

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

Monday, August 4, 2003
5:00 P.M. - Room B-8
7:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

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

Call to Order

Mayor Boardman called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:00 p.m. in Room B8.

City Council/Redevelopment Agency Meeting Roll Call

Present: Sullivan, Coerper, Green, Boardman, Cook, Hardy (Houchen arrived 5:08 p.m. during Closed Session)
Absent: None

Public Comments

Russell Reinhart, representing the Huntington Beach Police Officers Association, spoke regarding the Closed Session “meet and confer” item. Officer Reinhart informed Council of mediation meeting results which the HBPOA fully supports and requested Council consideration.

Motion to Recess to Closed Session – Approved

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

AYES: Sullivan, Coerper, Green, Boardman, Cook, Hardy
NOES: None
ABSENT: Houchen (arrived at 5:08 p.m. during Closed Session)

(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 **Southern California Water Company v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 03CC02021. (120.80) **(See Consent Calendar Agenda Item)**

(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 **Huntington Beach City Council v. Connie Brockway, City Clerk, and Scott Baugh, et al.**, Orange County Superior Court Case No. 02CC14276. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Howard Jarvis Taxpayers Assn., et al. v City of Huntington Beach, et al.**; Orange County Superior Court Case No. 818780; Court of Appeal, 4th District, Case No. G029292. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Ray Silver, City Administrator; William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; and Seven 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.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Anthony Matteson v. City of Huntington Beach, et al.**; USDC Case No. SACV-98-563 AHS (Eex). Subject: **Matteson v. City of Huntington Beach.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **City of Huntington Beach v. Huntington Beach Police Officers Association**; United States District Court, Case No. SA 01-1125 GLT. Subject: **Gun Range** (120.80)

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

City Council- Redevelopment Agency Roll Call

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

Absent: None

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on Monday August 4, 2003 Pursuant to Government Code §54957.1(a)(2) Re: Howard Jarvis Taxpayers Assn., et al v City of Huntington Beach, et al (120.80)

City Attorney Jennifer McGrath announced that on Monday, August 4, 2003 the City Council convened in closed session to discuss potential litigation regarding **Howard Jarvis Taxpayers Assn., et al v City of Huntington Beach, et al.** City Attorney Jennifer McGrath handed the City Clerk the related communication titled *(Appeal) Report of Action Taken Pursuant to Government Code Section 54957.1(a)(2); August 4, 2003, City Council Closed Session* which reflected her oral statement.

The communication dated August 4, 2003 reads as follows: On Monday August 4, 2003, the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an *amicus curiae* in any form of litigation as the result of a consultation under Section 54956.9 in the matter of Howard Jarvis Taxpayers Association v. City of Huntington Beach; OCSC NO. 818780, Court of Appeals Case No. G029292.

This case is [identity of adverse party(s) & substance of litigation] a challenge to the property tax collected for retirement benefits.

The City Council voted to refrain from filing an appeal. The Council voted as follows: 5 Ayes; 2 Noes (Coerper, Green - NO).

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on Monday August 4, 2003 Pursuant to Government Code §54957.1(a)(2) Re: Huntington Beach City Council v. Connie Brockway, City Clerk, and Scott Baugh, et al (120.80)

City Attorney Jennifer McGrath announced that on Monday, August 4, 2003 the City Council convened in closed session to discuss potential litigation regarding **Huntington Beach City Council v. Connie Brockway, City Clerk, and Scott Baugh, et al.** City Attorney Jennifer McGrath handed the City Clerk the related communication titled *(Appeal) Report of Action Taken Pursuant to Government Code Section 54957.1(a)(2); August 4, 2003, City Council Closed Session* which reflected her oral statement.

The communication dated August 4, 2003 reads as follows: On Monday August 4, 2003, the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an *amicus curiae* in any form of litigation as the result of a consultation under Section 54956.9 in the matter of Huntington Beach City Council v. Connie Brockway & Scott Baugh, OCSC Case No. 02CC14276.

This case is [identity of adverse party(s) & substance of litigation] a challenge brought by City Council challenging the FAIR initiative under the single subject rule.

The City Council voted to refrain from filing an appeal. The Council voted as follows: 7 Ayes; 0 Noes.

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on Monday August 4, 2003 Pursuant to Government Code §54957.1(a)(2) Re: Southern California Water Company v. City of Huntington Beach, et al.; Orange County Superior Court Case No. 03CC02021 (120.80)

City Attorney Jennifer McGrath announced that on Monday, August 4, 2003 the City Council convened in closed session to discuss potential litigation regarding **Southern California Water Company v. City of Huntington Beach, et al.; Orange County Superior Court Case No. 03CC02021.** City Attorney Jennifer McGrath handed the City Clerk the related communication titled *(Appeal) Report of Action Taken Pursuant to Government Code Section 54957.1(a)(2); August 4, 2003, City Council Closed Session* which reflected her oral statement.

The communication dated August 4, 2003 reads as follows: On Monday August 4, 2003, the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an *amicus curiae* in any form of litigation as the result of a consultation under Section 54956.9 in the matter of Southern California Water Company v. City of HB, OCSC 03CC02021.

This case is [identity of adverse party(s) & substance of litigation] a writ of mandate brought by Southern California Water Company against the City to compel a decision on a pipeline franchise.

The City Council voted to authorize the filing of an appeal. The Council voted as follows: 6 Ayes; 1 No. (Green – NO).

Pledge of Allegiance – Led by Mayor Connie Boardman.

