

**Adjourned Regular and Regular Meeting  
Minutes  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday, May 17, 2004  
4:00 P.M. - Room B-8  
4:30 P.M. – Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audiotape of the 4:30 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.

**(City Council) 4:00 p.m. Meeting Recessed to 4:30 p.m. Due to Anticipated Lack of Quorum**

Assistant City Clerk Liz Ehring recessed the meeting to 4:30 p.m. due to the anticipated lack of quorum.

**Call to Order**

Mayor Green called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4:30 p.m. in Room B-8.

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

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

**(City Council) Study Session No. 1 Held – Continued from 4/19/04 - Study Session Scheduled for August 2, 2004 to Review the Proposed Zoning Code Amendments 03-02 (City Wide Entitlement Permit Streamlining Project - Phase II) – Determination Made to Open and Close the Scheduled June 7, 2004 Public Hearing and Readvertise to a Date Uncertain (450.20)**

Planning Director Howard Zelefsky presented a PowerPoint titled *Zoning Text Amendment 03-02 Entitlement Permit Streamlining Phase II*, which was included in the agenda packet. Mr. Zelefsky confirmed that all permits are appealable at both the Zoning and Planning Commission levels.

Councilmember Sullivan requested to be informed of all appeals due to the 10-day timeline. Mr. Zelefsky stated a list of all permit approvals can be published. He clarified the reason for the streamlining process is for convenience and cost-effectiveness for the applicant. Mr. Zelefsky informed that Neighborhood Notification (per PowerPoint slides on page 11) is by staff decision.

A Council recommendation was presented that a policy can be established for Neighborhood Notification for homeowner associations. Planning Manager Scott Hess reported in response

and on the process of how Neighborhood Notification is done which is sent by the property owner.

Planning Director Zelefsky responded to Council's inquiry regarding having the Zoning Administrator meeting in the evenings to allow for public comments. Mr. Zelefsky stated this would not be cost-effective for applicants who would have to have architects, etc. present in the evening.

Mr. Zelefsky responded to Council inquiry regarding signage. A recommendation was made that the Design Review Board should continue with the current process. Mr. Hess reported on bonus levels for specific types of signs. Associate Planner Rosemary Medel reported.

A Council inquiry was made relative to the Meredith Gardens Day Care Center and how it will be affected by the proposed streamlining ordinance. Clarification was made by Mr. Hess that this only applies to commercial and not residential areas for day-care facilities. Mr. Zelefsky stated this distinction will be made with an added slide. Discussion was held if Council would prefer an additional study session.

A copy of the Downtown Specific Plan titled *Districts by Number* was distributed. Councilmember Coerper stated he would like to see Districts 7, 9 and 10 go to the Planning Commission.

Acting City Administrator William Workman announced a Study Session to be scheduled August 2, 2004. Planning Director Zelefsky stated that the Public Hearing scheduled to be held June 7, 2004 will be opened and closed and readvertised to a date uncertain.

A motion was made by Sullivan, second Coerper to approve to propose to open and close the upcoming scheduled June 7, 2004 public hearing and readvertise to a date uncertain. The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

**(City Council) Study Session No. 2 Held – Reviewed the Regional Water Quality Control Board Waste Discharge Regulations – Fat Oil & Grease (FOG) Program Ordinance (1000.85)**

Public Works Director Robert. F. Beardsley presented a review of the Regional Water Quality Control Board Waste Discharge Regulations Fat, Oil & Grease (FOG) Program Ordinance. Mr. Beardsley informed Council that a draft ordinance titled *An Ordinance of the City of Huntington Beach City Council Adopting Fats, Oil, and Grease Control Regulations Applicable to Food Service Establishments* was included in the agenda packet and will be presented at the July 6, 2004 Council Meeting for approval.

Principal Civil Engineer Todd Broussard presented a PowerPoint slide show titled *Fats, Oils, and Grease (FOG) Control Ordinance*, which was included in the agenda packet. He reported on the timeline for the proposed ordinance, which he stated was drafted by many agencies for consistency.

Mr. Broussard stated that the City does not have a problem with Sanitary Sewer Overflows (SSOS), but the City and the Regional Water Quality Board would both like to see the numbers improved.

Mr. Broussard informed Council of the timelines for adoption of the proposed ordinance legally required to be put into effect July 30, 2004.

Councilmember Cook inquired about reporting of offenders. She suggested to staff that Firefighters who attended an Orange County Sanitation District might be in a good position for monitoring purposes.

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

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

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

NOES: None

ABSENT: None

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation, which has been initiated formally and to which the city is a party. The title of the litigation is **Tiep Nhu Bui and Thanh Cam Nguen v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 03CC06575. Subject: **Tiep Nhu Bui and Thanh Cam Nguen 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: William Workman, Acting City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; Kenneth Small, Chief of Police; Duane Olson, Fire Chief; and Steven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding labor relations matters – meet and confer with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** Subject: **Labor Relations – Meet & Confer.** (120.80)

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

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

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

Absent: None

#### **(City Council) 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.

**Pledge of Allegiance/Flag Salute** – led by Mayor Cathy Green.

**Invocation** – led by Deacon Matt Calabrese

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

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

Assistant City Clerk Ehring announced that some agendas may have inadvertently included a typographical error on who submitted the agenda item relative to the appointment of Dr. Penelope Culbreth-Graft as City Administrator. It was submitted by Mayor Cathy Green, and not the Public Works Director.

