have been a noticed public hearing.

**Rob Moore** spoke in favor of fireworks at the beach, commending Fire, Police, and Public Works for their efforts at this year's event, and asked Council to consider alternatives to solve parking problems.

Councilmember Dave Sullivan spoke in rebuttal to a previous speaker's comments relative to a political mailer and perceived City letterhead.

Councilmember Gil Coerper announced an opening on the 4<sup>th</sup> of July Board and asked interested citizens to contact Council Administrative Assistant Cathy Fikes at 536-5553.

**(City Council) Approved Direction for the City Administrator to Allow Removal and Replacement of Parkway Trees, Including Necessary Sidewalk Repairs, without Curb and Gutter Repair, by a Licensed, Permitted Contractor, (All at the Property Owner's Expense) Pursuant to the Beautification, Landscape and Tree (BLT) Committee Recommendation (100.10)**

The City Council considered communication from Councilmember Gil Coerper on behalf of the Beautification, Landscape and Tree (BLT) Committee members, Mayor Pro Tem Jill Hardy and Councilmember Dave Sullivan transmitting the following **Statement of Issue**: The current City Tree Removal and Replacement Policy, approved by the City Council on March 15, 2004, allows property owners to remove street trees that are causing damage when the property owner also repairs and replaces any damaged adjacent sidewalk, curb, and gutter and replaces the tree with a city-approved species. This policy is intended to allow property owners waiting to have the repairs completed by the city, the opportunity to accelerate the schedule by funding the improvements themselves. To ease the financial burden on property owners wishing to accelerate the schedule for repairs, the Beautification, Landscape and Tree (BLT) Committee is recommending that the concrete repairs be limited only to the sidewalk.

**Analysis:**

The current Tree Removal and Replacement Policy allows property owners to remove and replace street trees that are causing damage to adjacent curb, gutter, and sidewalk without having to go through the Street Tree Petition process and not having to wait for city-funded repairs. Since March 15, 2004, the effective date of the policy change, numerous property owners have reviewed this opportunity with private, licensed, and insured contractors. Due to the high expense of the curb and gutter concrete work, many property owners have decided not to pursue the tree removal and replacement. Individual residents have requested that the city modify the removal and replacement policy to allow damaged sidewalk and tree removal replacement only, leaving the curb and gutter for city-funded repairs when resources become available.

Currently, over 100 street segments are awaiting work on the Street Tree Petition process. The estimated cost of these repairs exceeds \$14 million. The March 15, 2004, policy revision was an attempt to allow greater flexibility to the property owners to address problem trees and concrete in front of their residences. The BLT Committee considers the enhancement of pedestrian travel as a high priority in recommending a modification to the existing policy.

Included here is the July 27, 2004 and the August 24, 2004 BLT staff reports, outlining the discussions that have taken place in regard to this issue.

**Beautification, Landscape and Tree (BLT) Committee Action:**

The BLT reviewed and approved the change to the policy at the September 28, 2004 meeting, by a vote of 2-1-0.

A motion was made by Coerper, second Sullivan to direct the City Administrator to allow removal and replacement of parkway trees, including necessary sidewalk repairs, without the repair of curb and gutter, all at the expense of the property owner, by a licensed contractor, after a city permit has been issued. All other conditions of the current Tree Removal and Replacement Policy will remain in effect. (Vote to follow)

Councilmember Cook inquired about the criteria for determining tree removal and replacement tree selection. Public Works Director Robert F. Beardsley responded and reported on costs of curb and gutter repair. Deputy Public Works Director Paul Emery also reported.

Mayor Pro Tem/BLT Committee member Hardy stated reasons for her opposition to the BLT Committee's recommendation and for her support of the existing policy.

Council/BLT Committee member Sullivan stated reasons for his support of the BLT Committee's recommendation.

Mayor Pro Tem Hardy suggested amending the motion to direct Public Works to encourage curb and gutter repair, if needed, at the homeowner's expense. The maker of the motion and the second agreed.

Councilmember Cook suggested amending the motion to clarify for the homeowner who is responsible if the curb or gutter is damaged in the process of tree removal, in the event the contractor pulling the permit looks to the owner for compensation. The maker of the motion and the second agreed.

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

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

**(Redevelopment Agency) Oral Report Presented by the City Administrator Penelope Culbreth-Graft; PowerPoint Presentation by the Deputy Executive Director David Biggs Regarding Discussion of Redevelopment Agency Tax Increment/Other Revenues, Assets and Debt (160.10)**

City Administrator Penelope Culbreth-Graft gave an oral report. Deputy Executive Director David Biggs presented a PowerPoint report titled *Redevelopment Agency of the City of Huntington Beach – Discussion of Tax Increment/Other Revenues, Assets & Debt*.

**(City Council) City Clerk Presented an Oral Report Regarding the Internet Online Agenda Packet (160.10)**

City Clerk Joan L. Flynn presented an oral report regarding the Internet Online Agenda Packet. Deputy City Clerk Patricia Albers demonstrated the steps necessary to access the information on the City's internet website.

***The following is a public hearing opened and continued at the 10/4/04 meeting. The public testimony section of this hearing had been closed. A notice was posted by the City Clerk's Office pursuant to the Brown Act, notifying the public that the item is being continued to this meeting.***

**(City Council) Public Hearing Held Regarding Zoning Text Amendment (ZTA) No. 03-01 (Through Lot Development Standards) to Consider Amending Chapters 203, 210 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, Accessory Structures and Fencing and Yards – Item Opened and Continued from October 4, 2004. (Public Testimony Portion Closed October 4, 2004 and Reopened at This Meeting) Ordinance No.s 3685 A/B/C Not Approved for Introduction – New Ordinance to Return at a Date Uncertain (450.20)**

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

**Applicant:** City of Huntington Beach

**Request:** To amend Chapters 203, (210 introduced in an alternative Ordinance – see agenda packet) and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to regulate the placement of fencing, landscaping, and accessory structures within the rear and street side yards of through-lots. A through lot is defined as having frontages on two parallel streets. The proposed amendments are generally intended to prohibit fences and structures of any height on slopes and rear portions of through lots, require the sloped portion of a through lot to be fully landscaped and require fencing on a through lot to be located at top of grade, including fencing within an exterior side yard.