Moment of Silence Observed

Mayor Boardman requested observation of a “moment of silence” to reflect upon issues before the Council this evening.

The City Clerk Announced Late Communications

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

Communication from the Director of Economic Development dated August 4, 2003 titled *Late Communication – Item D-1* transmitting a worksheet reflecting applications and recommendations fro CDBG funding for the 2003/2004 program year as requested by Mr. Jim Moreno, CPAB Chair.

The Following Additional Late Communications Were Submitted During the Meeting:

A Late Communication was submitted by Edmond Deckert prior to the Public Comments portion of the meeting. Mr. Deckert submitted eight copies of photographs relating to the traffic area of Newland Street between Slater Avenue and Warner Avenue.

A Late Communication from CPAB Chair Jim Moreno dated August 4, 2003 titled *Citizens Participation Advisory Board Presentation to the Huntington Beach City Council August 4, 2003*, relating to the public hearing and CPAB’s recommendations for the Community Development Block Grant funding.

A Late Communication dated May 15, 2003 from Mayor Connie Boardman titled *Proposed Posedian Plant and Public Revenues* concerning public financial benefits if the plant is sold to a public entity. The communication was relating to Councilmember Sullivan’s agenda item regarding the proposed desalination project.

Presentation made to Mayor Connie Boardman and Junior Lifeguard Coordinator II David Simcox by Jerry Dominguez, Southern California Edison Company. Mr. Dominguez presented a check in the amount of \$2,500 for the Junior Lifeguard Program. (160.40)

Public Comments

Barbara Beck, representative of the South Coast Air Quality Management District (SCAQMD) introduced herself to the City Council and distributed a handout titled *AQMD South Coast Air Quality Management District – Cleaning the Air We Breathe*.

Ernest Kidd stated his opinion that serious and dangerous traffic conditions exist on Newland Street between Slater Avenue and Warner Avenue.

Mayor Boardman suggested that Mr. Kidd acquire a blue follow up card from the Sergeant-at-Arms so staff could follow up with him.

Public Comments Resumed

Gerald Kurucz spoke regarding what he believes are dangerous traffic conditions on Newland Street between Warner Avenue and Slater Avenue; rear-end accidents, and gave a history of the street striping done by the city on the street, bike lanes, parking circumstances, speeding and danger to children. He stated side mirrors on cars are being removed by trucks due to the tightness of the driving lanes, and recommended placement of a stop sign, and “no trucks” sign.

Mayor Boardman asked Mr. Kurucz to acquire a blue follow up card from the Sergeant-at-Arms so the Department of Public Works could follow up.

Public Comments Resumed

Ileana Bradford spoke on behalf of PSS (Project Self-Sufficiency) regarding the public hearing on the agenda concerning grant funding. Ms. Bradford requested full salary funding for Project Self-Sufficiency Program Director, Susan Edwards.

Dianne Leever, Board Member of the Project Self-Sufficiency Foundation, stated her opinion that the position of the PSS (Project Self-Sufficiency) Program Director, Susan Edwards, should be fully funded.

Edmond Deckert requested yield signs be put back on Warner Avenue and Newland Street. Mr. Deckert described problems with alleys and the need to restore green “yield” dots. He recommended putting a “no truck” sign south on Newland Street and a stop sign where fatalities have occurred. Mr. Deckert submitted copies of photographs of scenes in the traffic area of his neighborhood.

Mayor Boardman stated a meeting between the Department of Public Works, the Mayor and neighbors would be set up.

Public Comments Resumed

Lou Baker displayed bottles of wastewater and other bottles containing salt, water, and contaminants. He spoke regarding the need to maintain quality water in the ocean.

Judy Loschin, representative of Project Self Sufficiency (PSS), gave reasons to support the full funding of the salary for Susan Edwards, PSS Program Director.

Shirley Conger spoke in support of opening the closed El Toro Marine Air Base for commercial air flights.

Debbie Borden stated she wished to offer a prayer as there is not an Invocation on the agenda.

Rex Ricks spoke in opposition to the Long Beach Airport extension. Mr. Ricks gave his e-mail address for persons to contact him and stated he would have a website soon. He requested the City Council to place an advisory vote on the ballot regarding the matter.

Joseph Jeffrey spoke in favor of the City Council Closed Session item regarding the Council decision that the Fair District Initiative is to be placed on the ballot.

Mark Bixby spoke in support of the denial of the water pipeline franchise to Southern California Water Company. He stated he believed the Environmental Impact Report (EIR) on the Poseidon Desalinization Plant is not adequate; however if the plant is approved he requested that Council ensure that financial aspects are taken care of.

Greg Arbues, representative of the PSS (Project Self-Sufficiency) Foundation, spoke in support of the full funding of the salary for Susan Edwards, Project Self-Sufficiency Program Director.

Barbara Tonelli, spoke in favor of fully funding the position of Susan Edwards, Program Director for (PSS) Project Self-Sufficiency.

Jack Wagner, representative of the Orange County Regional Airport Authority, and requested Council to direct staff to review the City of Long Beach Airport Extension Plan in order to see if it would be detrimental to City of Huntington Beach.

Don McGee spoke in opposition to Ocean View School District actions which ended in a settlement against the district on behalf of children. Mr. McGee stated his opinion that the current Council was not responsible for the property tax lawsuit that was recently settled.

(City Council) Announcement Made by Mayor Pro Tem Cathy Green of Volunteer Appreciation (.)