Communication submitted by Police Chief Kenneth W. Small dated May 5, 2004 and titled *Opposition to the Tribal Gaming Compact Initiative* stating opposition to the proposed Indian Gaming Initiative (SA03RF0059).

Communication submitted by William P. Workman, Acting City Administrator and Clay Martin, Director of Administrative Services dated May 17, 2004 transmitting a PowerPoint slide show report titled *Review of Proposed Side Letter Agreements with POA, PMA, and MSOA, Agenda Items F-2a and F-2b*.

Communication submitted by Clay Martin, Director of Administrative Services and Dan Vilella, Finance Officer dated May 17, 2004 transmitting a PowerPoint slide show titled *Review of Fiscal Year 2003/2004 2nd Quarter Report and Management Letter to Fiscal Year 2002/2003 CAFR, Item F-3*.

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

Communication submitted by Jennifer McGrath, City Attorney dated May 17, 2004 and titled *City Clerk Recruitment*, which included a list of applicants for appointment to the City Clerk position and a supplemental questionnaire.

Communication submitted by Ted Green dated May 14, 2004 and titled *Stop the Flynt Gambling Proposition* in opposition to the proposed Indian Gaming Initiative (SA03RF0059).

### **(City Council) Councilmember Boardman Announced She Would Remove Her Council Memo Concerning the Mobile Home Park Conversion Ordinance from the Agenda for Further Study at the July 19, 2004 Meeting (640.10)**

Councilmember Boardman announced she had received requests from Councilmembers to have a study session regarding mobile home park conversions and she would pull her Council memo from the agenda for further study at the July 19, 2004 meeting.

**Presentation** made by Mayor Cathy Green, Community Services Director Jim Engle and Ian Collins, Children's Needs Task Force, who announced the awardees of the American Youth Character Awards. The Children's Needs Task Force selected the nineteen winners of the American Youth Character Awards for 2004, which are designed to honor young people whose

lives and achievements demonstrate an enduring commitment to qualities associated with good character. Mayor Green congratulated all of the award recipients. (160.40)

**Presentation** made by Mayor Cathy Green, Community Services Director Jim Engle, and Community Services Commission Chair Nick Tomino, who announced the recipients of the Youth Sports Grants for the year 2004. The City Council previously approved funding totaling \$150,000 to be awarded in grants to local youth sports organizations to help provide better facilities for our children. (160.40)

**Presentation** made by Mayor Cathy Green who presented a proclamation to Public Works Director Robert F. Beardsley and Public Works Commission Chairman Richard Hart, in honor of Public Works Week - May 16 to May 22, 2004. (160.40)

**Presentation** made to Wal Mart representatives for the enormous support they have given the Fourth of July Parade. Mayor Cathy Green invited Pat Stier and others from the July Fourth Parade Committee, who came forward and presented a proclamation. A contact number of (714) 964-2801 for Fourth of July pier tickets was given. (160.40)

**Mayor's Award** presented by Mayor Cathy Green who was joined by City Treasurer Shari Freidenrich to present the Mayor's Award to valued staff member Sylvia Giragosian, Account Technician II for her professional attitude, accuracy of work products and dedication to the City Treasurer's Office. (160.40)

**(City Council) Mayor Cathy Green Announced that Councilmember Boardman Removed Her Agenda Item Concerning Mobile Home Park Conversions for Further Discussion on July 19, 2004** (640.10)

Mayor Cathy Green reiterated that Councilmember Boardman pulled her agenda item concerning mobile home park conversions and there will be a study session for further discussion on July 19, 2004.

### **Public Comments**

**Ted Green**, Coalition Director representing Stop the Flynt Gambling Proposition, distributed a Late Communication dated May 14, 2004 and titled *Stop the Flynt Gambling Proposition* in support of opposition to the legislation agenda item on the proposed Indian gambling initiative. He walked through and reviewed the material and urged Council to oppose the proposed initiative and also to complete an opposition form attached. Mr. Green stated his belief that the initiative would lead to urban gambling and was not about Indians paying their fair share.

**Anita Mangels** informed Council of proponents of the proposed Indian gambling initiative, including Larry Flynt. She named many statewide public safety officer organizations in opposition of the proposed initiative. Ms. Mangels stated her belief that the proposed Flynt Gambling Proposition would cause an ongoing increase in crime.

**Firecracker Westwell**, representing the Libertarian Party, spoke in opposition to the agenda item concerning a proposed ordinance to ban smoking at the beach. Mr. Westwell recommended an increase of penalties and fees on littering as an option to the proposed banning of smoking at the beach.

**Bruce Vancil**, representing the American Cancer Society, stated his belief that smoking is a Group A carcinogen. He spoke in favor of the proposed ordinance to ban on smoking on the beaches. Mr. Vancil stated his opinion that the proposed ordinance would promote a healthier recreational environment for citizens.

**Mike Shumart** stated he is a local surfer and resident. He voiced his support of the proposed ordinance to ban smoking on the beach. Mr. Shumart stated his belief that the proposed ordinance would help to keep the beach clean.

**Matt Shumart** stated he is a local surfer and resident. He stated his belief that the proposed ordinance to ban smoking on the beach would help to reduce water quality problems and help to protect the environment. Mr. Shumart urged Council's support of the proposed ordinance to ban smoking on the beach.