**Location:** Citywide

**Environmental Status:** Notice is hereby given that this Agenda Item is categorically exempt from the provisions of the California Environmental Quality Act.

The City Council considered six communications submitted in opposition to the proposed ZTA 03-01, which were included in the agenda packet.

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

Councilmember Sullivan recused himself from participation in this agenda item due to a possible conflict of interest.

Planning Director Howard Zelefsky orally reported and introduced Planner, Paul DaVeiga who presented the PowerPoint report.

Discussion ensued amongst Council and staff regarding the Conditional Use Permit process, the mailing notification process, the enforcement of Covenants, Conditions and Restrictions (CC&Rs) decorative fencing, and differences in slope heights and setbacks.

Mayor Green 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:

A PowerPoint presentation dated November 15, 2004 titled *Through Lot Development Standards* submitted by the Planning Department.

Communication submitted by Adrienne Parks dated November 15, 2004 titled *Opening "Closed" Public Testimony re: D-1 Through Lots Amendment*.

Communication submitted by Adrienne Parks dated November 15, 2004 titled *To: Planning Commission, City of Huntington Beach, Zoning Amendment 03-01 (backyards)* consisting of a letter, a package of 31 copies of photographs of newly constructed walls, articles about retaining walls, and elevation drawings.

**Jean Nagy** spoke regarding views on Gilbert Island and homes that were allegedly built exceeding city height limits. Ms. Nagy spoke in opposition to Zoning Text Amendment 03-01, stating she would lose use of 1,400 square feet of her property if it is approved.

**Randy Fuhrman** asked the City Council to remember the recommendations of the Planning Commission when making a decision. Mr. Fuhrman spoke further in regards to notification, primary and secondary frontage definitions, conditional use permits (CUPs), and exceptions.

**Rick Taylor** spoke in opposition to what he described as complicated, restrictive rules. Mr. Taylor spoke about the wall on his property, the CUP process, and asserted his opinion that the current oversight plan is adequate.

**Heide Palikan** spoke relative to walls in her neighborhood and other areas that exceed 100 inches in height, distributing a Late Communication which illustrates these walls. Ms. Palikan stated her opposition to the proposed zoning text amendment.

**Mike Palikan** spoke regarding the costs of conditional use permits and in opposition to ZTA 03-01. Mr. Palikan asked Council to deny approval of ZTA 03-01 and to let the homeowners associations enforce their Covenants, Codes and Restrictions (CC&Rs).

**Adrienne Parks** presented a PowerPoint report illustrating the many options in wall construction available to homeowners relative to designer blocks, vegetation, colors, and textures

**Jackie Satterthwaite** spoke regarding the benefits of walls relating to safety, erosion protection, and vegetation. Ms. Satterthwaite informed Council that the designs within the neighborhoods have already experienced changes, and of willingness to compromise.

**Carole Garrett** spoke regarding streets that have two-foot sidewalks and no parkway. Ms. Garrett spoke in support of CUP notification to all homeowners on the street and approval by the Planning Commission of walls.

**Elizabeth Rowell** spoke in opposition to ZTA 03-01, citing concern for property rights and the diversity of homes in Huntington Harbour.

**Donna Mance** asked Council to either deny Zoning Text Amendment No. 03-01 or to pay homeowners for what she referred to as lost property.

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.

Council discussion followed relative to costs to applicants for Conditional Use Permits or Variances, current definitions of through lots, minimum setbacks and maximum heights for walls, building of decks on yard slopes, and terracing.

A motion was made by Coerper, second Green to approve Zoning Text Amendment No. 03-01 with Finding for Approval and after the City Clerk reads by title, approve introduction of **Ordinance No. 3685B** – “*An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance by Amending Sections 203.06 and 230.88 thereof Relating to Definitions and Fencing and Yards*” (Planning Commission/Staff Recommendation.) Councilmember Cook, Mayor Pro Tem Hardy and Councilmember Winchell all gave reasons for their opposition to the motion at hand. The motion **failed** by the following roll call vote:

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

Councilmember Cook presented some suggestions for discussion including an allowance of an additional three-foot encroachment from the fence line onto the slope and an eight-foot wall, five feet of which is view fence.

Council discussion ensued regarding hardscape on the slope, setbacks, and retaining walls at the foot of the slope.

A motion was made by Hardy, second Boardman to allow a combination 3-foot retaining wall and 5-foot view fence with a total maximum height of eight feet, measured from the adjacent grade, located at a minimum seven foot setback, measured from the secondary frontage property line. In addition, the Conditional Use Permit process would be eliminated, no retaining wall would be allowed at the foot of the slope, definitions of primary and secondary frontage to be revised per October 4, 2004 Council action, and if pursued, variance notification would include all residents on the street which faces the wall.

Councilmember Cook suggested increasing the minimum setback to ten feet. The maker of the motion and the second agreed.

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

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

A motion was made by Boardman, second Hardy to continue with the meeting and complete the entire agenda. The motion carried by the following roll call vote:

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

**(City Council) Public Hearing Held - Opened and Continued Open from September 20, 2004 to Consider Two Resolutions Adopted at the August 16, 2004 Council Meeting: (1) Resolution of Intention 2004-68 Forming and Setting Boundaries of the District, Holding Election and Declaring Results to Establish Community Facilities District (CFD) No. 2004-1 (The Strand) - Blocks 104/105 - and (2) Resolution No. 2004-69 Declaring Necessity to Incur Bonded Indebtedness Per Disposition and Development Agreement (DDA) between the City and CIM/Huntington, LLC - Adopt Resolution Nos. 2004-76, 2004-77 and 2004-78 (350.30)**

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

Resolution of Intention No. 2004-68 and with respect to the establishment of said community facilities district, which provides in summary as follows:

1. The name proposed for the community facilities district is "City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California."

2. The boundaries of the proposed community facilities district are described and shown on the map entitled "Boundaries of City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California," which is on file with the City Clerk.

