

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

Monday, May 2, 2005
4:00 P.M. - Room B-8
6:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

An audiotape of the 4:00 p.m. portion of this meeting
and a videotape of the 6:00 p.m. portion of this meeting
are on file in the Office of the City Clerk.

Call to Order

Mayor Hardy called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4:00 p.m. in Room B-8.

City Council/Redevelopment Agency Meeting Roll Call

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

The Senior Deputy City Clerk Announced a Late Communication

Pursuant to the Brown (Open Meetings) Act, Senior Deputy City Clerk Dale Jones announced a Late Communication regarding an agenda item that had been received by the Clerk's office following distribution of the agenda packet:

Communication submitted by Dan T. Villella, Finance Officer dated May 2, 2005 titled *Late Item Submission for Study Session on the Midyear Budget & the CAFR (Comprehensive Annual Financial Report)*.

The Following Additional Late Communication Was Submitted During the Meeting:

Communication submitted by Dan T. Villella, Finance Officer, undated, titled *An Elected Official's Guide to the New Governmental Financial Reporting Model*.

(City Council/Redevelopment Agency) Deferred from 4/18/05 - Presentation Made by the Finance Department Regarding Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2003/2004 and Mid Fiscal Year 2004/2005 Budget Status (310.20)

City Administrator Penny Culbreth-Graft introduced Finance Officer Dan Villella who gave a PowerPoint report, which was announced earlier by Senior Deputy Jones as a Late Communication. Director Villella spoke relative to the audited financial statements, General Fund budget overview and projections for 2004/2005. Mr. Villella concluded with a budgetary calendar.

Council made inquiries regarding liquidity of the Redevelopment Agency and debt repayments, franchise revenues, transferring of funds to the Capitol Improvement Project (CIP) Fund, unfunded liabilities for supplemental retirement, and the distinction between Council policies and Charter amendments relating to the transfer of funds.

Mayor Pro Tem Sullivan requested a memo be prepared addressing how Council policy relating to transfer of funds to the CIP was initiated. City Administrator Culbreth-Graft reported that this memorandum is already in process.

A Public Hearing on this topic was proposed for September 6, 2005.

Councilmember Green announced a press release relative to Boeing/Lockheed Martin and the United Launch Alliance. She informed Council that some local positions would be moving to Denver in approximately two years.

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 consensus of all present, none absent.

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(b)(3)(A) to confer with its attorney regarding pending litigation. Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed. **Number of Potential Cases: one (1).** Subject: **Potential Litigation** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(b)(3)(A) to confer with its attorney regarding pending litigation. Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed. **Number of Potential Cases: Unknown at this time.** Subject: **Potential Litigation re: Enforcement of Covenants, Conditions and Restrictions for Affordable Housing.** (120.80)

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

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(b)(3)(A) to confer with its attorney regarding pending litigation. Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed. **Number of Potential Cases: 481.** Subject: **Potential Litigation** (120.80)

Reconvened City Council/Redevelopment Agency Meeting – 6:00 P.M. – Council Chambers.

City Council/Redevelopment Agency Roll Call

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

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

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

Pledge of Allegiance – Led by Mayor Jill Hardy

Invocation – Led by Rabbi Michael Mayerson, President Elect of the Greater Huntington Beach Interfaith Council

The Senior Deputy City Clerk Announced Late Communications

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

Communication submitted by Dan T. Villella, Finance Officer dated May 2, 2005 titled *Late Item Submission for Study Session on the Midyear Budget & the CAFR (Comprehensive Annual Financial Report)*.

Communication submitted by Dan T. Villella, Finance Officer, undated, titled *An Elected Official's Guide to the New Governmental Financial Reporting Model*.

Communication submitted by the City Clerk correcting a typographical error on page 1 of the *List of Professional Services Contracts Approved by Department Heads Pursuant to Huntington Beach Municipal Code Chapter 3.03*. The spelling of the second item listed should be changed from "Keyer Marston Associates" to "Keyser Marston Associates."

Communication submitted by Human Resources dated May 2, 2005 titled *PowerPoint* that replaces the PowerPoint presentation in the agenda packet for Resolution No. 2005-34.

Communication submitted by the Fire Department dated May 2, 2005 and titled *Late Communication – Item F-2, May 2, 2005* replacing page F-2.9 of Attachment 1 of the RCA for the Huntington Beach Fire Association (HBFA) MOU.

The Following Additional Late Communications Were Submitted During the Meeting:

Communication submitted by Fred Tinker, undated, titled *Nautical North Marigayle Circle Tract 15690 Huntington Beach, CA*.