**Doug Traub**, President and CEO of the Huntington Beach Conference and Visitors' Bureau, spoke on behalf of their Board and presented a resolution they passed in favor of the proposed closure of the first block of Main Street, after additional Council study. Mr. Traub also spoke in favor of the ban on smoking proposed, recommending inclusion of the pier and other sites at the beach. Mr. Traub stated their Board also passed a resolution in support of the proposed ordinance to ban smoking at the beach.

**Nicholas Danzo** spoke regarding his request made of the City on parking enforcement at Georgia Street and Knoxville Avenue and cited his belief concerning parking problems and deficiencies.

Mayor Cathy Green requested that Mr. Danzo complete a blue contact form and submit it to the Police Chief for follow-up.

**Peter Albini** spoke regarding a Bushard Street project that he wished to see completed. He inquired regarding the agenda item concerning Beach Boulevard widening improvements. Mr. Albini stated his belief that the City does not have the funds to take care of weeds. He also stated his opinion that the City does not have the funds to hold a City Clerk recruitment.

Councilmember Debbie Cook informed that the Beach Boulevard widening is an Orange County Transportation Authority project and not a City project.

Councilmember Connie Boardman respectfully informed that the Bushard Street project is not a City project but an Orange County Sanitation District project.

Mayor Pro Tem Jill Hardy stated that the interim City Clerk position must be filled by July 3, 2004 or the city must hold a special election for that purpose.

**Wendy Mello** spoke regarding trailers parked on private property. Ms. Mello also spoke concerning weed abatement and submitted a communication dated May 12, 2004 consisting of photographs which she believes depict code violations.

**Barbara Boskovich** commended Community Services Director Jim Engle for his work and integrity on a school board project with Ocean View School District and the Ocean View Little League.

**Jim Walker**, representing Stop Tobacco Abuse of Minors Pronto (STAMP), spoke in favor of a smoke-free beach and stated reasons why he believes people should not smoke at the beach.

Councilmember Cook inquired of Police Chief Small regarding the success of enforcing the proposed ordinance banning smoking on the beach.

**Michelle Hoang** spoke concerning tree roots and tree removal issues, some of which caused plumbing and sewer problems. Ms. Hoang spoke regarding the City Tree Removal and Replacement Policy and the procedures for tree, curb and sidewalk replacement.

Mayor Cathy Green requested that Ms. Hoang complete a blue contact form for the Public Works Director to follow-up.

**(City Council) Discussion Held Regarding the City Clerk Recruitment, Interviews, and Selection – Committee Created to Look at Applicant Questions – City Council Meeting for City Clerk Interviews to be Held on May 24, 2004 at 3:00 p.m. with the First Interview to Commence at 3:30 p.m. and Interviews to be Held Every Half Hour Until all Applicants Present Have Been Interviewed – Interview Questions Not to be Provided to Applicants Prior to Interview – Supplemental Questionnaire Attached to City Attorney’s Late Communication to be Included and to be Submitted at the Time of the Applicant’s Interview Time (700.60)**

City Council discussion was held regarding the City Clerk recruitment, interviews, and selection to appoint a City Clerk to fill the remainder of the unexpired term (December 6, 2004) left vacant on May 4, 2004 due to the resignation of the City Clerk.

City Attorney Jennifer McGrath spoke regarding the Late Communication from her office previously announced by Assistant City Clerk Liz Ehring dated May 17, 2004 and titled *City Clerk Recruitment*, which sets forth nine applications received and requested Council input on number of minutes allowed for each applicant. Also included with the Late Communication was a Supplemental Questionnaire for City Clerk applicants.

Councilmember Connie Boardman suggested that the Councilmembers develop interview questions along with the Human Resources Division of the Administrative Services Department.

Administrative Services Director Clay Martin reported and suggested Council may wish to consider follow-up interviews.

Mayor Pro Tem Jill Hardy suggested Council ask each applicant seven to nine interview questions.

Mayor Cathy Green stated that Council should ask each applicant the same interview questions.

Councilmember Debbie Cook inquired if there could be background checks conducted for applicants applying for an elected office.

Administrative Services Director Martin reported on procedures for background checks. Councilmember Connie Boardman inquired regarding timelines for the Human Resources Department to submit three interview questions to Council.

A motion was made by Boardman, second Cook to create a committee made up of Mayor Cathy Green, Mayor Pro Tem Jill Hardy and Councilmember Connie Boardman to look at questions for City Clerk applicants. The motion carried by the following roll call vote:

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

Mayor Pro Tem Jill Hardy requested a deadline for submitting interview questions and to change the first City Clerk interview appointment to 3:30 p.m. instead of 3:15 p.m.

A motion was made by Hardy to have the Council meeting for City Clerk interviews on May 24, 2004 at 3:00 p.m. and the first interview to commence at 3:30 p.m. and be held every half hour. The motion died for lack of a second.