Mayor Pro Tem Green stated that she wished to extend her appreciation to all the volunteers in the City who recently exceeded 3,500 hours of volunteering their time and work to the City.

(City Council) Reviewed and Accepted Shari Freidenrich, City Treasurer's June 2003 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 June 2003.

City Treasurer Freidenrich presented a PowerPoint slide show dated August 4, 2003 titled *Treasurer's Report* which was included in the agenda packet.

A motion was made by Sullivan, second Cook to review and accept the monthly report. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for June 2003*, 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: Sullivan, Coerper, Green, Boardman, Cook, Hardy

NOES: None

ABSENT: None (Houchen out of room)

(City Council) Public Hearing Held to Approve as Amended the 2003-2004 Action Plan for the (CDBG) Community Development Block Grant/HOME Programs as Proposed by the Citizens Participation Advisory Board (CPAB) and Authorized Submittal of the Action Plan to the U. S. Department of Housing and Urban Development (HUD) (340.70)

Mayor Boardman announced that this was the time scheduled for a public hearing to consider the following:

The City Council considered a communication from Economic Development Director David Biggs.

Public hearing to consider approval of the 2003/2004 Action Plan in accordance with the City's Consolidated Plan (CP) as required by the U.S. Department of Housing and Urban Development (HUD) for receipt of \$1,722,000 in Community Development Block Grant (CDBG) funds, and \$868,391 in HOME Investment Partnership (HOME) funds. The 2003/2004 Action Plan proposes the CDBG and HOME budgets from October 1, 2003 to September 30, 2004, a twelve-month period.

The City followed its Citizen Participation Plan. The Citizen Participation Advisory Board (CPAB) held two public hearings on community needs and held subsequent monthly public meetings. Citizens may review and comment on the draft 2003/2004 Action Plan in the Department of Economic Development or at the Central Library. The public comment period will begin July 15 and end August 14, 2003. Public comments received during this time will be attached to the Action Plan and sent to HUD.

CDBG REVENUE:	AMOUNT
CDBG 2003/2004 Entitlement Grant	\$1,722,000
STAFF-PROPOSED CDBG ACTIVITIES:	
Administration	\$305,184
Fair Housing Council	39,216
City Gym & Pool Sec. 108 Loan Payment	259,560
Code Enforcement Program	172,475
Community Job Center	67,026
Street Construction	392,856
Park Improvements	75,000
Housing Rehabilitation Loan Program— Administration	152,383
Community Service Programs	31,000
Oak View Community Center	51,204
Oak View Library Literacy Program	34,000
Project Self-Sufficiency	81,392

Seniors Outreach Program	<u>60,704</u>
TOTAL:	\$1,722,000

CPAB-PROPOSED CDBG ACTIVITIES:

Administration	\$305,184
Fair Housing Council	39,216
City Gym & Pool Sec. 108 Loan Payment	259,560
Code Enforcement Program	172,475
Community Job Center	67,026
Street Construction	392,856
Park Improvements	75,000
Housing Rehabilitation Loan Program– Administration	152,383
Adult Day Services	10,000
Community Service Programs	27,000
Community Care Health Centers	23,000
Oak View Community Center	51,204
Oak View Library Literacy Program	32,000
Project Self-Sufficiency	60,096
Seniors Outreach Program	<u>55,000</u>
TOTAL:	\$1,722,000

HOME Investment Partnership

In an effort to expand and preserve its existing affordable housing stock, Huntington Beach has worked with Community Housing Development Organizations (CHDOs) to acquire multifamily rental properties. These buildings are rehabilitated and then are made available to persons below 60% of Orange County median income for a minimum of 30 years. The CHDO must enter into an agreement with the City that outlines all of the affordability requirements, property maintenance standards, and long-term monitoring requirements that are required by HOME regulations.

The following activities are proposed for the 2003/2004 HOME program:

HOME REVENUE:	AMOUNT
HOME 2003/2004 Entitlement Grant	\$ 868,391
HOME PROPOSED ACTIVITIES:	
Administration	86,839
Acquisition	<u>781,552</u>
	\$868,391

The Consolidated Plan sets local policies and priorities for the development of a viable urban community by providing decent housing and a suitable living environment and expanding economic opportunities principally for low- and moderate-income persons. The city intends to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations in order to provide for: the production and operation of affordable housing; a suitable living environment improving the safety and livability of neighborhoods; assistance to homeless persons and persons at risk of becoming homeless to obtain appropriate housing, without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; and expand economic opportunities including job creation and retention.

City Administrator Ray Silver introduced Economic Development Director David Biggs who gave an overview concerning recommendations for the 2003-2004 Action Plan for the (CDBG) Community Development Block Grant/HOME Programs and emphasized that staff recommendations vary from (CPAB) Citizens Participation Advisory Board recommendations.

Economic Development Department Director David Biggs introduced Senior Administrative Analyst Luann Brunson who presented a PowerPoint report dated August 4, 2003 titled *Approval of 2003/2004 Action Plan for CDBG and HOME Programs Public Hearing* which was included in the agenda packet.

Senior Administrative Analyst Luann Brunson informed Council that she was inviting Citizens Participation Advisory Board (CPAB) Chair Jim Moreno to speak at this time.

Citizens Participation Advisory Board (CPAB) Chair Jim Moreno distributed a Late Communication dated August 4, 2003 titled *Citizens Participation Advisory Board Presentation to the Huntington Beach City Council August 4, 2003*.