Communication submitted by Chuck Scheid dated May 2, 2005 titled *Public Comments, 2 May 2005, Agenda Item F-2*.

Presentation - Mayor Jill Hardy called on Janeen Laudenback and John Valinsky from the Community Services Department who accepted a check from the Kiwanis Club for \$3,000. Ms. Laudenback and Mr. Valinsky announced the Fishing Derby on Friday, May 6, 2005 and asked for volunteers. (160.40)

Presentation - Mayor Jill Hardy called on Manager of Corporate Relations of Time Warner Cable, John Borack, who presented the winner of the "Bravo on with the Show" nationwide contest. The winner is Huntington Beach Student Alexis Sweeney who won a trip to New York City to train and perform on Broadway. The Mayor also presented Ms. Sweeney with a commendation. (160.40)

Presentation - Mayor Jill Hardy called on Police Chief Ken Small who introduced Tracy Miller and Tanya Dabir from Mothers Against Drunk Driving (MADD). Ms. Dabir and Ms. Miller announced annual awards to the following twelve worthy Huntington Beach police officers: Matthew Cahn, David Wiederin, Mike Lyons, Keith Smith, Mark Freeman, Wade Wilson, Brad Smith, Brian Knorr, Tai Huynh, Richard Spencer, Dennis Fulton, and Dale Shields. Chief Small announced that awards would be presented at the Police Department and gave special recognition to Officer Shields whose 130 DUI arrests ranked number two in the County. (160.40)

Mayor's Award - Mayor Jill Hardy called on Community Services Director Jim Engle who presented the Mayor's Award to Senior Transportation Driver John McGrew. Mr. McGrew started as a volunteer in 1999, has accumulated over 3,300 hours of volunteer service, and continues to volunteer even though he now works as a City employee. (160.40)

Public Comments

Keith Raffel, speaking on behalf of the Huntington Pacific Homeowners Association (HPHA), presented a PowerPoint report and stated that the paint ball tournament occurred 10 feet from the HPHA property. Mr. Raffel referred to the event as an invasion of privacy and read from letters written by other homeowners that described disturbances and the aftermath of paint ball litter.

Chuck Scheid referred to a Late Communication he had distributed to Council and spoke in opposition to Huntington Beach Fire Association (HBFA) Memorandum of Understanding (MOU) pay increases.

Gerald Chapman stated as a former Planning Commissioner, he urges that proper notification to citizens and Council be considered when approving streamlining ordinances on the agenda.

Eileen Murphy, affiliated with Residents for Responsible Desalination, urged Council to give consideration to what she referred to as flaws in the Poseidon desalination plan. Ms. Murphy specifically stated concerns about air pollution and water contamination.

Karen Chepeka, President of Save-Our-Strays (SOS) of Huntington Beach, asked Council for their support on the Consent Calendar item that authorizes funding for animal microchipping and spay/neuter services.

Dean Albright spoke as a water committee member about conservation efforts. Mr. Albright suggested Council require that upcoming development projects address infrastructure and grey water issues.

John F. Scott spoke regarding the proposed Poseidon desalination project and referred to an article that addressed the challenges with the Tampa Bay project. Mr. Scott cited concerns about chemicals discharged as a result of desalination and urged Council to deny the project.

Jon Ely voiced his opposition to the proposed Poseidon desalination plant and what he referred to as the inadequacy of the Environmental Impact Report (EIR). Mr. Ely stated concerns about aesthetics and asked Council to tour the area and then deny the project.

Steve Stafford referred to letters related to the release of bonds for the Crystal Island project and stated concerns about alleged developer violations. Mr. Stafford spoke in opposition to the Public Hearing item on the agenda and suggested adequate notification on streamlining ordinances.

Ron Stocking, President of the Huntington Beach Firefighters Association (HBFA), thanked everyone involved in the negotiation of the HBFA contract. Mr. Stocking asked Council to support the contract with a unanimous vote.

Larry Porter spoke in opposition to the proposed Poseidon desalination plant and what he referred to as Poseidon's lack of proven success in this type of project.

Peter Green voiced his opposition to the De Vore Assembly Bill 991. He gave an update on recent committee votes in the Assembly and thanked Council for considering the matter.

Michelle Schomburg stated her opinions on the downtown Arts and Craft Fair and asked Council to meet with her to discuss recommendations for improvement.

Mayor Hardy referred the previous speaker to contact the Council Secretary, Cathy Fikes at 536-5203.

David Smythe voiced his opposition to the City purchase of surplus school sites, stating his concerns about a bond sale and the precedence set by such a sale. Mr. Smythe also stated his opinion that funding for education should be prioritized over funding for extra-curricular activities.