A motion was made by Boardman second Cook to have the Council meeting for City Clerk interviews on May 24, 2004 at 3:00 p.m. with the first interview to commence at 3:30 p.m. with interviews to be held every half hour and to not submit questions to the applicants prior to the interviews. The motion carried by the following roll call vote:

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

A motion was made by Boardman second Hardy to include the proposed questionnaire attached to City Attorney's Late Communication to be submitted at the time of the applicant's interview time. The motion carried by the following roll call vote:

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

**City Administrator's Report – Acting City Administrator William Workman Congratulated Community Services Director Jim Engle and the Community Services Department on the Promotional Agreement between the City and Nissan North America (100.30)**

Acting City Administrator William Workman stated as a point of pride he wanted to commend and congratulate Community Services Director Jim Engle and the Community Services Department for the project agreement with Nissan North America who will provide seventeen beach vehicles at no cost to the city.

Mayor Cathy Green also congratulated Community Services Director Jim Engle on the Nissan agreement.

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

The following item was removed from the Consent Calendar for separate discussion:  
(City Council) Resolution No. 2004-29 Establishing Residential Curbside Refuse Collection Rates with Rainbow Disposal Company, Inc. and Modifications to the Downtown Refuse Can Collection Schedule

**Consent Calendar – Items Approved**

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

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

NOES: None

ABSENT: None

ABSTAIN: (Hardy recused herself due to a conflict of interest on agenda item concerning approval of Final Tract Map No. 16490 of Tentative Tract Map No. 16490)

**(City Council/Redevelopment Agency) Minutes** (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Special/Regular Meetings of April 19, 2004 and the Adjourned Regular/Special Meetings of April 23, 2004 (including Recessed Special Meetings of April 26 and continued Special Meetings of April 27, 2004) 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 Report Listing Professional Services Agreements Filed in the City Clerk's Office Between January 1, 2004 through April 30, 2004** (600.05) – Received and filed the List of Professional Services Agreements entered into by City Departments as submitted to the Office of the City Clerk for the period January 1, 2004 through April 30, 2004. Submitted by the City Clerk. Funding Source: Not Applicable. (Report presented pursuant to City Council directed policy of November 19, 2001.)

**(City Council) Approved Promotional Agreement between the City and Nissan North America, Inc. for Provision of 17 Vehicles at No Cost to the City for the Community Services Departments' Marine Safety and Parking/Camping Beach Operations** (600.10) - Approved *City of Huntington Beach Promotional Agreement with Nissan North America, Inc.* for the provision of seventeen vehicles at no cost to the city for two years, with two, two-year options for use in the Marine Safety, Beach Maintenance, and Parking/Camping Operations of Community Services, and authorize the Mayor and City Clerk to execute same. Submitted by the Community Services Director. Funding Source: Not applicable.

**(City Council) Adopted Resolution No. 2004-25 Authorizing Local Street Closures for the Fourth of July Parade and Adopted Resolution No. 2004-26 Requesting Caltrans Approve the Closure of Pacific Coast Highway for the Fourth of July Parade** (800.60) Adopted **Resolution No. 2004-25** – “A Resolution of the City Council of the City of Huntington Beach Authorizing Street Closure for the Fourth of July,” and **Resolution No. 2004-26** - “A Resolution of the City Council of the City of Huntington Beach Requesting Caltrans Approve the Closing of Pacific Coast Highway for the Huntington Beach Fourth of July Parade.” Submitted by the Community Services Director. Funding Source: Not applicable.

**(City Council) Adopted Resolution No. 2004-27 Approving the Application for Grant Funds Under the California State Parks Land and Water Conservation Fund for Blufftop Park Infill Project (Located at the Southern Boundary of Bolsa Chica State Beach to 17<sup>th</sup> Street, and Inland to Pacific Coast Highway)** (340.80) – Adopted **Resolution No. 2004-27** – “A Resolution of the City Council of the City of Huntington Beach Approving the Application for Land and Water Conservation Funds for Bluff Top Infill Project.” Submitted by the Community Services Director. Funding Source: Not applicable; city will use already approved state grant

for matching portion; if grant application is successful, the Park Acquisition & Development Fund would be used to advance the money for the project.

**(Redevelopment Agency) Received and Filed Annual Report of the Huntington Beach Redevelopment Agency for Fiscal Year 2002-2003 for Submission to the State Controller** (400.20) – Received and filed the 2002-2003 State Controller’s Report. Submitted by the Deputy Executive Director. Funding Source: Not Applicable. (Report is submitted to the State Controller as required by §33080.1 of the State of California Health and Safety Code (“Redevelopment Law”).

**(City Council) Received and Filed the 2003 Mobile Home Advisory Board (MHAB) Annual Summary Report** (430.80) – Received and filed the *Mobile Home Advisory Board (MHAB) 2003 Summary Report*. Submitted by the Economic Development Director. Funding Source: Not applicable.