Chair Jim Moreno gave an overview of the process taken by the Citizens Participation Advisory Board (CPAB) to establish funding recommendations. He explained how the Board formed their recommendations to best serve the residents of the city while keeping the budget cuts in mind. Mr. Moreno compared CPAB's recommendations versus staff's recommendations and asked Council to approve the Committee's recommendations.

Mayor Boardman thanked Chair Moreno for his presentation.

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

Mayor Boardman declared the public hearing open.

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

Communication from the Director of Economic Development dated August 4, 2003 titled *Late Communication – Item D-1* transmitting a worksheet reflecting applications and recommendations for CDBG funding for the 2003/2004 program year as requested by Mr. Jim Moreno, CPAB Chair.

Cordula Dick-Muehlke described citizens in need of Adult Day Services and spoke in favor of CPAB's (Citizens Participation Advisory Board) funding recommendation for the Adult Day Services.

Al Guidotti, Representative of Community Care Health Centers, spoke in favor of CPAB's (Citizens Participation Advisory Board) funding recommendation for the Community Care Health Centers. Mr. Guidotti gave reasons why Huntington Beach should continue to join the cities of Fountain Valley and Westminster in supporting this program.

Christine Szmark stated her support for full funding for the position of PSS (Project Self-Sufficiency) Program Director Susan Edwards. She thanked Council and the City for the program.

Ben Paul spoke in favor of the programs at Adult Day Services where his wife is currently enrolled. He stated his support for CPAB's (Citizens Participation Advisory Board) funding recommendation for Adult Day Services.

Miles Masatsuga, a physician at Community Care Health Center, described examples of services at the health center and spoke in favor of CPAB's (Citizens Participation Advisory Board) funding recommendation for the health center.

Council discussed and received clarification from Dr. Masatsuga regarding the total budget of the health center and the number of visits to the center from Huntington Beach residents.

Jackie Canifiani informed Council she is Vice-Chair of Citizens Participation Advisory Board. She stated that to help determine their recommendations the Board tries to represent the views of the diverse city population who have provided input.

Steve Ray, stated he is a former member of CPAB (Citizens Participation Advisory Board) and described methods used by CPAB to determine funding recommendations for organizations conducting projects that can best utilize the funding.

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

Considerable discussion was held concerning funding levels for the recommended programs.

A motion was made by Houchen, second Hardy to amend the motion to approve the Citizens Participation Advisory Board (CPAB) recommendation by decreasing the Community Care Health Centers clinic from \$23,000 to \$12,000 and to move the \$11,000 to (PSS) Project Self-Sufficiency. The motion carried by the following roll call vote:

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

A motion was made by Coerper, second Green to approve **as amended** the 2003-2004 Citizens Participation Advisory Board Recommended Action Plan (Attachment 1), for the CDBG Program in the amount of \$1,722,000 and the HOME Program in the amount of \$868,391;

and

Authorize the City Administrator to execute the required certifications;

and

Authorize submission of the Action Plan to the U. S. Department of Housing and Urban Development.

and

Amend motion to approve CPAB Recommendation, by decreasing Community Care Health Center Clinic from \$23,000 to \$12,000 and to move the \$11,000 to (PSS) Project Self-Sufficiency.

The motion was approved **as amended** by the following roll call vote:

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

A motion was made by Boardman, second Houchen to approve a revised Citizen Participation Plan, as required by HUD:

The motion carried by the following roll call vote:

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

(City Council) Directed Staff to Schedule a Study Session Regarding the Police Department's Community Service Program (CSP) (.)

Council requested a Study Session to be held at a future date as yet uncertain, regarding the Police Department's Community Service Program (CSP).

Consent Calendar – Items Removed for Separate Discussion

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

(City Council) City Clerk's Report Listing Professional Services Agreements Filed in the City Clerk's Office between January 1, 2003 through April 30, 2003 (600.05)

(City Council) Appropriation for the July 1, 2003 Stop Loss Insurance Renewal and Supplemental Retirement Payments Fiscal Year 2002/2003 per Fiscal Impact Statement 2003-28 (.)

(City Council) Youth Board Appointments of Whitney Gaglio, Andrew Kreitz, Karisa Maw, Sean McBride, Kristin Ornelas, Lauren Thomas, and Jennifer Baca With Terms to Expire June 2004 – Reappointments of Jessica Lusso and Ben Robin With Terms to Expire June 2004 (110.20)

(City Council) Appointments of Fredrick Koepp and David Guido to the Environmental Board With Terms to Expire June 30, 2007 (.)

(City Council) Contracts CP-0207 and CP-0208 Between the Orange County Sanitation District and the City for the Cooperative Projects Program – Fiscal Year 2003/2004 (Speer/McFadden Infiltration Project and Alabama Inflow Project – Storm Drain Catch Basins between Hartford and Joliet Avenues) (600.25)

(City Council) Agreement for the Conveyance of Wastewater Between the City of Huntington Beach and the City of Seal Beach (Sunset Aquatic Park) (.)

(City Council) Proposed Second Amendment to AES Huntington Beach Development, Inc. Option Agreement for the Purpose of Southeast Reservoir and Booster Pump Construction at Site No. 2 e/o Newland Street and s/o Edison Avenue (.)

(City Council) Amendment to Resolution No. 2003-57 Denying the Water Pipeline Franchise Application of Southern California Water Company (SCWC) to Provide for the Upper Bolsa Chica Mesa (Developer, Hearthside Homes – Brightwater Residential Development) (.)