Alan Gandall, President of Save Our Field, spoke in support of the agenda item that addresses the surplus school property purchasing plan and offered his assistance.

(City Council) Announcement Made by Councilmember Cathy Green of the Individual Appointment of Michael Risk to the Fourth of July Board (110.20)

Councilmember Green made the above announcement.

(City Council) Announcement Made by Councilmember Gil Coerper on 3rd Battalion, 1st Marines (3/1) Events (110.10)

Councilmember Coerper gave an update on events held and scheduled in the future for 3/1 Marine Battalion members. He commended Mayor Hardy on her participation and vocal performance at the Marine Dine-in, and thanked Councilmember Art Brown, City of Buena Park, for his help in raising funds for a Knott's Berry Farm event for the Marines. Councilmember Coerper lastly announced his election as Chair of the Committee.

(City Council) Mayor Pro Tem Dave Sullivan Reported on Floor Area Ratio (FAR) Ad Hoc Committee (110.10)

Mayor Pro Tem Sullivan reported on Floor Area Ratio (FAR) Ad Hoc Committee discussions stating that the committee has asked staff to suggest to Council guidelines other than FAR that address density.

(City Council) Announcement Made by Mayor Jill Hardy of Meeting with City Administrator and Councilmembers Bohr and Hansen Regarding Strategic Plan (110.10)

Mayor Hardy reported on a meeting with City Administrator Penny Culbreth-Graft and Councilmembers Bohr and Hansen regarding creation of a strategic plan for the future including setting priorities for Council.

(City Council) Reviewed and Accepted Shari Freidenrich, City Treasurer's March 2005 Investment Summary Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity* (310.20)

The City Council considered a communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for March 2005.

City Treasurer Freidenrich gave a PowerPoint presentation titled *Treasurer's Report*, which was included in the agenda packet.

A motion was made by Coerper second Green to review and accept the monthly report, *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for March 2005*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

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

(City Council) Public Hearing Held - Approved Entitlement Plan Amendment No. 04-08 Nautical North Residential Development – Rear Slope Modifications for Four Lots: 6454, 6455, 6464 and 6465 Marigayle Circle (Located at the Terminus of Marigayle Circle, West of Edwards Street, South of Ellis Avenue) Originally Filed by Applicant, Fred Tinker – Reconsideration of City Council's Denial on 4/18/05 (420.40)

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

Applicant: Fred Tinker

Request: A reconsideration of the City Council's denial of EPA No. 04-08 on March 21, 2005. EPA No. 04-08 is a request to amend a condition of approval for the previously approved tentative tract map (#15960) by permitting modifications to rear slopes on four lots located at the terminus of Marigayle Circle. The modifications include construction of a five-foot high retaining wall topped with a one-foot block wall and two feet of view fencing in order to allow an extension of the usable rear yards ranging from approximately 12 feet to 30 feet in depth.

Location: 6454, 6455, 6464, and 6465 Marigayle Circle (Terminus of Marigayle Circle, south of Ellis Avenue)

Environmental Status: Notice is hereby given that this agenda item is categorically exempt from the provisions of the California Environmental Quality Act.

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

Planning Director Howard Zelefsky and Associate Planner Paul DaVeiga gave oral reports.

Mayor Hardy declared the public hearing open.

Gerald Chapman, former Planning Commissioner, gave an explanation of the rationale for the denial of the original development plan. Mr. Chapman stated concerns regarding the "fill" and the renditions that were presented to Council, and asked Council to consider the effect approval of the amendment would have on the adjoining park.

Fred Tinker, Applicant for the project, thanked Council for reconsideration of his request and thanked staff for recommending approval. He enumerated reasons for his request including resident safety, use of land to landowners, and strengthening of the slope. Mr. Tinker asked Council to vote in favor of the amendment.

Sam Talmood, resident of Marigayle Circle, thanked Council for its consideration and voiced concerns for the safety of his children and their friends in his backyard as it is currently designed.

Abe Rayhaun, resident of Marigayle Circle, concurred with the Mr. Talmood's comments and addressed Councilmembers concerns relative to Keystone fencing, support of the slope, and maintenance of landscaping.

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.

Mayor Pro Tem Sullivan stated reasons for reconsideration of this item, including information he had not considered in the prior hearing due to time constraints. He noted that if the amendment received approval, the remaining native vegetation would, in his opinion, be ample and that the original request for amendment was made by the developer, not the owners.

Councilmember Green concurred with Mayor Pro Tem Sullivan's comments and inquired about "fill" and view walls stating her concern for the safety of children.