**(City Council) Approved Final Tract Map No. 16490 of Tentative Tract Map No. 16490 (Bel Air 104 Numbered - 16 Lettered Lot Subdivision) s/e Corner of Promenade Parkway and Gothard Street at 18800 Gothard Street – Approved Subdivision Agreement with PLC Bel Air LLC (Holly-Seacliff Specific Plan)** (420.60) - **1.** Approved Final Tract Map No. 16490 and accepted the offer of dedication, improvements, and bonds pursuant to findings and requirements (ATTACHMENT NO. 1); and **2.** Approved the *Subdivision Agreement By and Between the City of Huntington Beach and PLC Bel Air LLC for Tract No. 16490* (A Delaware Limited Liability Company) and authorized execution by the Mayor and City Clerk. (ATTACHMENT NO. 6). **Attachment No. 1 – Findings for Acceptance of Final Map (1)** Final Tract Map No. 16490 is in conformance with the California Subdivision Map Act, the City of Huntington Beach Subdivision Ordinance and Tentative Tract Map No. 16490 Conditions of Approval, as approved by the Planning Commission. **Requirements; (1.)** Acceptance of offer of dedication shall be subject to completion of improvements and requirements shown on the final map. **(2.)** The City Clerk shall file the following bonds with the City Treasurer: (a) Faithful Performance Bond No. SU5007037 (Attachment No. 7); (b) Labor and Material Bond No. SU5007037 (Attachment No. 7); (c) Monument Bond No. SU5007040 (Attachment No. 7). **(3.)** The City Clerk shall affix her signature to the map and release it for recordation by the County of Orange. Submitted by the Planning Director. Funding Source: Not Applicable.

**(City Council) Rejected Lowest Bid by Southwest Engineering, Inc. and Accepted the Lowest Responsive/Responsible Bid and Awarded Contract to Caliagua, Inc. for Water Well No. 12 Improvements per the 2000 Water Master Plan; CC-1063** (600.75) **1.** Rejected the lowest bid submitted by Southwest Engineering, Inc. in the amount of \$1,455,000 as nonresponsive; and **2.** Accepted the bid submitted by Caliagua, Inc. in the amount of \$1,506,846 as the lowest, responsive and responsible bid for the construction of Water Well No. 12 Improvements Project; CC-1063; and **3.** Authorized the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: Funds are available in the Water Master Plan Fund Account. Engineer’s estimate \$1,500,000. (On April 2, 2004 attorneys for Caliagua, Inc. filed a formal bid protest which identified certain apparent deficiencies in the bid submitted by Southwest Engineering, Inc. The City Attorney’s office has evaluated and determined that the bid submitted by Southwest Engineering, Inc. was non-responsive and recommended contract award to Caliagua, Inc.)

**(City Council) Approved Amendment No. 1 to the Waste Disposal Agreement (WDA) Between the City of Huntington Beach and the County of Orange Integrated Waste Management District (IWMD) (600.25)** – Approved and authorized the Mayor and City Clerk to execute the *Amendment No. 1 to the Waste Disposal Agreement with City of Huntington Beach* and the County of Orange. Submitted by the Public Works Director. Funding Source: This agreement will not financially impact the City since it holds the landfill tipping fee at \$22 per ton for an additional 3 years through June 30, 2010.

**(City Council) Accepted Bid and Awarded Construction Contract to Popular Paver Rental for the Beach Boulevard Widening Improvements at the s/e Corner of Edinger Avenue; CC-1105 (600.50)** **1.** Accepted the lowest responsive and responsible bid submitted by Popular Paver Rental, in the amount of \$220,116.41 for the Beach Boulevard Widening Improvements at the southeast corner of Edinger Avenue, CC-1105; and **2.** Authorized the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: Funds in the amount of \$500,000 have been budgeted in the Orange County Transportation Authority (OCTA) Grant Fund, Beach/Edinger Improvements, Street Improvements Account. This amount includes grant funds in the amount of \$452,519 and \$47,500 matching funds from Traffic Impact Fund. The engineer's estimate was \$259,566.

**(City Council) Adopted Resolution No. 2004-28 to Approve Plans and Specifications for the County's Flood Control Improvements to the Huntington Beach Channel (Facility No. DO1) from Indianapolis Avenue to Adams Avenue (550.20)** – Adopted **Resolution No. 2004-28** – *“A Resolution of the City Council of the City of Huntington Beach Approving Plans and Specifications for the Construction of Improvements to the Huntington Beach Channel (Facility No. DO1) from Indianapolis Avenue to Adams Avenue by the Orange County Resources and Development Management Department and Funded by the Orange County Flood Control District.”* Submitted by the Public Works Director. Funding Source: City funding is not required for this action.

**(City Council) Approved the Release of Securities for Tract No. 16196 Located w/s of Delaware Street, between Main Street and Garfield Avenue - Accepted the Public Improvements (Sassounian, Adams and Zuckerman, LLC) (420.60)** - **1.** Accepted the improvements constructed and dedicated for public use with Tract No. 16196; and **2.** Accepted the Guarantee and Warranty Bond No. 833254S; the security furnished for guarantee and warranty of improvements, and instructed the City Clerk to file the bond with the City Treasurer; and **3.** Released Faithful Performance/Labor and Material Bond No. 833254S and Monument Bond No. 833255S pursuant to California Government Code Section No. 66499.7(a); and **4.** Instructed the City Clerk to notify the developer, Sassounian, Adams and Zuckerman, LLC of this action and the City Treasurer to notify the surety, **Developers Surety and Indemnity Company**, of this action; and **5.** Instructed the City Clerk to record the “Notice of Acceptance of Public Improvements” (attached) with the Orange County Recorder. Submitted by the Public Works Director. Funding Source: Not Applicable.