Consent Calendar – Items Approved

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

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

(City Council) Approved Promotion of One Sergeant to Lieutenant to Fill Vacancy Due to the Retirement of One Lieutenant in August 2003 as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003 (to Keep Staffing at Allocated Levels) (.) – Approved the promotion of one (1) Lieutenant in August 2003 as an exception to the hiring freeze. Submitted by the Chief of Police. Funding Source: The existing, approved Police Department budget can absorb the cost of the Lieutenant. The funds are available in Police Department General Fund Account, Patrol (Business Unit). (The staff report sets forth that on July 7, 2003 Council approved a budget reduction from 12 to 11 Lieutenant positions. Due to the retirement of one Lieutenant in August and to keep the appropriate number of Watch Commanders in the Patrol Division it is necessary to promote one Sergeant to Lieutenant.)

(City Council) Accepted Bid and Awarded Construction Contract to Valverde Construction, Inc. for Water Pipeline Replacement Projects; CC-1188 on Florida Street (between Clay Avenue/Altamar Drive) and Alabama Street (between Adams Avenue/Knoxville Avenue) (.) – **1.** Accepted the lowest responsive and responsible bid submitted by Valverde Construction, Inc. in the amount of \$1,325,464 for the construction of the Water Pipeline Replacement Projects, CC-1188; and **2.** Accepted the Alternate Bid items A-1 and B-1 submitted by Valverde Construction, Inc. for a total additional amount of \$36,000; 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 in the amount of \$2,000,000 are available in the Water Fund, Water Main Replacement Account.

(City Council) Adopted Resolution No. 2003-55 Confirming Reports of Cost for 2003 Weed Abatement on Private Property within the City (.) – Adopted **Resolution No. 2003-55** – “A Resolution of the City Council of the City of Huntington Beach Confirming Reports of Cost for Weed Abatement on Private Property within the City – 2003 Season,” and directed that all charges listed thereon be certified to the Orange County 2003-2004 Tax Roll. Submitted by the Public Works Director. Funding Source: A special assessment totaling \$35,735.80 will be charged to the Orange County property tax roll and reimbursed to the City by the County of Orange as part of the ordinary collection process.

(City Council) Approved 2003-2004 Proposed Budget – West Orange County Water Board (WOCWB) (320.80) – Approved the Fiscal Year 2003/2004 proposed West Orange County Water Board Budget in the amount of \$331,000. Submitted by the Public Works Director. Funding Source: Funds are proposed in the Fiscal Year 2003 -2004 Budget. The total proposed budget for the WOCWB is \$331,000. Huntington Beach total share for the fiscal year is \$185,691. \$71,473 of the total budget will be funded by interest and excess reserves of the Board. The net

contribution for Fiscal Year 2003-2004 for the City of Huntington Beach will be \$145,595. (Pursuant to Joint Powers Agreement between cities of Huntington Beach, Garden Grove, Westminster, and Seal Beach.)

(City Council) Adopted Resolution No. 2003-56 Authorizing Agreement Between the City and Union Pacific Railroad for Railroad Improvements at the Warner Avenue Crossing (Complements the Warner Avenue Rehabilitation Improvements; CC-1149) (.) – Adopted Resolution No. 2003-56 – “A Resolution of the City Council of the City of Huntington Beach Authorizing the Execution of the Agreement with Union Pacific Railroad Company.” Submitted by the Public Works Director. Funding Source: Funds in the amount of \$63,000 are budgeted in the Gas Tax Fund, Arterial Highway Rehabilitation Program Street Improvement Account.

(City Council) Received and Filed City Clerk’s Report Listing Professional Services Agreements Filed in the City Clerk’s Office between January 1, 2003 through April 30, 2003 (600.05)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to receive clarification concerning Professional Services Agreements and amounts of contracts.

City Administrator Ray Silver responded a Study Session would be scheduled regarding clarification of the new process used concerning the Huntington Beach Municipal Code Chapter 3.03 relating to Professional Services.

(See Matrix for this Item on the Next Two Pages 14 & 15)

AGRMT DATE	CONSULTANT AGREEMENT	PURPOSE	AMOUNT	EXPIREY DATE	CATEGORY NUMBER	DEPARTMENT
6/21/02	John S. Adams & Assoc. Inc.	Appraisal services for McDonnell Centre Business Park - Community Facilities District	\$13,500	8/31/02	600.10	Economic Development
1/6/03	Bryan A. Stirrat & Assoc	Amendment No.1 to Agreement approved by City Council on 1/7/02 to provide an environmental assessment and geotechnical evaluation for the Southeast Reservoir Site. Additional Funds needed in property Acquisition - Tentative and Final Parcel Maps	\$18,550	1/06/04	600.10	Public Works
10/8/02	A. W. Hutchinson & Assoc. LLC	Construction management services for Slater Channel Improvements	\$50,000	10/8/04	600.10	City Attorney
1/15/03	Joe Callanan & Assoc	Consultant to provide technical expert witness services for police related cases	Under \$50,000	1/1/05	600.10	City Attorney
1/21/03	Bond Logistix, LLC	Arbitrage Rebate Compliance Services	Not to exceed (NTE) \$50,000	1/21/06	600.10	City Treasurer
8/16/02	Richards, Watson & Gershon	Legal Counsel – Shell Chemical – Phillips Petroleum & other related cases	Over \$50,000	10/31/04	600.10	City Attorney
2/1/03	Bryan R. Stirrat & Assoc.	As needed Environmental engineering services	NTE \$250,000	12/31/03	600.10	Public Works
10/1/02	CSG Consultants, Inc.	In-house plan review services (Khoa Duong) consultant	\$80,000	9/30/03	600.10	Building & Safety
1/1/03	Ferguson, Praet & Sherman	Legal torts & Police related litigations	Over \$50,000	1/1/07	600.10	City Attorney
2/24/03	Hennessey Group	Economic analysis/Affinity Card	NTE \$12,500	2/24/04	600.10	Economic Development
7/1/02	Best, Best & Krieger, LLP	Bond counsel for the proposed Community Facilities District for Block 104/105 (The Strand) CIM Group	Amount depends on whether or not bonds are passed by the voters	7/1/05	600.10	City Attorney
9/20/02	Michael H. Miller	Legal services involving matters before the Personnel Commission	Over \$50,000	8/1/04	600.10	City Attorney
1/1/03	Kinkle, Rodiger & Spriggs	Outside legal counsel – City Attorney's Office Tort & Police related litigation – David P. Lenhardt, Esq.	Over \$50,000	1/1/07	600.10	City Attorney
1/17/03	Best, Best & Krieger, LLP	Legal services to represent the City Clerk in case entitled City Council, Petitioner V. Rosalyn Lever et. al, Registrar of Voters respondent and Scott Baugh Real Party in Interest – Districting, District Election, March 2004	Over \$50,000	1/30/06	600.10	City Attorney