Councilmember Cook inquired about the conditions originally placed on the project and stated reasons for opposing approval including the sensitivity of the parkland and her opinion that the conditions should remain the same as when the property was purchased.

Councilmember Coerper spoke regarding aesthetics and stated his support for the staff recommendation.

Mayor Hardy stated her concurrence with some of Councilmember Cook's comments and her reasons for supporting the recommended action.

A motion was made by Sullivan, second Green to approve Entitlement Plan Amendment No. 04-08 to permit modifications to the rear slopes of four lots within the Nautical North development with findings and conditions of approval (Attachment No. 1*).

The motion carried by the following roll call vote:

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

Attachment No. 1***FINDINGS AND CONDITIONS OF APPROVAL
ENTITLEMENT PLAN AMENDMENT NO. 04-08****FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project involves a minor alteration to the topography of the subject properties.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 04-08:

1. Entitlement Plan Amendment No. 04-08 for modifications to the rear slopes of four single-family residential properties resulting in an increase ranging from approximately 30 feet to 12 feet of increased usable rear yards, will not be detrimental to the general welfare of persons working or residing in the vicinity and detrimental to the value of the property and improvements in the neighborhood. The proposed modifications, as conditioned, will include substantial slopes that will provide a natural buffer between the adjacent park site and the subject lots.
2. The conditional use permit will be compatible with surrounding uses because the proposed retaining wall will consist of quality materials which will be aesthetically appealing when viewed from the regional park site. A substantial landscape buffer ranging from approximately 75 feet to 12 feet in width will be provided between the regional park site and residential structures.
3. Entitlement Plan Amendment No. 04-08 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.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Residential Low Density on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
 - a. Avoid building materials, colors, and construction elements that visually dominate their setting and contrast significantly with the character of the neighborhood. (LU 9.1.2.b)
 - b. Include an adequate landscape setback that provides continuity throughout the neighborhood. (LU 9.2.1.e)

The project, as conditioned, will be developed with a landscape buffer along the rear portion of the subject lots. This buffer will allow for a natural progression between the adjacent regional park site and residences on the subject lots. The buffer will be developed with native plantings consistent with landscaping proposed within the regional park site.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 04-08:

1. The site plan and cross-sections received and dated November 3, 2004 shall be the conceptually approved layout.

2. Prior to issuance of building permits for the retaining walls, a landscape and irrigation plan shall be submitted to the Department of Public Works that identifies the proposed landscaping and irrigation within the sloped areas that is capable of preventing erosion. The landscape plan shall identify the native plants and low-lying shrubs in accordance with the general development plan for the Harriet M. Wieder Regional Park.
3. All landscaping and irrigation shall be installed prior to final inspection of the retaining walls.

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.

Consent Calendar – Items Removed for Separate Discussion

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

(City Council) Resolution Number 2005-31 Opposing Assembly Bill 991 (De Vore) to Change the Structure of the Orange County Vector Control Board of Trustees

(City Council) Resolution Number 2005-32 Authorizing the City Attorney to Initiate Certain Legal Actions on Behalf of the City Re: Filing of Litigation

(City Council) Bids for Traffic Signals at Graham Street and Heil Avenue, CC-1217; and Nichols Street and Slater Avenue, CC-1236 – Re-Advertise

(City Council) Resolution Number 2005-33 Authorizing Execution of Program Supplement Agreement for Preliminary Engineering Services Related to the Design Phase of the Beach Boulevard Landscape Enhancement Transportation Enhancement Activities (TEA) Project

Consent Calendar – Items Approved

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

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

(City Council/Redevelopment Agency) Approved and Adopted Minutes (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of April 4, 2005 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

(City Council) Received and Filed City Clerk's Quarterly Report Listing Professional Services Agreements Filed in the City Clerk's Office Between January 1, 2005 through March 31, 2005 (100.30) – Received and filed the *List of Professional Services Contracts Approved by Department Heads Pursuant to Huntington Beach Municipal Code Chapter 3.03* and submitted to the City Clerk's Office for the period January 1, 2005 through March 31, 2005. Submitted by the City Clerk. Funding Source: Not Applicable.

(City Council) Authorized the Fire Chief to Sign Orange County Fire F.R.I.E.N.D.S. (Firesetter Regional Intervention Education Network and Delivery System) Memorandum of Understanding (MOU) (600.25) – Authorized the Fire Chief to sign the Orange County Fire F.R.I.E.N.D.S. MOU Submitted by the Fire Chief. Funding Source: None required.