**(City Council) Approved the Release of Securities for Tract No. 16180 Located e/o Goldenwest Street and n/o Summit Drive - Accepted the Public Improvements (Shea Vickers Development, LLC) (420.60)** - **1.** Accepted the improvements constructed and dedicated for public use with Tract No. 16180; and **2.** Accepted the Guarantee and Warranty Bond No. 00-255-268-A; the security furnished for guarantee and warranty of improvements, and instructed the City Clerk to file the bond with the City Treasurer; and **3.** Released Faithful Performance/Labor and Material Bond No. 00-255-268 and Monument Bond No. 00-255-267 pursuant to California Government Code Section No.

66499.7(a); and **4.** Instructed the City Clerk to notify the developer, Shea Vickers Development, LLC, a Delaware limited liability company of this action and the City Treasurer to notify the surety, **American Home Assurance Company**, of this action; and **5.** Instructed the City Clerk to record the "Notice of Acceptance of Public Improvements" (attached) with the Orange County Recorder. Submitted by the Public Works Director. Funding Source: Not Applicable.

**(City Council) Adopted Resolution No. 2004-30 Approving a Side Letter to the Memorandum of Understanding (MOU) Between the City and the Huntington Beach Municipal Employees Association (MEA) Regarding the 9/80 Work Schedules (720.20) – Adopted Resolution No. 2004-30 – “A Resolution of the City Council of the City of Huntington Beach Amending the Memorandum of Understanding Between the City and the Huntington Beach Municipal Employees Association, by Adopting the Side Letter of Agreement Regarding Work Schedules.”** Submitted by the Administrative Services Director. Funding Source: Non-Applicable.

**(City Council) Approved Amendment No. 1 to Cooperative Agreement No. 0124 with the Orange County Sanitation District (OCSD) for Sewer Rehabilitation Project - Approved Project Plans and Specifications and Authorized Advertisement for Bids for the Ross One-Quarter Section Sewer Rehabilitation Project (Roughly Bounded by Heil Avenue, I-405 Freeway, Warner Avenue and Newland Street); CC-1215 (600.25)** **1.** Approved and authorized the Mayor and City Clerk to execute *Amendment No. 1 to Cooperative Projects Program Contract No. 0124* between the Orange County Sanitation District and the City of Huntington Beach; and **2.** Approved the project plans and specifications and authorized the Director of Public Works to request bids for the Ross One-Quarter Section Sewer Rehabilitation Project; CC-1215. Submitted by the Public Works Director. Funding Source: A grant from the Orange County Sanitation District (OCSD) will cover one half of the cost for this project. Funds for this project are budgeted through the Sewer Service Fund, Sewer Line CIP account. The Engineer's cost estimate is \$820,000.

**(City Council) Approved the Appointment of Dr. Penelope Culbreth-Graft as City Administrator Effective June 1, 2004 and Executed a Personal Services Agreement (600.10) - 1.** Approved the appointment of Dr. Penelope Culbreth-Graft as City Administrator; and **2.** Authorized the Mayor and City Clerk to execute a personal services agreement between the City of Huntington Beach and Dr. Penelope Culbreth-Graft titled *Agreement for Personal Services – City Administrator - Dr. Penelope Culbreth-Graft*. Submitted by Mayor Cathy Green. Funding Source: Sufficient funds exist in the City Administrator's budget account.

**(City Council) Approved Agreement Between the City of Huntington Beach and the Franchise Tax Board (600.20) - 1.** Approved and authorized the Mayor and City Clerk to execute *Standard Agreement Number C2323193* between the City of Huntington Beach and the Franchise Tax Board; and **2.** Approved an appropriation and authorized an expenditure of an amount not to exceed \$6,622.00. Submitted by the City Treasurer. Funding Source: Appropriate \$6,622.00. Cost to be offset by new revenues.

**(City Council) Adopted Resolution No. 2004-29 Establishing Residential Curbside Refuse Collection Rates with Rainbow Disposal Company, Inc. and Approved Modifications to the Downtown Refuse Can Collection Schedule (600.45)**

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to recognize Rainbow Disposal for not taking the full increase in fees approved over

the years. He stated that Rainbow Disposal is presently taking only half of the increase in fees that has been approved.

A motion was made by Sullivan, second Coerper to:

1. Adopt **Resolution No. 2004-29** – *“A Resolution of the City Council of the City of Huntington Beach Establishing Residential Curbside Refuse Collection Rates,”*

**and**

2. Accept Rainbow Disposal’s offer to credit the City for one additional trash collection on each Friday, Saturday and Sunday that is normally scheduled between June and December of 2004.

The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

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

The City Council considered a communication from Mayor Pro Tem Jill Hardy, Chair, Intergovernmental Relations Committee, on behalf of members, Councilmember Gil Coerper and Councilmember Dave Sullivan transmitting the following **Statement of Issue**: Should the City Council authorize the Mayor to communicate the City of Huntington Beach's support for or opposition to legislation currently pending before the elected members of the Federal or State Legislatures, a State or regional body or to be put on a ballot for approval by the voters?