1/2/03	Kane, Ballmer & Berkman	For legal services regarding general advice related to municipal law matters (Amendment # 1)	Under \$25,000	3/1/04	600.10	City Attorney
1/1/03	Moore & Rutter	For tort and Police Department legal counsel services	Over \$50,000	12/31/06	600.10	City Attorney
1/1/03	Thomas J. Feeley	Outside legal counsel –Police Department Police related tort litigation	Over \$50,000	12/31/06	600.10	City Attorney
1/1/03	Harris & Associates	Professional Services Contract – As needed Civil Engineering consulting services – Personnel (Randy Berry)	Based upon approved specific Capital Improvement Projects	1/1/04	600.10	Public Works
1/1/03	AKM Consulting Engineers	Professional Services Contract – Civil Engineering consulting services	Based upon approved specific Capital Improvement Projects	1/1/04	600.10	Public Works
1/1/03	Richard Brady & Associates	Professional Services Contract – Civil Engineering Services, Personnel	Based upon approved specific Capital Improvement Projects	1/1/04	600.10	Public Works
1/1/03	Willdan & Associates	Professional Services Contract – Civil Engineering Services. As needed – Lisa Penna (Renewable for Two – 1 year terms)	Based upon approved Capital Improvement Projects	1/1/04	600.10	Public Works
1/1/03	Liebert, Cassidy Whitmore	Labor negotiations services Legal Counsel – MEA , MSOA, MEO, etc. - Employee Associations	Over \$50,000	12/31/05	600.10	City Attorney
4/10/03	Engineering Resources of Southern California, Inc.	Development processing and related engineering services	\$250,000	9/30/03	600.10	Public Works
10/23/01	ESCI - EnviroServices, Inc.	Hazardous Materials Area Plan – State of California Office of Emergency Services (OES)	\$14,000	?	600.10	Fire Department
11/7/00	Donahue & Company, Inc.	Appraisal services - Huntington Center/Montomery Ward and Burlington Coat Factory Sites	\$10,000	5/7/01	600.10	Economic Development
9/20/02	Kinkle Rodiger & Spriggs	Amendment No.1. Approved In-House to Include Purner vs. City Lawsuit (David Lenhardt) – Outside legal counsel – Purner vs. City of Huntington Beach	Over \$50,000	4/14/03	600.10	City Attorney
1/1/03	Carpenter, Rothans & Dumont	Tort and police related litigation	\$50,000	12/31/06	600.10	City Attorney
1/1/03	Liebert Cassidy Whitmore	Labor Employee Employment Discrimination Law – legal counsel	Over \$50,000	12/31/05	600.10	City Attorney

A motion was made by Sullivan, second Coerper to receive and file the *List of Professional Services Agreements* entered into by City Departments as submitted to the City Clerk's Office for the period January 1, 2003 through April 30, 2003. The motion carried by the following roll call vote:

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

(City Council) Approved Appropriation for the July 1, 2003 Stop Loss Insurance Renewal and Supplemental Retirement Payments Fiscal Year 2002/2003 per Fiscal Impact Statement 2003-28 (.)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to inquire about the medical insurance and supplemental retirement provisions.

In response to Councilmember Sullivan's inquiry City Administrator Ray Silver stated that a report at a future date as yet uncertain would be given relative to the amount of the unfunded liability.

A motion was made by Sullivan, second Hardy to approve appropriation of \$345,000 to Self Insurance Medical Fund from General Fund Unreserved Fund Balance for stop loss insurance renewal and increase supplemental retirement payments from Supplemental Retirement Unreserved Fund Balance in the amount of \$500,000. The motion carried by the following roll call vote:

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

(City Council) Approved Youth Board Appointments of Whitney Gaglio, Andrew Kreitz, Karisa Maw, Sean McBride, Kristin Ornelas, Lauren Thomas, and Jennifer Baca With Terms to Expire June 2004 – Approved Reappointments of Jessica Lusso and Ben Robin With Terms to Expire June 2004 (110.20)

Councilmember Hardy requested that this agenda item be removed from the Consent Calendar so she could congratulate the Youth Board appointees.