3. The types of public facilities proposed to be provided for and financed by the proposed community facilities district are:

- a. Street improvements including costs of condemnation, removal, demolition, grading, paving, curbs and gutters, sidewalks, street lights and parkway and landscaping related thereto.
- b. Storm drains.
- c. Sewers, sewer treatment facilities and sewer capacity acquisition.
- d. Public parking facilities including a parking structure.
- e. Water distribution facilities, including fire hydrants and water storage facilities.
- f. Street signalization and signage, including traffic fees.
- g. Fire facilities including structures and capital equipment.
- h. Utility facilities construction and relocation.
- i. Acquisition of land, rights-of-way and easements necessary for any of the facilities specified in paragraphs (a) through (h) above.
- j. The incidental expenses which will be incurred are: (i) the cost of engineering, planning and designing such facilities and the cost of environmental evaluations thereof, (ii) all costs associated with the creation of the proposed community facilities district, issuance of the bonds thereof, the determination of the amount of and collection of taxes, the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district, and (iii) any other expenses incidental to the construction, acquisition, completion, and inspection of such facilities.

4. Special taxes sufficient to pay for all such facilities, to pay the principal of and interest on the bonds of the proposed community facilities district and the annual administrative expenses of the City and the proposed community facilities district in determining, apportioning, levying and collecting such special taxes, and in paying the principal of and interest on such bonds, and the costs of registering, exchanging and transferring such bonds, secured by the recordation of a continuing lien against all taxable or nonexempt property in the proposed community facilities district, and maintaining a reserve fund for such bonds, and paying any amounts that must be paid to the United States in order to preserve the tax-exempt status of such bonds shall be annually levied within the proposed community facilities district. The rates and method of apportionment of said special taxes shall be as set forth in Exhibit "B" to Resolution No. 2004-68. The maximum amounts of special taxes which may be annually levied on parcels within the proposed community facilities district which are used for private residential purposes are as follows:

#### **MAXIMUM SPECIAL TAX**

The maximum special tax for the leasehold interests in taxable property in CFD No. 2004-1 shall be the greater of (1) \$590,000 per acre if a tract or parcel map for airspace condominium has not been recorded or (2) the amount determined pursuant to the following steps:

Step 1: Determine the maximum annual debt service on all Outstanding Bonds;

Step 2: Multiply the total debt service determined in Step 1 by 1.1 and add the Administrative Expenses;

Step 3: Multiply the amount from Step 2 by 0.6 and divide by the square footage of the Hotel Airspace Assessor's Parcel to determine the Maximum Special Tax per square foot for the Hotel Airspace Assessor's Parcel;

Step 4: Multiply the amount from Step 2 by 0.4 and divide by the square footage of the Retail Airspace Assessor's Parcel to determine the Maximum Special Tax per square foot for the Retail Airspace Assessor's Parcel.

#### **METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with fiscal year 2006-2007, and for each fiscal year thereafter, the city council shall levy the special tax proportionately on each assessor's parcel of taxable property at up to 100% of the maximum special tax, as determined by the paragraph, above, as needed to satisfy the special tax requirement.

The officers of the City who will be responsible for providing the proposed types of public facilities to be provided within and financed by the proposed community facilities district, if it is established, shall study the proposed district, and, at or before the time of said hearing, file a report or reports with the City Council containing a brief description of the public facilities by type which will in their opinion be required to adequately meet the needs of the proposed community facilities district and their estimate of the fair and reasonable cost of providing those public facilities and the incidental expenses to be incurred in connection therewith. Such reports shall be made a part of the record of the hearing.

Other property within the boundaries of the City may be annexed into the proposed community facilities district upon the condition that parcels within that territory may be annexed only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed.

The consolidated special elections on (i) the proposition of the proposed community facilities district incurring a bonded indebtedness in an amount not to exceed \$15,000,000 (ii) the proposition with respect to the levy of special taxes on the land within the community facilities district to pay the principal of and interest on the bonds thereof, and (iii) the proposition with respect to the establishment of an appropriations limit for the community facilities district in the amount of \$4,000,000, if the community facilities district is established and such consolidated special elections (the "consolidated special elections") are held, shall be conducted as a mail ballot election.

If at least 12 persons have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the public or protest hearing, the vote in the consolidated special elections shall be by the registered voters of the community facilities district with each voter having one vote. In that event, the consolidated special elections shall be conducted by the Registrar of Voters of the County of Orange and shall be held on a date selected by the City Council and the ballots for the consolidated special elections shall be distributed to the qualified electors of the community facilities district by mail with return postage prepaid, and the consolidated special elections shall be conducted as a mail ballot election.

If at the time of the close of the protest hearing less than 12 persons have been registered to vote within the territory of the community facilities district, the vote shall be by the landowners of the community facilities district, with each landowner of record at the close of the protest hearing having one vote for each acre or portion of an acre of land that he or she owns within the community facilities district. In that event, the consolidated special elections shall be conducted by the City Clerk.

The ballots for the consolidated special elections shall be distributed to the qualified electors by the City Clerk by mail with return postage prepaid, or by personal service. The City Clerk shall mail to each qualified elector an official ballot, and shall also mail to all such qualified electors other required election documents, including a return identification envelope with prepaid postage thereon addressed to the City Clerk for the return of voted official ballots.

Resolution No. 2004-68 contains other provisions which are not summarized above. A copy of Resolution No. 2004-68 may be reviewed or obtained at the office of the City Clerk of the City of Huntington Beach, 2000 Main Street, Huntington Beach, California.

Notice is further given that at the hearing the testimony of all interested persons or taxpayers for or against the establishment of the community facilities district, the extent of the district, or the furnishing of specified types of public facilities or services will be heard. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the proposed community facilities district or the owners of one-half or more of the area of the land in said territory and not exempt from the levy of special taxes, file written protests against the establishment of the proposed community facilities district, and protests are not withdrawn so as to reduce the value of the protest to less than a majority, no further proceedings to create the community facilities district or to levy the specified special taxes shall be taken for a period of one year from the date of the decision of the City Council. If majority protests of the registered voters or of the landowners are only against the furnishing of a specified type or types of public facilities or services within the community facilities district, or against levying a specified special tax, those types of facilities or services or the specified special tax will be eliminated from the resolution of formation establishing the community facilities district.