A motion was made by Coerper, second Hardy to:

**OPPOSE - SB 2084 – Internet Tax – 2 Year Extension of Current Moratorium and Expansion to include DSL Lines (As Introduced 02/12/04)**

**and**

**OPPOSE - AB 3007 (Plescia) Brown Act – Deleting Real Estate Transactions from Subject that Council could discuss in Closed Session (As Amended 03/23/04)**

**and**

**SUPPORT - SB 1351 (Soto) – Political Reform Act of 1974 – Conflict of Interest (As Introduced)**

**and**

**WATCH – AB 2690 (Hancock) Public Works – Prevailing Wage (As Amended 04/26/04)**

**and**

**WATCH – SB 1774 (Johnson / Torlakson) – Local Government Finance – Alternative to League’s Local Government Initiative (As Amended 04/01/04)**

and

**OPPOSE – The Proposed Indian Gaming Initiative (SA03RF0059)**

and

**OPPOSE Use of Prop 50 Funds for Private Water Companies - Authorize Letter from Mayor to Governor**

and

**Affirm Letters opposing cut in the Weapons of Mass Destruction, Metropolitan Medical Response System (MMRS)**

The motion carried by the following roll call vote:

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

NOES: (Green on OPPOSE - S 2084 – Internet Tax – 2 Year Extension of Current Moratorium and Expansion to include DSL Lines - As Introduced 02/12/04)

ABSENT: None

**(City Council) Part 1 of 2 - Adopted Resolution Nos. 2004-31, 2004-32 and 2004-33 Respectively, Approving Election of the City to be Subject to the Public Employees’ Medical and Hospital Care Act with (1) the POA (Police Officers’ Association), (2) the PMA (Police Management Association), and (3) the MSOA (Marine Safety Officers’ Association) – California Public Employees’ Retirement System (CALPERS) Health Insurance (720.20)**

The City Council considered a communication from the Administrative Services Director transmitting the following **Statement of Issue**: The City and Huntington Beach Police Officers’ Association, Huntington Beach Police Management Association, and the Huntington Beach Marine Safety Officers’ Association have come to an agreement to have the California Public Employees’ Retirement System administer health insurance through the Public Employees’ Medical and Hospital Care Act.

Acting City Administrator William Workman clarified that this agenda item is related to the following agenda item regarding adoption of Resolutions 2004-34, 2004-35 and 2004-36. The Council vote on both items was taken following presentation and discussion of the next agenda item.

Administrative Services Director Clay Martin reported and gave a PowerPoint presentation dated May 17, 2004 transmitting a PowerPoint slide show report titled *Review of Proposed Side Letter Agreements with POA, PMA, and MSOA, Agenda Items F-2a and F-2b*, which was announced earlier as a Late Communication by Assistant City Clerk Liz Ehrling.

Councilmember Boardman received clarification on the relationship between the two interrelated agenda items.

Councilmember Sullivan stated his reasons for opposition due to cost issues.

Councilmember Boardman stated her reasons for opposition concerning the City's ability to leave CalPERS once enrolled.

A motion was made by Coerper second Green to:

1. Adopt **Resolution No. 2004-31** – *“A Resolution of the City Council of the City of Huntington Beach Electing to be Subject to Public Employees’ Medical and Hospital Care Act with Respect to the Huntington Beach Police Officers’ Association and Fixing the City’s Contribution for Employees and the Contribution for Annuitants at Different Amounts;”*

and

2. Adopt **Resolution No. 2004-32** – *“A Resolution of the City Council of the City of Huntington Beach Electing to be Subject to Public Employees’ Medical and Hospital Care Act with Respect to the Huntington Beach Police Management Association and Fixing the City’s Contribution for Employees and the Contribution for Annuitants at Different Amounts;”*

and

3. Adopt **Resolution No. 2004-33** – *“A Resolution of the City Council of the City of Huntington Beach Electing to be Subject to Public Employees’ Medical and Hospital Care Act with Respect to the Huntington Beach Marine Safety Officers’ Association and Fixing the City’s Contribution for Employees and the Contribution for Annuitants at Different Amounts;”*

The motion carried by the following roll call vote:

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

**(City Council) Part 2 of 2 - Adopted Resolution Nos. 2004-34, 2004-35 and 2004-36 Respectively, Approving Side Letters to the Memoranda of Understanding between the City and (1) the POA (Police Officers’ Association), (2) the PMA (Police Management Association), and (3) the MSOA (Marine Safety Officers’ Association) Regarding Health Insurance (CALPERS) (720.20)**

The City Council considered a communication from Administrative Services Director transmitting the following **Statement of Issue**: The City and Huntington Beach Police Officers’ Association, Huntington Beach Police Management Association, and the Huntington Beach Marine Safety Officers’ Association have come to a side letter agreement regarding health and other insurance.

Administrative Services Director Clay Martin reported and gave a PowerPoint presentation dated May 17, 2004 transmitting a PowerPoint slide show report titled *Review of Proposed Side*

*Letter Agreements with POA, PMA, and MSOA, Agenda Items F-2a and F-2b*, which was announced earlier as a Late Communication by Assistant City Clerk Liz Ehling.

Discussion was held which included inquiry regarding dates of coverage for new employees and their dependents.

Acting City Administrator William Workman confirmed that there are caps on the city's contributions for all employee associations.