(City Council) Approved the Release of the Guarantee and Warranty Bond for Tract No. 15690 Located at West Side of Edwards Street Approximately 150 feet South of Ellis Avenue (Builder - Lennar Homes) (420.60) – **1.** Released Guarantee and Warranty Bond No. 1041-25095, the security furnished for guarantee and warranty of improvements; and **2.** Instructed the City Clerk to notify the builder, **Lennar Homes of California**, of this action, and the City Treasurer to notify the Surety, **Travelers Casualty and Surety Company of America**, of this action. Submitted by the Acting Public Works Director. Funding Source: Not applicable.

(City Council) Approved Amendment No. 1 to Grant Agreement between the City and Save-Our-Strays (SOS) of Huntington Beach for Low/No Cost Animal Microchipping and Spay/Neuter Services and Supplies (600.10) – **1.** Approved and authorized the Mayor and City Clerk to execute the additional funding addendum to the original grant agreement, titled *Amendment No. 1 to Grant Agreement between the City of Huntington Beach and Save-Our-Strays of Huntington Beach for Low Cost Animal Care Services* for the provision of low/no cost animal microchipping and spay/neuter services; and **2.** Approved the funding of a \$15,000 grant to the Save-Our-Strays Program to provide the supplies and services for the animals. Submitted by the Police Chief. Funding Source: The total grant amount of \$15,000 is within the 2004-2005 non-departmental General Fund budget, account number 10040101. These funds are available as a result of savings from the City's contract with the County of Orange Animal Care Services for animal control. No additional appropriations are necessary.

(City Council) Approved Transfer of the Community Services Department's Parking Control Program to the Control and Supervision of the Police Department and Modified the Table of Organization for Both Departments (700.10) – Approved the transfer of the Community Services Parking Control Program to the control and supervision of the Police Department, including approval to modify the table of organization at both departments to reflect the transfer of one permanent and two recurrent Parking Control Officers (PCO). Submitted by the Police Chief and the Community Services Director. Funding Source: The three staff personnel and their associated budgets will be transferred from Community Services Department to the Police Department.

(City Council) Approved Transfer of the Information Services Department's Information Services Technician IV to the Control and Supervision of the Police Department and Modified the Table of Organization for Both Departments (700.10) – Approved the transfer of the Information Services Technician IV to the control and supervision of the Police Department, including approval to modify the table of organization at both departments to reflect the transfer of one permanent position. Submitted by the Police Chief and the Acting Information Services Director. Funding Source: The one staff person and the associated budget will be transferred from Information Services Department to the Police Department.

(City Council) Adopted as Amended Resolution Number 2005-31 Opposing the Restructure of the Orange County Vector Control Board of Trustees (120.70)

The City Council considered a communication from the City Attorney transmitting the following **Statement of Issue:** Whether or not to adopt **Resolution No. 2005-31** – “A Resolution of the City Council of the City of Huntington Beach Opposing Assembly Bill 991 (DeVore) to Change the Structure of the Orange County Vector Control Board of Trustees.”

Councilmember Cook asked that her vote be recorded as “No.”

Councilmember Green requested this item be removed from the Consent Calendar to amend the title and the verbiage of the resolution.

A motion was made by Green, second Bohr to remove paragraph number 5, to amend paragraph number 6 by removing the words “AB 991 De Vore” and replacing them with “Any reduction of the Vector Control Board,” to revise the title of the resolution by removing the words “Assembly Bill 991 (De Vore) To Change the Structure” and replacing them with “The Restructure” and to adopt **Resolution No. 2005-31** – “A Resolution of the City Council of the City of Huntington Beach Opposing the Restructure of the Orange County Vector Control Board of Trustees.” **as amended.** (Vote to follow)

Mayor Hardy stated her reasons for voting “No,” including an interest in discussing possibilities for reducing the size of government.

The motion carried by the following roll call vote:

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

(City Council) Adopted as Amended Resolution Number 2005-32 Authorizing the City Attorney to Initiate Certain Legal Actions on Behalf of the City Regarding Filing of Litigation after Notifying the Mayor (630.50)

The City Council considered a communication from the City Attorney transmitting the following **Statement of Issue:** Authorize the City Attorney to file litigation, and report such filings at a regular City Council meeting, without further City Council action in defined circumstances, including, (1) the requisite defense of litigation; (2) recovery of monies owed to City; (3) enforcement of City’s Municipal Code, Zoning Code, or affordable housing covenants; (4) the protection of City employees from harassment; and (5) pursuit of insurance coverage.

Mayor Pro Tem Sullivan requested this item be removed from the Consent Calendar to inquire if the City Attorney has any objection to calling the Mayor prior to filing the above litigation.

City Attorney McGrath responded that she has no objection and agreed to amend the resolution.