**The public hearing is also to consider Resolution No. 2004-69, adopted by the City Council on August 16, 2004:**

Said resolution determines that it is necessary for proposed City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California, to incur a bonded indebtedness in the aggregate principal amount of \$15,000,000.

Resolution No. 2004-69 provides in summary as follows:

1. The City Council declares that it is necessary that bonded indebtedness be incurred by and for proposed City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California, in an aggregate principal amount not to exceed \$15,000,000 for the purpose of financing the design, acquisition, construction, equipping and furnishing of the public facilities described in Resolution No. 2004-68.
2. The amount of the proposed bonded indebtedness shall include all costs and estimated costs incidental to, or connected with, the accomplishment of the purposes for which the proposed bonded indebtedness is to be incurred, including, but not limited to, the estimated costs of construction and acquisition of the public facilities which are proposed to be provided within and for the proposed community facilities district.
3. All non-exempt parcels of taxable property within the proposed community facilities district shall be subject to the levy of special taxes to pay the principal of and interest on the aggregate principal amount of the bonds of the community facilities district which may be issued and sold to finance public facilities which are of benefit to parcels of property within the community facilities district.

4. A public hearing on the proposed bonded indebtedness for said proposed community facilities district shall be held at 7:00 p.m. on September 20, 2004, in the City Council Chambers located at 2000 Main Street, Huntington Beach, California. Said hearing shall be conducted concurrently with the hearing on the establishment of the proposed community facilities district.

Notice is further given that at the time and place of said hearing all interested persons, including all persons owning property in the proposed community facilities district, for or against the proposed bonded indebtedness, will be heard.

Mayor Green called on City Clerk Joan L. Flynn for proof of publication and mailing of notices of hearing.

City Clerk Flynn announced that notice was published on September 9, 2004 in the Huntington Beach Independent.

Mayor Green called for the report from Psomas with regard to the establishment of the proposed community facilities district, a brief description of the public facilities which will be required to adequately meet the needs of the community facilities district and estimates of costs of providing those public facilities.

Kim Byrens of Best, Best and Krieger orally reported.

Mayor Green opened the public hearings to protests, comments and questions from interested persons, including persons owning property within the proposed community facilities district and taxpayers, with respect to the establishment of the community facilities district, the proposed method of determining and apportioning maximum amounts of special taxes, and the proposed bonded indebtedness for the district.

Mayor Green inquired of the City Clerk whether any written protests have been received.

City Clerk Flynn responded that no written protests have been received by the Clerk's Office.

Mayor Green inquired of the City Clerk as to whether there are any persons registered to vote within the community facilities district, and, if so, the number thereof.

City Clerk Flynn responded that there are no registered voters within the community facilities district.

Mayor Green inquired of the City Clerk if written consents to holding the community facilities district elections on November 15, 2004 have been received from all landowners within the community facilities district.

City Clerk Flynn replied that she has received written consent from all landowners within the community facilities district.

Mayor Green inquired of the City Clerk if she concurs in the holding of the Special Elections for the community facilities district on November 15, 2004.

City Clerk Flynn responded in the affirmative.

Councilmember Winchell made inquires related to Proposition C and the monitoring of the funds, to which Kim Byrens from Best, Best and Krieger responded.

A motion was made by Hardy, second Coerper to:

1. Continue open, conduct and close public hearing;

**and**

2. Adopt **Resolution No. 2004-76** – *“A Resolution of the City Council of the City of Huntington Beach Establishing City of Huntington Beach Community Facilities District No. 2004-1 (The Strand) and Establishing the Boundaries thereof;”*

**and**

3. Adopt **Resolution No. 2004-77** – *“A Resolution of the City Council of the City of Huntington Beach Calling a Special Election and Submitting to the Voters of City of Huntington Beach Community Facilities District No. 2004-1 (The Strand) Propositions Regarding Incurrence of Bonded Indebtedness, the Annual Levy of Special Taxes within the Community Facilities District to Pay Principal of and Interest on Bonds thereof, and the Establishment of an Appropriations Limit.”*

The motion carried by the following roll call vote:

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

Mayor Green inquired if the City Clerk has received any ballots for the Community Facilities District Election.

City Clerk Flynn announced that one of two ballots were received.

City Clerk Flynn announced tabulation results to the City Council stating that the ballot received represents over 2/3rds of the total votes. The election results are Proposition A, B, and C pass.

A motion was made by Hardy, second Cook to:

1. Hold the election;

**and**

2. Adopt **Resolution No. 2004-78** – *“A Resolution of the City Council of the City of Huntington Beach Declaring the Results of the Consolidated Special Elections for City of Huntington Beach Community Facilities District No. 2004-1 (The Strand) County of Orange, State of California, on the Propositions with Respect to (i) Incurring Bonded Indebtedness in an Original Amount not to Exceed \$15,000,000, (ii) the Annual Levy of Special Taxes to Pay Principal and Interest on Bonds, and (iii) the Establishment of an Appropriations Limit and Authorizing the Recordation of the Notice of Special Tax Lien.”* The motion carried by the following roll call vote:

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

**Exhibit "A" of Resolution No. 2004-77 – Official Ballot  
Consolidated Special Elections for City of Huntington Beach  
Community Facilities District No. 2004-1 (The Strand)  
County of Orange, State of California**