A motion was made by Coerper second Green to:

1. Adopt **Resolution No. 2004-34** – *“A Resolution of the City Council of the City of Huntington Beach Amending the Memorandum of Understanding Between the City and the Huntington Beach Police Officers’ Association by Adopting the Side Letter of Agreement;”*

and

2. Adopt **Resolution No. 2004-35** – *“A Resolution of the City Council of the City of Huntington Beach Amending the Memorandum of Understanding Between the City and the Huntington Beach Police Management Association by Adopting the Side Letter of Agreement;”*

and

3. Adopt **Resolution No. 2004-36** – *“A Resolution of the City Council of the City of Huntington Beach Amending the Memorandum of Understanding Between the City and the Huntington Beach Marine Safety Officers’ Association by Adopting the Side Letter of Agreement.”*

The motion carried by the following roll call vote:

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

**(City Council) Received and Filed: (1) the Fiscal Year 2003-2004 Second Quarter Report; (2) the Fiscal Year 2002-2003 Comprehensive Annual Financial Report; and (3) the Management Letter to the Fiscal Year 2002-2003 Comprehensive Annual Financial Report (300.20)**

The City Council considered a communication from the Administrative Services Department transmitting that:

1. The second quarter (January 1, 2004 through March 31, 2004) of the city's fiscal year 2003-2004 budget has been completed.
2. The fiscal year 2003-2004 second quarter budget report provides an overview of the current state of fiscal year 2003-2004 budget. The General Fund Unreserved,

Undesignated Fund Balance at the end of the fiscal year 2003-2004 is projected to be \$5,405,000.

3. The city's Comprehensive Annual Financial Report has been completed for the 2002-2003 fiscal year.
4. The city's auditors Caporicci and Larson, CPAs, have issued the final draft of the Management Letter to the fiscal year 2002-2003 Comprehensive Annual Financial Report.

Administrative Services Director Clay Martin reported on the PowerPoint presentation dated May 17, 2004 and titled *Review of Fiscal Year 2003/2004 2nd Quarter Report and Management Letter to Fiscal Year 2002/2003 CAFR, Item F-3* which was announced earlier as a Late Communication by Assistant City Clerk Liz Ehring.

A motion was made by Hardy second Coerper to:

1. Receive and file the fiscal year 2003-2004 second quarter budget report.

**and**

2. Receive and file the fiscal year 2002-2003 Comprehensive Annual Financial Report;

**and**

3. Receive and file the Management Letter to the fiscal year 2002-2003 Comprehensive Annual Financial Report.

The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

**(City Council) Directed Staff to Prepare an Ordinance Banning Smoking on our Beaches, in our Coastal Waters, and in Adjacent Areas such as the Pier, to be Considered by the City Council at a Future Meeting (520.15)**

The City Council considered a communication from Councilmember Gil Coerper transmitting the following **Statement of Issue**: Several cities along the coast of California have recently adopted or considered adoption of an ordinance to prohibit smoking on their beaches, including the City of Los Angeles.

The United States Environmental Protection Agency has classified second-hand smoke as a Group A carcinogen, the most dangerous class of carcinogens. They have also concluded that second-hand smoke causes coronary heart disease in non-smokers. Additionally, the Center for Disease Control notes that second-hand smoke causes children to suffer from lower respiratory tract illnesses such as bronchitis and pneumonia and it exacerbates childhood asthma and increases the risk of acute chronic middle ear infections in children. Smoking on beaches endangers both children and adults by exposing them to second-hand smoke.

Beyond the risk to human health, cigarette and cigar butts and used matches dropped onto the ground in public spaces degrade the aesthetic quality of those spaces. Cigarette and cigar butts, and used matches dropped into the sand on the beach are particularly dangerous because young children play in the sand and may ingest them. Cigarettes are the most common litter on California's beaches. Cigarette butts also wash into the ocean where they pollute the water and can be ingested by ocean mammals. As an example of the amount of pollution smoking causes, over 300,000 cigarettes were removed on one Coastal Cleanup Day in 2002.

Councilmember Gil Coerper reported and stated examples of beach issues related to smoking.

City Attorney Jennifer McGrath reported on the parameters of the beach, stating the proposed ban on smoking would only be on the city beach which is located from Beach Boulevard to the city pier.

Police Chief Kenneth Small reported on enforcement issues.

Councilmember Debbie Cook informed Council that she will bring forward a Council memo to create a process whereby Council will have a study session on Council memos in order to further study the issues prior to voting.

Community Services Director Jim Engle reported on parameters of the beach and if the city can regulate.

City Attorney Jennifer McGrath stated she would clarify regulation prior to consideration of a proposed ordinance to regulate smoking on the beach.

Because of the devastating impact that smoking has on health and the environment, I would like to make the following motion:

A motion was made by Coerper second Hardy to:

Direct staff to prepare an ordinance banning smoking on our beaches, in our coastal waters, and in adjacent areas such as the pier, to be considered by the City Council at a future meeting.

Ordinances from other cities are attached along with other relevant information (and are included in the agenda packet).

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman

NOES: Cook, Houchen

ABSENT: None

**(City Council) Councilmember Coerper Announced Successful Retirement Event for Ray Silver (120.85)**

Councilmember Gil Coerper expressed his pleasure at having attended the event of Mr. Ray Silver's retirement as City Administrator. He stated the party was fabulous. Councilmember Coerper thanked Councilmember Boardman for her superb speech.

**(City Council) Councilmember Coerper Announced Ceremony Honoring Fallen Police Officers (120.85)**

Councilmember Coerper spoke regarding the Peace Officers' Memorial Association event in Sacramento and spoke in gratitude to Police Chief Small for sending his officers to the event.

**Adjournment – City Council/Redevelopment Agency**

Mayor Green adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, May 24, 2004, at 3:00 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-Chairman