Councilmember Hardy stated that she and Mayor Pro Tem Green had a very difficult selection to make and congratulated the Youth Board appointees.

A motion was made by Hardy, second Boardman to 1. Approve the appointments of Whitney Gaglio, Andrew Kreitz, Karisa Maw, Sean McBride, Kristin Ornelas, Lauren Thomas, and Jennifer Baca to the Youth Board term to expire June 2004 and 2. Approve Reappointments of Jessica Lusso and Ben Robin to the Youth Board term to expire June 2004. The motion carried by the following roll call vote:

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

(City Council) Approved Appointments of Fredrick Koepp and David Guido to the Environmental Board With Terms to Expire June 30, 2007 (.)

Councilmember Hardy requested that this agenda item be removed from the Consent Calendar to congratulate the Environmental Board appointees.

A motion was made by Hardy, second Boardman to approve appointments of Fredrick Koepp and David Guido to the Environmental Board with terms to expire June 30, 2007. The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

(City Council) Approved Contracts CP-0207 and CP-0208 Between the Orange County Sanitation District and the City for the Cooperative Projects Program – Fiscal Year 2003/2004 (Speer/McFadden Infiltration Project and Alabama Inflow Project – Storm Drain Catch Basins between Hartford and Joliet Avenues) (.)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to inquire about the cost to benefit ratio.

Public Works Director Robert F. Beardsley reported at the request of Councilmember Sullivan.

A motion was made by Sullivan, second Boardman to **1.** Accept the lowest responsive and responsible bid submitted by Valverde Construction, Inc. in the amount of \$1,325,464 for the construction of the Water Pipeline Replacement Projects, CC-1188; and **2.** Accept the Alternate Bid items A-1 and B-1 submitted by Valverde Construction, Inc. for a total additional amount of \$36,000; and **3.** Authorize the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

(City Council) Approved Agreement for the Conveyance of Wastewater Between the City of Huntington Beach and the City of Seal Beach (Sunset Aquatic Park) (.) –

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to inquire about the agreement with the City of Seal Beach concerning whether it will involve pump stations.

Public Works Director Robert F. Beardsley reported at the request of Councilmember Sullivan.

A motion was made by Sullivan, second Coerper to Approve and authorize the Mayor and City Clerk to execute the *Agreement for the Conveyance of Wastewater Between the City of Huntington Beach and the City of Seal Beach*. The motion carried by the following roll call vote:

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

NOES: None

ABSENT: None

(City Council) Approved Proposed Second Amendment to AES Huntington Beach Development, Inc. Option Agreement for the Purpose of Southeast Reservoir and Booster Pump Construction at Site No. 2 e/o Newland Street and s/o Edison Avenue (.)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to discuss the reservoir. He stated his opposition to the reservoir.

Deputy Director of Public Works Paul Emery reported on the Water Master Plan.

Discussion was held regarding storage requirements to ensure future water supplies.

A motion was made by Houchen, second Cook to:

1. Authorize the Mayor and City Clerk to execute an amendment to the Option Agreement with AES Huntington Beach Development, Inc. attached hereto and titled "*Second Amendment to that Certain August 14, 2001, Option Agreement and Escrow Instructions Between the City of Huntington Beach and AES Huntington Beach Development, Inc.* and any other documentation as approved by the City Attorney necessary to effectuate the exercise of the option;

and

2. Authorize the City Administrator, or designee, and the City Clerk to execute two additional amendments to extend the option period in accordance with the terms and conditions presented herein upon approval of the City Attorney. The motion carried by the following roll call vote:

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

NOES: Sullivan

ABSENT: None

(City Council) Adopted Resolution No. 2003-57 Denying the Water Pipeline Franchise Application of Southern California Water Company (SCWC) to Provide for the Upper Bolsa Chica Mesa (Developer, Hearthside Homes – Brightwater Residential Development) (.)

Mayor Pro Tem Green and Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to discuss the proposed water pipeline franchise.

Discussion ensued concerning the process for granting a water pipeline franchise.

A motion was made by Mayor Pro Tem Green to approve the application of Southern California Water Company for a water pipeline franchise." The motion died for lack of a second.

A motion was made by Boardman, second Cook to adopt **Resolution No. 2003-57** - "A Resolution of the City Council of the City of Huntington Beach Denying the Application of Southern California Water Company for a Water Pipeline Franchise." The motion carried by the following roll call vote:

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

NOES: Green

ABSENT: None

(City Council) Continued to August 18, 2003 City Council Meeting to Consider Standard Sponsorship Agreement for HCP (Huntington Central Park) Sports Complex Banner, Scoreboard, Family Pavilion and Field Sponsorship Program (For Use with Spectrum Sports) (.)

At the request of City Administrator Ray Silver the City Council continued to the meeting of August 18, 2003 consideration of Standard Sponsorship Agreement for HCP (Huntington Central Park) Sports Complex Banner, Scoreboard, Family Pavilion and Field Sponsorship Program (For Use with Spectrum Sports).

(City Council) Approved Appointments of Councilmember Debbie Cook and Alternate Councilmember Gil Coerper to Serve as the Delegates for the City at the 2003 Annual Conference of the League of California Cities (.)

The City Council considered a communication from Mayor Connie Boardman transmitting the following **Statement of Issue**: The Annual Conference for the League of California Cities will be held from Sunday, September 7 through Wednesday, September 10, 2003 in Sacramento.