<p><b>PROPOSITION A:</b> Shall a bonded indebtedness in an original aggregate principal amount not to exceed \$15,000,000 be incurred by and for City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California (the "Community Facilities District"), for a maximum term of not more than 35 years and with interest at a rate or rates not to exceed the maximum interest rate permitted by law, for the purposes of providing; (1) The types of public facilities listed in the Resolution of Formation of the District adopted November 15, 2004, and (2) The incidental expenses which will be incurred are all costs associated with the creation of the Community Facilities District, issuance of the bonds thereof, the determination of the amount of and collection of taxes, and the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [Proposition A]</p>
<p><b>PROPOSITION B:</b> Shall special taxes be levied annually on taxable property within City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California (the "Community Facilities District"), to pay the principal of and interest on the bonds of the Community Facilities District issued and sold to finance and refinance those purposes specified in Proposition A of this ballot, to establish and replenish the reserve fund for the bonds, or to accumulate funds for future bond payments, including any amount required by federal law to be rebated to the United States with regard to the bonds, and to pay expenses incidental thereto and to the levy and collection of the special taxes, so long as the special taxes are needed to pay the principal of and interest on the bonds and for such other purposes, together with the payment of, and the provisions of repair and replacement reserves for, maintenance of any of the publicly owned facilities financed with the proceeds of such bonds, at the special tax rates and pursuant to the method of apportioning the special taxes set forth in Exhibit "A" to the Resolution of Formation adopted by the City Council of the City of Huntington Beach on November 15, 2004?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [Proposition B]</p>
<p><b>PROPOSITION C:</b> Shall an appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, be established for City of Huntington Beach Community Facilities District No. 2004-1 (The Strand), County of Orange, State of California, in the amount of \$4,000,000?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [Proposition C]</p>

PROPOSITIONS A AND B ARE SUBJECT TO THE ACCOUNTABILITY MEASURES PRESCRIBED IN SECTION 53410 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

**(Redevelopment Agency) Public Hearing Held - Approved the Five Year Implementation Plan (2005-2009) and the Ten Year Housing Compliance Plan (2005-2014) for the Huntington Beach Redevelopment Project (Merged Project Area) Having Five Subareas: Main-Pier, Yorktown-Lake, Oakview, Huntington Center and Talbert-Beach (410.05)**

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

Public hearing for the purpose of considering approval of the Five Year Implementation Plan (2005--2009) and the Ten Year Housing Compliance Plan (2005--2014) for the Huntington Beach Redevelopment Project (Merged Project Area) having five sub-areas: Main-Pier, Yorktown-Lake, Oakview, Huntington Center, and Talbert-Beach. California Community Redevelopment Law §33490.

The purpose of the Implementation Plan is to identify the specific goals and objectives for the Huntington Beach Project, describe the specific programs, including potential projects and estimated expenditures that would be made during the five years, and explain how these activities will eliminate blight, and within the Housing Compliance Plan how to improve and increase the supply of affordable housing for the very low, low, and moderate income households.

A copy of the Implementation Plan and the Housing Compliance Plan may be reviewed on line at [www.hbbiz.com](http://www.hbbiz.com) or at the following locations: Reference Desk, Central Library, 7111 Talbert Street, or at City Hall, 2000 Main Street, in the City Clerk's Office (2<sup>nd</sup> Floor) and in the Department of Economic Development (5<sup>th</sup> Floor).

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

Deputy Executive Director David Biggs presented a PowerPoint slide report titled *The Five-Year Implementation Plan (2005-2009) & Ten-Year Housing Compliance Plan – Huntington Beach Project (Merged Project)* which was included in the agenda packet.

Mayor Green declared the public hearing open.

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

A motion was made by Coerper, second Hardy to approve the Five-Year Implementation Plan (2005-09) and the Ten-Year Housing Compliance Plan (2005-14) for the Huntington Beach Project (Merged Project Area).

The motion carried by the following roll call vote:

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

**(City Council) Public Hearing Held - Adopted Resolution No. 2004-89 to Establish a Fats, Oils and Grease (FOG) Control Fee as an Additional Charge on Food Service Establishments that Generate FOG (340.20)**

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

Public Hearing for the purpose of considering imposing a Fats, Oil and Grease (FOG) Control fee as an additional charge on food service establishments. This added charge is necessary to recover costs to implement a Fats, Oils, and Grease (FOG) Control Program as mandated by the State.

A Fee Study detailing the reasons and methodology for the FOG fee is available for public review at City Hall, 2000 Main Street in the City Clerk’s office between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

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

Public Works Director Robert F. Beardsley introduced City Engineer Dave Webb. A motion was made, by unanimous consent by all present, none absent, to waive viewing of PowerPoint report titled *FOG Control Program Fee Fats, Oils and Grease Control Program Fee for Food Service Establishment*, which was included in the agenda packet.

Mayor Green declared the public hearing open.

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

A motion was made by Winchell, second Coerper to:

- 1. Conduct a Public Hearing;

**and**

- 2. Adopt **Resolution No. 2004-89** – *“A Resolution of the City Council of the City of Huntington Beach Setting the Fats, Oils and Grease (FOG) Control Program Fee.”*

The motion carried by the following roll call vote:

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

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

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

(City Council) Resignations of Lindsay Mingee and Thorin Scott and Appointments of Marney Anderson and Corinne Welch to the Human Relations Task Force with a Term to Expire December 31, 2005

(City Council) Agreement (Utilizing Clause in Current Contract to Extend Services through June 30, 2005) between the City and the County of Orange Animal Care Services for Fiscal Year 2004-2005

**Consent Calendar – Items Approved**

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

AYES: Sullivan, Coerper , Hardy, Green, Boardman, Cook, Winchell (abstained from October 18, 2004 minutes) (Boardman, Cook - No on Promotional Program for Free Parking)  
 NOES: None  
 ABSENT: None

**(City Council/Redevelopment Agency) Minutes** (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of October 18, 2004 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(City Council/Redevelopment Agency) Adopted Agency Resolution No. 352 Approving Amendment of Redevelopment Agency Debt Pursuant to the Operative Agreement between the City and the Redevelopment Agency for the Redevelopment Merged Project Area and the Cooperation Agreement between the City and the Southeast Coastal Project Area for Certain Capital Improvements within or of Benefit to the Southeast Coastal Development Project** (310.30) – Adopted Agency **Resolution No. 352** - *“A Resolution of the Redevelopment Agency of the City of Huntington Beach Amending the Agency Debt Pursuant to the Operative Agreement between the City of Huntington Beach and the Redevelopment Agency of the City of Huntington Beach for the Huntington Beach Redevelopment Project, and the Cooperation Agreement between the City of Huntington Beach and the Redevelopment Agency of the City of Huntington Beach Regarding Certain Capital Improvements within or of Benefit to the Southeast Coastal Redevelopment Project.”* The debt at September 30, 2004 will be as follows:

Merged Project Area	\$89,283,958
Southeast Coastal Project Area	<u>6,775,000</u>
<b>Total Debt</b>	<b>\$96,058,958</b>

Submitted by the Administrative Services Director and the Economic Development/Deputy Executive Director. Funding Source: Not Applicable.