A motion was made by Sullivan, second Green to adopt **as amended Resolution Number 2005-32** - "A Resolution of the City Council of the City of Huntington Beach Authorizing the City Attorney to Initiate Certain Legal Actions on Behalf of the City." The motion carried by the following roll call vote:

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

(City Council) Rejected All Bids for Traffic Signals at Graham Street and Heil Avenue, CC-1217; and Nichols Street and Slater Avenue, CC-1236 – Authorized to Re-Advertise (600.55)

The City Council considered a communication from the Acting Public Works Director transmitting the following **Statement of Issue**: Bids received for the Traffic Signals at Graham Street and Heil Avenue, CC-1217; and at Nichols Street and Slater Avenue, CC-1236 were either non-responsive or exceeded the budgeted amount. Authorization is requested to reject all bids and to re-advertise the project. Funding Source: Project funds are budgeted in Traffic Impact Fee, Traffic Signals, Account No. 20690007.82700. The engineer's estimate for construction is \$175,000.

Councilmember Coerper requested this item be removed from the Consent Calendar to ask for clarification on the reason for and the effect of a project delay . Director Paul Emery and Transportation Manager Bob Stachelski reported.

A motion was made by Coerper, second Sullivan to: **1.** Reject all bids received for the Traffic Signals at Graham Street and Heil Avenue, CC-1217; and at Nichols Street and Slater Avenue, CC-1236, and direct the City Clerk to return all bid bonds; and **2.** Authorize the Director of Public Works to re-advertise the project. The motion carried by the following roll call vote:

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

(City Council) Adopted Resolution Number 2005-33 Authorizing Execution of Program Supplement Agreement for Preliminary Engineering Services Related to the Design Phase of the Beach Boulevard Landscape Enhancement Transportation Enhancement Activities (TEA) Project (340.70)

The City Council considered a communication from the Acting Public Works Director transmitting the following **Statement of Issue**: A resolution is required to execute Program Supplement Agreement No. M029 for preliminary engineering related to the design phase of the Beach Boulevard Parkway Landscape Enhancement Project. Funding is authorized through the Federal Transportation Enhancement Activities (TEA) program. Funding Source: The project is budgeted in TEA Grant Fund, Beach Boulevard, Street Improvements, 89090003.82300.

Mayor Pro Tem Sullivan requested this item be removed from the Consent Calendar to inquire about the funding and participation on the part of Caltrans. City Engineer David Webb responded, citing citizen's requests for landscape improvements and grant funds specific to this project. Mayor Pro Tem Sullivan stated reasons for opposing this resolution, including other areas that need funding.

A motion was made by Coerper, second Hansen to adopt **Resolution Number 2005-33** - "A Resolution of the City Council of the City of Huntington Beach Authorizing the Mayor and City Clerk to Execute Program Supplement No. M029 to Agreement No. 12-5181 for Beach Boulevard Parkway Landscape Enhancement Project for preliminary engineering." The motion carried by the following roll call vote:

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

(City Council) Approved Surplus School Property Purchasing Plan and Directed Staff to Update as Additional School Sites are Surplused for City Council Approval (650.10)

The City Council considered a communication from the Planning Director and the Community Services Director transmitting the following **Statement of Issue**: The disposal of surplus school property that qualifies as park or recreational open space is regulated by the Naylor Act. This Act gives the City first priority to acquire a surplus school site but requires the City to adopt a Surplus School Property Purchasing Plan prior to such acquisition. This report transmits a Surplus School Property Purchasing Plan for the City of Huntington Beach for City Council consideration.

Planning Director Howard Zelefsky gave an oral report.

A motion was made by Coerper, second Hansen to:

1. Approve the Surplus School Property Purchasing Plan;

and

2. Direct staff to update the Surplus School Property Purchasing Plan as additional school sites are surplused for City Council approval. The motion carried by the following roll call vote:

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

(City Council) Adopted Resolution No. 2005-34 Approving Memorandum of Understanding (MOU) between the City and the Huntington Beach Firefighters' Association (HBFA) for September 25, 2004 through September 24, 2007 (720.20)

The City Council considered a communication from the Acting Director of Administrative Services transmitting the following **Statement of Issue**: Should the City and the Huntington Beach Firefighters' Association enter into a new Memorandum of Understanding (MOU) covering the period September 25, 2004 through September 24, 2007? Funding Source: Funding is included in the Fiscal Year 2004/2005 budget and will be included in the Fiscal Year 2005/2006 and Fiscal Year 2006/2007 budgets. The cost to implement the Memorandum of Understanding with the Huntington Beach Firefighters' Association is \$583,668 in Fiscal Year 2004/2005, \$605,663 in Fiscal Year 2005/06 and \$1,423,258 in Fiscal Year 2006/2007 (MOU term expires September 24, 2007).