An important aspect of the Annual Conference is the annual business meeting when the membership takes action on conference resolutions. Each city is entitled to one vote in matters affecting Municipal or League policy. The League has requested that we notify them no later than Friday, August 8, 2003 of the names of our delegate and alternate.

Traditionally the City Council has appointed the Mayor as its delegate. Since I am not planning to attend the conference this year, I respectfully request that we appoint Councilmember Debbie Cook as the City's official delegate. I would also request a volunteer for the alternate from among the other members of the Council who are planning to attend.

To that end, I move that the Council approve the following:

A motion was made by Boardman, second Houchen to:

Appoint **Councilmember Debbie Cook** to serve as the delegate for the City of Huntington Beach at this year's Annual Conference of the League of California Cities.

Appoint **Councilmember Gil Coerper** to serve as the alternate delegate for the City of Huntington Beach at this year's Annual Conference of the League of California Cities, September 7th through September 10th.

The motion was approved by the following roll call vote:

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

(City Council) Adopted an Amendment to Resolution No. 2003-51 (Adopted at the July 7, 2003 Council Meeting) Revising the City's Code of Ethics and Amending the City Council Manual (.)

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: At the July 7, 2003, City Council meeting, the City Council adopted Resolution 2003-51 revising the City's Code of Ethics and amending the City Council Manual. On July 21, 2003, a motion to reconsider that amendment was approved.

While I am in agreement with removing the reference to gifts to be consistent with State law (Legislative Draft - Item 4, Section C), I would like to recommend that the time period deletion as shown on the Legislative Draft (Item 7) be reinserted, but changed to a one year time period. Although these limitations are not required by the State, I believe it is appropriate to call ourselves and other city officials to this higher standard, albeit two years seems too strict. Therefore, I am recommending that Resolution 2003-51 - "*A Resolution of the City Council of the City of Huntington Beach Revising the City's Code of Ethics and Amending the City Council Manual*" be adopted and amended as shown below.

A motion was made by Sullivan, second Green to:

Adopt **Resolution 2003-51 as amended** revising the city's Code of Ethics and amending the City Council Manual, including the following language:

Seventh: Except for persons appointed to boards, commissions, and committees, officials shall not lobby for remuneration on behalf of any other individual or entity other than themselves to City staff or before the City Council or any City board, commission, or committee for a period of *one year* after their date of severance from the City, and

Include January 6, 2003 City Council motion as follows: To require that each person sign acknowledging that they understand the Code of Ethics as adopted at the January 6, 2003 council meeting to approve the recommended action as amended to require that each person sign acknowledging that they understand the Code of Ethics (Elected Officers, all employees, Board, Commission and Committee members) and to direct the City Clerk to record in the official minutes that the Code of Ethics was presented to the City Council, the City Administrator, Chairpersons, and City Department Directors for review and distribution as required. The motion carried by the following roll call vote:

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

(City Council) Directed Staff to Present a Plan to Maintain Equivalent of Redevelopment Agency Tax Increment if Poseidon Seawater Desalinization Project is Approved and Later Sold to a Public Agency (. .)

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: If the Poseidon Seawater Desalinization project is approved and later sold to a public agency, the Redevelopment Agency would lose the tax increment. There may be a way to insure continuation of the equivalent of the tax increment in this circumstance via an agreement with the Redevelopment Agency.

A motion was made by Sullivan, second Green to:

Move that the Economic Development Director and the City Attorney present the City Council by August 31, 2003 with a plan to maintain the equivalent of the tax increment from the Poseidon project in the event it is sold to a public agency and **as amended** to study research on the utility tax issue.

Discussion was held between the City Council, City Attorney Jennifer McGrath and Economic Development Director David Biggs concerning the proposed Poseidon contract. A Late Communication from Economic Development Director David Biggs to Councilmember Sullivan dated May 15, 2003 titled *Proposed Poseidian (sic) Poseidan Plant and Public Revenues* was distributed by Mayor Boardman during the discussion of the item.

The City Clerk requested a copy of the communication and received it during the discussion.

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

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

(City Council) Report on Long Beach Increased Air Traffic Meeting at Library

Councilmember Dave Sullivan and Councilmember Gil Coerper reported regarding the Community Meeting on the Long Beach Airport held at the Huntington Beach Central Library stating that there was a large turnout of citizens showing their great concern regarding the increased noise from the flight path in Huntington Beach.

(City Council) Announcement of the Return of Fire Captain Shinrock from Iraq

Councilmember Gil Coerper announced Fire Engineer George Shinrock has returned to duty with the Huntington Beach Fire Department from his service as a United States Marine in Iraq.

(City Council) Report on Police Officer Heroism – 2003 Air Crew Award – To Senior Pilot Jack Paholski and Officer Brandon Reed

Councilmember Gil Coerper reported on Senior Pilot Jack Paholski and Officer Brandon Reed of the Huntington Beach Police Department who received the 2003 Air Crew Award for the apprehension of suspects in a brutal attack on citizens.

(City Council) Announcement of Aircraft Carrier Excursion

Mayor Boardman and Councilmembers Cook and Houchen reported on their trip aboard a United States Naval aircraft carrier and about meeting a young Huntington Beach serviceman, Jonathan Greathouse.

Adjournment – City Council/Redevelopment Agency

Mayor Boardman adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, August 11, 2003, at 4:00 p.m., in the Council Chambers, Civic Center, 2000 Main Street Huntington Beach, California.

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

ATTEST:

City Clerk-Clerk

Mayor-Chairman