**(City Council) Adopted Resolution No. 2004-88 Modifying Resolution No. 2002-129 Relating to the Permitted Uses of Park Fees Pursuant to Huntington Beach Zoning and Subdivision Ordinance (ZSO) Section 230.20** (450.20) – Adopted **Resolution No. 2004-88** – *“A Resolution of the City Council of the City of Huntington Beach Modifying the Permitted Uses of Fees Collected Pursuant to Section 230.20 of the Huntington Beach Zoning and Subdivision Ordinance.* Submitted by the Community Services Director. Funding Source: None.

**(City Council) Approved Implementation of a Promotional Program for Free, One-Hour Parking (with Merchant Coupons) in the Downtown Main Promenade Parking Structure during the Holidays from December 13, 2004 through January 2, 2005** (560.35) – Implemented free, one-hour parking with merchant coupons at the Main Promenade Parking Structure from December 13, 2004 through January 2, 2005. Submitted by the Community Services Director and the Economic Development Director. Funding Source: Potential loss of up to \$8,000 in revenue to the General Fund.

**(Redevelopment Agency) Approved Grant Agreement between the Redevelopment Agency and the Huntington Beach Wetlands Conservancy to Fund Construction on Conservancy-Owned Property for the Construction of a Block Wall and Associated Landscaping Pertaining to the Expansion of the Wetlands and Wildlife Care Center Located in the Southeast Coastal Redevelopment Project Area (along the Inland Side of Pacific Coast Highway from the S/E Corner of Newland Street) (600.30)** – Approved the *Grant Agreement between the Redevelopment Agency of the City of Huntington Beach and the Wetlands Conservancy* for \$270,000.00 and approved that the Agency Chair and the Agency Clerk execute the agreement. Submitted by the Deputy Executive Director. Funding Source: Southeast Coastal Redevelopment Account No. 31580101.82000.

**(City Council) Amended the Community Services Department Table of Organization by Adding a Senior Services Assistant to Operate the Senior Transportation Program (700.10)** - Amended the Community Services Department Table of Organization to add one full-time permanent Senior Services Assistant position to operate the Senior Transportation Program. Submitted by the Community Services Director. Funding Source: Senior Mobility Program grant funds, Account number 76545502; funding to be transferred from recurrent to permanent salaries.

**(City Council) Accepted Extension of Additional Downtown Collection Service Donated by Rainbow Disposal for a Six-Month Period (January through June 2005) (810.40)** 1. Accepted Rainbow Disposal's offer to donate the cost for one additional trash collection on Friday and Saturday in January and February, and on Friday, Saturday and Sunday in March, April, May and June of 2005; and 2. Will revert to the pre-existing schedule after the six-month period expires. Submitted by the Public Works Director. Funding Source: No funding is required. This is a donation of service valued at \$13,250.00.

**(City Council) Authorized the Closure of City Hall, the Central and Four Branch Libraries on Thursday, December 23, 2004 and Thursday, December 30, 2004 (120.10)** Authorized the City Administrator to close City Hall, the Central Library and the four branch libraries on Thursday, December 23, 2004 and Thursday, December 30, 2004. Submitted by the Administrative Services Director. Funding Source: Not Applicable.

**(City Council) Approved Sole Source Procurement from Asbury Environmental Services for Purchase of Catch Basin Screening Devices (600.10)** – Approved sole source procurement from Asbury Environmental Services of Fontana, California for purchase of between 90 and 130 "Clean Screen" catch basin screening devices, for an amount not to exceed the available grant funding. Submitted by the Public Works Director. Funding Source: Funds are budgeted in Account No. 89288003.82500, Proposition 13 2000 Clean Water Bond Act Grant. The estimated cost could be up to \$150,000.00, depending on funding remaining after completion of the Central Park and Warner/Nichols Storm Water Treatment Project, CC-1257.

**(City Council) Approved Amendment No. 1 to Professional Services Contract between the City and Berryman & Henigar, Inc. (600.10)** – 1. Authorized an exemption to Section 3.03.120 of the Huntington Beach Municipal Code to allow extension of a professional services contract beyond the term of three years; and 2. Approved and authorized the Mayor and City Clerk to execute *Amendment No. 1 to Agreement between the City of Huntington Beach and Berryman & Henigar, Inc.* Submitted by the Public Works Director. Funding Source: Not Applicable.

**(City Council) Approved Addition (Restoration to Full-time) of Public Works Maintenance Worker Position for Graffiti Removal (700.10)** – Approved addition of full-time Maintenance Worker position to Public Works Maintenance staff, to restore graffiti abatement to its prior level of a full-time activity; and **2.** Appropriated \$40,000.00 from the General Fund balance to fund the position through September 2005. Submitted by the Public Works Director. Funding Source: Funding in the amount of \$40,000 would be appropriated from the General Fund balance to Public Works Building and Grounds Maintenance, Personal Services 10085402.51110 for the remainder of Fiscal Year 2004/05. Costs of approximately \$50,000.00 will be required annually.

**(City Council) Approved Amendment No. 2 Extending Agreement between the City and RBF Consulting (Formerly Robert Bein, William Frost & Associates) for Consulting Services for Water Well No. 12 Pump and Facilities Installation; CC-1119 (600.10)** – **1.** Approved and authorized the Mayor and City Clerk to execute Amendment No. 2 to the Agreement between the City of Huntington Beach and RBF Consulting (Formerly Robert Bein, William Frost & Associates) for consulting services for Water Well No. 12 pump and facilities installation (CC 1119) and **2.** Authorized an exemption to Section 3.03.120 of the Huntington Beach Municipal Code to allow extension of a professional services contract beyond the term of three years. Submitted by the Public Works Director. Funding Source: Funds in the amount of \$82,476.00 are available from the Water Master Plan Fund, Well Improvements, Water Improvements, account number 50791011.82100.