Senior Deputy City Clerk Dale Jones announced Late Communications that pertain to this Administrative Item.

City Administrator Penny Culbreth-Graft gave an overview of the proposed Memorandum of Understanding (MOU) and outlined the City's retention challenges.

Fire Chief Duane Olson presented a PowerPoint report titled *Huntington Beach Fire Department Firefighter Paramedic No Change vs. Proposed Contract Potential Losses and Hirings*, which was included in the agenda packet.

Mayor Pro Tem Sullivan inquired about to the start date of the contract, domestic partner language and state law, and the City's maximum payment towards employee medical benefits.

Human Resources Manager Irma Youssefieh responded that the new contract begins the day after the old contract expired, and that she will report back to Council on state law regarding domestic partners and on the City's contribution towards medical benefits.

Mayor Pro Tem Sullivan stated his appreciation of the Fire Department and his concerns with the contract including the percentage of pay bonuses that compound with time and what, in his opinion, is a too generous vacation policy.

Councilmember Bohr stated his support of the MOU, noting the Huntington Beach Fire Department's high ratings and the need to offer good benefits to retain quality staff.

Councilmember Cook stated her reasons for supporting the recommended action, including her decision to honor the Closed Session negotiation process.

Councilmember Green stated her reasons for supporting the recommended action, stating that Huntington Beach Fire Department is the third lowest paid in the County, other cities are attempting to recruit City personnel, job security is reduced, and her personal experiences with the Fire Department.

Councilmember Coerper stated his reasons for supporting the proposed MOU and credited City employees for taking care of the City.

Councilmember Hansen spoke regarding labor negotiations, the pressures placed on the City by the increase in pay at outside agencies, and announced his support for the proposed MOU.

Mayor Hardy commented on longevity pay and the benefits to the City of rewarding and retaining experienced staff.

A motion was made by Bohr, second Green to adopt **Resolution No. 2005- 34** - "*A Resolution of the City Council of the City of Huntington Beach Approving and Implementing the Memorandum of Understanding between the Huntington Beach Firefighters' Association (HBFA) and the City of Huntington Beach for September 25, 2004, through September 24, 2007.*" The motion carried by the following roll call vote:

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

(City Council) Adopted Ordinance Numbers 3705 through 3711 Inclusive, as Approved for Introduction on 4/18/05 - Adopted Ordinance Number 3713 (Approved for Introduction as Amended on 4/18/05) - Approved for Introduction as Amended Ordinance Number 3712 - City Wide Entitlement Permit Streamlining Project - Phase II Amending 8 Chapters of the Huntington Beach Zoning and Subdivision Code and Amending Various Sections of the Downtown Specific Plan SP-5 (450.20)

Discussion ensued amongst Council and staff relative to notification to Council on Zoning Administrator and Planning Director decisions. Planning Director Howard Zelefsky reported on distribution of the Zoning Administrator Action Agenda and amendments made to Ordinance No. 3712 at the April 18, 2005 meeting.

After the Senior Deputy City Clerk read by title, a motion was made by Sullivan, second Cook to **approve for introduction as amended** to add "on the next business day and posted on the City website" to page G-1a.185 (c), **Ordinance No. 3712** – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 241 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE RELATING TO CONDITIONAL AND TEMPORARY USE PERMITS, VARIANCES; AND WAIVER OF DEVELOPMENT STANDARDS"*. The motion carried by the following roll call vote:

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

After the Senior Deputy City Clerk read by title, a motion was made by Green, second Hansen to adopt:

Ordinance No. 3705 – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING THE DEFINITIONS CHAPTER OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE CHAPTER 203;" and*

Ordinance No. 3706 – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 210 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE RELATING TO RESIDENTIAL DISTRICTS;" and*

Ordinance No. 3707 – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 211 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE TITLED COMMERCIAL DISTRICTS;" and*

Ordinance No. 3708 – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 212 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE TITLED INDUSTRIAL DISTRICTS;" and*

Ordinance No. 3709 – *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 220 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE TITLED OIL PRODUCTION OVERLAY DISTRICT;" and*

Ordinance No. 3710 - *"AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 230 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE TITLED SITE STANDARDS;" and*

Ordinance No. 3711 – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 233 OF THE HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE TITLED SIGNS;” and*

Ordinance No. 3713 – *“AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING THE DOWNTOWN SPECIFIC PLAN REGARDING DEVELOPMENT STANDARDS.”*
(All approved for introduction April 18, 2005)