**(City Council) Approved Affordable Housing Agreement between the City and Mainstreet Townhomes, LLC for a 20-Unit Attached Townhome Project Located at the S/W Corner of Main and Holly Streets (Holly Seacliff Specific Plan Area) (600.10)** – Approved the Agreement Containing Covenants Affecting Real Property By and Between the City of Huntington Beach and Mainstreet Townhomes LLC, titled *Declaration of Conditions, Covenants and Restrictions for Property (Resale Restrictions)*, and authorized the Mayor and City Clerk to sign and execute (Attachment No. 1). Submitted by the Planning Director. Funding Source: Not Applicable.

**(City Council) Accepted Resignations of Lindsay Minge and Thorin Scott and Approved the Appointments of Marney Anderson and Corinne Welch to the Human Relations Task Force with a Term to Expire December 31, 2005 (110.20)**

The City Council considered a communication from the Community Services Director and Council Liaisons Mayor Cathy Green and Councilmember Gil Coerper transmitting the following **Statement of Issue:** Due to the resignation of two members, it is necessary to appoint two new members to fulfill terms.

Councilmember Coerper requested that this agenda item be removed from the Consent Calendar in order to highlight the names of the new appointees and to thank the resigning appointees for their service.

A motion was made by Coerper, second Green to: **1.** Accept the resignation of **Lindsay Minge** and approve the appointment of **Marney Anderson** with a term to expire December 31 2005; and **2.** Accept the resignation of **Thorin Scott** and approve the appointment of **Corinne Welch** with a term to expire December 31 2005. The motion carried by the following roll call vote:

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

**(City Council) Approved Agreement (Utilizing Clause in Current Contract to Extend Services through June 30, 2005) between the City and the County of Orange Animal Care Services for Fiscal Year 2004-2005 (600.25)**

The City Council considered a communication from the Chief of Police transmitting the following **Statement of Issue:** Since 1975 the City of Huntington Beach has contracted with the County of Orange for animal care services. These services include animal care field services, special services, such as license enforcement, and shelter services for stray and impounded animals. These services are contracted on an annual basis. This contract will allow for full service animal care services for the community. **Funding Source:** The total contract amount of \$414,149 is within the 2004-2005 non-departmental General Fund budget, account number 10040101. No additional appropriations are necessary.

Councilmember Coerper requested that this agenda item be removed from the Consent Calendar to obtain clarification from Police Chief Small on the services the City receives from Animal Control Services.

A motion was made by Coerper, second Sullivan to: **1.** Approve and authorize 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.** Authorize the Chief of Police to expend up to \$414,149 annually for animal care services. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Boardman, Cook, Winchell  
NOES: None  
ABSENT: None (Green out of the room)

**(City Council) Approved the Location for the Fourth of July 2005 Fireworks Display at the Pier (960.30)**

The City Council considered a communication from the Community Services Director, the Fire Chief, the Police Chief and the Public Works Director transmitting the following **Statement of Issue:** City Council approved moving the 4<sup>th</sup> of July Fireworks to the beach for the 100<sup>th</sup> anniversary in 2004 for one year only. Council needs to decide if the fireworks should go back to its regular location at Huntington Beach High School.

A motion was made by Coerper, second Green to study potential locations prior to the end of year and to meet with Fourth of July Board for recommendations. (vote to follow)

City Administrator Culbreth-Graft reported that the recommendation on the report is based on a study and consensus of the Community Services Director, the Fire Chief, the Police Chief and the Public Works Director.

Community Services Director Jim Engle presented a PowerPoint report titled *2005 4<sup>th</sup> of July Fireworks Venue*, which was included in the agenda packet.

Mayor Pro Tem Hardy gave reasons for opposition to the motion on the table.

Councilmember Sullivan voiced safety concerns pertaining to his decision to vote in favor of the staff recommended action.

A substitute motion was made by Sullivan, second Green to exclude the beach and the pier as sites for the 2005 4<sup>th</sup> of July Fireworks. (vote to follow)

Fire Chief Duane Olson and Police Chief Kenneth Small responded to Councilmember inquiries regarding emergency response times at different venues.

Councilmember Winchell stated her support for holding the fireworks show at the high school.

Councilmember Cook stated her support for holding the fireworks show at the pier.

Mayor Pro Tem Hardy voiced her opposition to the substitute motion on the table.

Mayor Green stated her concurrence with the public safety concerns relative to holding the fireworks show at the beach or pier.

The **substitute** motion **failed** by the following roll call vote:

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

A vote was then taken on the main motion. The main motion **failed** by the following roll call vote:

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

A motion was made by Hardy, second Cook to conduct the 4<sup>th</sup> of July Fireworks Show at the Pier. The motion carried by the following roll call vote:

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

**(City Council) Adopted Resolution No. 2004-90 Establishing the Policy for the Naming and Memorials of City Parks, Park Features and Community Facilities and the Messages Placed on Benches Donated by the General Public - Repealed Conflicting Resolutions (920.10)**

The City Council considered a communication from the Community Services Director transmitting the following **Statement of Issue**: The Community Services Commission has formulated recommended changes to Resolution No. 2001-64 relative to the park naming and memorials policy and messages placed on benches donated by the general public.

Community Services Director Jim Engle gave a PowerPoint report titled *Policy for the Naming of City Parks, Park Features and Community Features*, which was included in the agenda packet.

Councilmembers made inquiries regarding who has final approval and whether the resolution in question would apply only to future designations. Director Engel responded to these inquiries.

A motion was made by Cook, second Hardy to adopt **Resolution No. 2004-90 – “A Resolution of the City Council of the City of Huntington Beach Establishing Its Policy for the Naming of City Parks, Park Features and Community Facilities and Repealing Conflicting Resolutions.”** The motion carried by the following roll call vote:

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

**(City Council) Adopted in Part, the City Wide Entitlement Permit Streamlining Project (Phase II) by Adopting Ordinance Numbers 3669, 3673, 3675, 3677, 3679, 3680, and 3681 Amending 7 Chapters of the Huntington Beach Zoning and Subdivision Code – Approved Deferral of Ordinances to the January 3, 2005 Council Meeting: Ordinance Nos. 3668 A/B, 3670, 3671, 3672, 3674, 3676, 3678, and 3682, Amending 7 Chapters of the Huntington Beach Zoning and Subdivision Code and Various Sections of the Downtown Specific Plan SP-5 (450.20)**

The City Council considered a communication from the Planning Director dated November 10, 2004 titled *Zoning Text Amendment No. 03-02 (Permit Streamlining Phase II)*.

Mayor Green expressed concerns regarding the cost of increasing notification requirements. Director Zelefsky responded.

After the City Clerk read by title, a motion was made by Hardy, second Coerper to adopt the following ordinances which were approved for introduction and amended at the November 1, 2004 Public Hearing:

**Ordinance No. 3669** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 204 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED USE CLASSIFICATIONS;” and*

**Ordinance No. 3673** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 214 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED PS PUBLIC-SEMIPUBLIC DISTRICTS;” and*

**Ordinance No. 3675** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 222 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED FP FLOODPLAIN OVERLAY DISTRICT;” and*

**Ordinance No. 3677** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 231 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED OFF-STREET PARKING AND LOADING PROVISIONS;” and*

**Ordinance No. 3679** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 236 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED NONCONFORMING USES AND STRUCTURES;” and*

**Ordinance No. 3680** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 244 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED DESIGN REVIEW;” and*

**Ordinance No. 3681** – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 250 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED GENERAL PROVISIONS.”* The motion carried by the following roll call vote:

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

**(City Council) Approved for Introduction Ordinance No. 3691 Amending Chapter 248 of the Huntington Beach Zoning and Subdivision Ordinances Regarding Notices, Hearings, Findings, Decisions, and Appeals (450.20)**

After the City Clerk read by title, a motion was made by Hardy, second Boardman to approve introduction of **Ordinance No. 3691** – “*AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 248 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE ENTITLED NOTICES, HEARINGS, FINDINGS, DECISIONS AND APPEALS.*” The motion carried by the following roll call vote:

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

**(City Council) Waived Fees for American Legion Flag Project at Pier Plaza (100.10)**

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: The American Legion of Huntington Beach has been raising funds to create a flag display at Pier Plaza. The group is ready to begin construction for the project, which will include the American flag, California State flag, with a pole for a third flag. Upon completion of the project, the display will be handed over to the city of Huntington Beach. The project is intended to complete Pier Plaza, as it was originally designed and built without the patriotic display of our national and state flags.

There are several statutory fees required for projects of this type. Specifically, this project is subject to a design review fee of approximately \$900 and building plan check, permit and inspection fees of \$300, totaling approximately \$1,200.

This project is a good example of a partnership with the community for a public purpose. Waiving the fees provides recognition of the American Legion’s effort to improve the public right-of-way and encourages civic involvement in public projects.

Councilmember Sullivan gave an oral presentation.

A motion was made by Sullivan, second Green to waive all city fees for this project. The motion carried by the following roll call vote:

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

**(City Council) Approved Change in Starting Time of City Council Meetings: Regular Meeting at 6:00 P.M. (120.10)**

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: Given the significance and length of agenda items, City Council Meetings are long and take many hours to conclude business. Several times, the meetings have been extending past midnight. It is difficult for staff and Council to function on such serious and complex issues so late into the night. As well, members of the public must stay late until their items are addressed. In most cases, staff and members of the public must return to work early the following morning.

I am proposing that the City Council shift the beginning of City Council Meetings to 6 p.m. rather than 7 p.m. The Charter allows the City Council to set the meeting time [Section 303(a)] by ordinance or resolution. Should the Council agree to adjust the starting time for the public portion of the agenda, the City Administrator would need direction to prepare the proper documentation for the change.

Although it would not be necessary, the City Council may wish to consider changing the starting times of Study Sessions and Closed Sessions. Currently, we schedule Study Sessions at 5 p.m. or 5:30, depending upon the number of items to be considered, and Closed Sessions at 6 p.m. This generally allows time for a brief meal prior to the start of the Council Meeting. Should the Council desire, this action could include shifting the Study Session time to 4 p.m. and Closed Session time to 5 p.m.

Mayor Pro Tem Hardy informed Council that she would vote in opposition to this item.

Mayor Green stated her support for the change in favor of an earlier starting time, with the expectation that the agenda will not grow as a result.

A motion was made by Sullivan, second Cook to shift the beginning of the City Council Meetings to 6 p.m. rather than 7 p.m. The motion carried by the following roll call vote:

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

**(City Council) Approved Direction for the City Attorney to Return to Council a Draft Ordinance to Prohibit the Killing of Wild Birds in the City of Huntington Beach (100.10)**

The City Council considered a communication from Councilmember Connie Boardman transmitting the following **Statement of Issue**: Earlier in the year, the poison Avitrol was used to kill pigeons in Central Park by one of the city's concessionaires. The Council directed the City Attorney to draft an ordinance to ban the use of this toxin. However, upon further research by our City Attorney, she discovered the city was unable to enact such an ordinance since to do so would preempt state law. We can, however, change our existing animal protection ordinances to include protection of wild birds in the city. The City Attorney has drafted such an ordinance that would prohibit the killing of wild birds in the city, but was waiting for Council direction prior to bringing it back to us.

A motion was made by Boardman, second Cook to direct the City Attorney to bring back to the Council the ordinance she has drafted to prohibit the killing of wild birds in the city. The motion carried by the following roll call vote:

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

**(City Council) Councilmember Boardman Spoke Regarding Political Literature (120.85)**

Councilmember Connie Boardman spoke in regards to some inaccurate information relative to a piece of republican political literature and a Council vote on April 2, 2004.

**(City Council) Councilmember Coerper Congratulated Eagle Scout David Darrell Lawrence (120.85)**

Councilmember Gil Coerper congratulated David Darrell Lawrence on his Eagle Scout project and promotion to Eagle Scout Rank.

**Adjournment – City Council/Redevelopment Agency**

Mayor Green adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 12:15 a.m. to Monday, November 29, 2004, at 4:00 p.m., in Room B-8 Civic Center, 2000 Main Street Huntington Beach, California.

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

ATTEST:

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City Clerk-Clerk

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Mayor-Chair