The motion carried by the following roll call vote:

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

(City Council) Directed Staff to Open the Emergency Access Gate between the Huntington Central Park Sports Complex and the Central Library Parking Lot on Weekends for a Trial Sixty Day Period and Report Back to Council, Including Lost Revenue to Sports Complex (560.10)

The City Council considered a communication from Councilmembers Dave Sullivan and Gil Coerper transmitting the following **Statement of Issue**: At its June 2, 2003 meeting, City Council approved charging \$1 per vehicle for all day parking at the new Huntington Central Park Sports Complex. As part of that action, Council also approved construction of a six-foot fence and emergency access gate between the sports complex and the library. The fence was considered necessary to prevent sports complex patrons, who had to pay to park, from having an impact on library patrons, who had free parking. The emergency access gate is adjacent to one of the food concessions and is kept locked pursuant to Council action.

A request has been received from Sandy Amersfoorth, operator of the food concession adjacent to the gate, asking that the access gate be opened on weekends for a trial period of one month. Ms. Amersfoorth believes that her volume of sales will increase as a result. City staff will monitor the situation to determine whether the library parking lot is impacted.

Councilmembers Sullivan and Coerper reported orally.

Discussion ensued regarding the potential staffing cost, impact on the library parking, and the length of the trial period.

Mayor Hardy stated her reasons in opposition of the recommended action including concern for parking revenue losses at the Sports Complex.

A motion was made by Sullivan, second Bohr to direct staff to open the emergency access gate between the Huntington Central Park Sports Complex and the Central Library parking lot on weekends for a trial period of sixty days, monitor the activity, and report back to Council including figures for lost revenue to the Sports Complex. The motion carried by the following roll call vote:

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

(City Council) Directed the City Attorney to Prepare an Ordinance Repealing Huntington Beach Municipal Code Chapter 2.05 Relating to Gift Ban Limitations (to avoid Dual Standards between State and Local Law, the Amendment took a Significant Step toward Mirroring State Law Gift Ban Limitations, but did not Incorporate All of the Provisions of State Law) and Return to Council for Consideration at the May 16, 2005 Meeting (120.90)

The City Council considered a communication from Councilmember Debbie Cook transmitting the following **Statement of Issue**: In 2003, the City Council, upon the recommendation of the City Attorney, amended the City's Gift Ban Ordinance, Huntington Beach Municipal Code Chapter 2.05. To avoid dual standards between state and local law, the amendment took a significant step toward mirroring state law gift ban limitations, but did not incorporate all of the provisions of state law. Specifically, the City Council set a different gift amount limitation and did not adopt all of the exceptions to the gift ban available under State law.

Unfortunately, the 2003 amendment did not go far enough in alleviating the dual standards and necessity for elected officials and designated city employees from following two separate standards. By maintaining two different standards, it remains likely that an individual can fully comply with state law, yet violate the City's Municipal Code.

State law is sufficient. It has established a standard that sets clear guidelines and still requires elected officials and designated City employees to be vigilant regarding the receipt of gifts.

Mayor Hardy announced that this item could affect her more than other Councilmembers in the next year and that she would leave the room for the discussion.

Councilmember Cook reported orally.

A motion was made by Cook, second Coerper to direct the City Attorney to prepare an ordinance repealing Huntington Beach Municipal Code 2.05 for consideration at the meeting of May 16, 2005. The motion carried by the following roll call vote:

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

(City Council) Councilmember Green Congratulated Police Department on Baker to Vegas Team Effort and Also Congratulated Several Soroptomists (120.85)

Councilmember Cathy Green congratulated the Police Department for the Baker to Vegas Challenge team efforts. She also Congratulated Soroptomists Joan Lund, Mary Botaccelli, Anita Brace, Dr. Susan Bryant and Police Officer Vicky Shroer on recent awards.

(City Council) Councilmember Coerper Thanked Councilmember Cook, Congratulated Huntington Beach Police Department Baker to Vegas Team (120.85)

Councilmember Gil Coerper thanked Councilmember Debbie Cook for the California Water Issues meeting she had organized. He also congratulated the Huntington Beach Police Department Baker to Vegas team on their 2nd Place divisional and 28th Place overall finish.

(City Council) Mayor Hardy Announced World War II Memories Project with Her Class and the Senior Center (120.85)

Mayor Jill Hardy asked anyone with memories of World War II to contact her or the Senior Center at 714-536-9387 to participate in a project with her high school class occurring on May 19, 2005.

Adjournment – City Council/Redevelopment Agency

Mayor Hardy adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 9:55 p.m. to Monday, May 16, 2005, 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