

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

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

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

Call to Order

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

City Council/Redevelopment Agency Meeting Roll Call

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

Public Comments

Norm “Firecracker” Westwell complimented the Fourth of July Board on the 2004 fireworks display and stated his opinion that fireworks on the beach should happen each year. His suggestion was to mount the fireworks on trailers on the Pier and to keep Ruby’s Diner open for as long as possible. Mr. Westwell suggested the City adopt Rose Bowl standards of occupying space instead of staking out space along the parade route, and reiterated his support for “safe and sane” fireworks.

The City Clerk Announced Late Communications

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

Two communications submitted by the Community Services Department dated September 7, 2004 replacing slide 7 and slide 8 of the Power Point Presentation titled *City Council/Fourth of July Executive Board Centennial Celebration Joint Study Session*.

(City Council/Redevelopment Agency) Joint Study Session of the City Council and the Community Services Department’s Fourth of July Executive Board Held to Discuss Issues Regarding 1) Executive Board Makeup; 2) Fireworks 2004 and 2005; and 3) Staking out Parade Route – Councilmember Gil Coerper to Bring Forward to a Date Uncertain (960.30)

Fourth of July Executive Board Roll Call

Present: Pat Stier, Chair; Michael Ali; Margie Bunten; Karen Pedersen; Carole Ann Wall
Absent: Mary Ellen Cianciabella

Community Services Director Jim Engle presented a PowerPoint report detailing: 1) The Board's current makeup; 2) Proposed expansion of the Board and/or professional assistance to compensate for increased responsibilities; 3) The fireworks display; and 4) Financials and operational/safety evaluations.

Councilmembers inquired about pending revenue, coordinating with the state beach in regards to hours of operation, and corporate sponsorship of the fireworks display. Also expressed were other safety issues including the possible negative effects of launching the fireworks from the pier, and concerns about emergency vehicle access during the event.

Further discussion ensued relative to the responsibilities of the Board and whether these responsibilities should be scaled back rather than increased. Council and staff discussed concerns relating to obtaining staff volunteers, overtime expenses, and additional fire and police requirements. Councilmembers asked for specifics on reorganization of the Board due to term limits and other factors.

Director Engle announced that he would meet with the Fourth of July Executive Board and return to the City Council with recommendations the second meeting in October. He also thanked all city staff and the various departments involved for their extra efforts.

Board Chairperson Pat Stier reported on sponsorship opportunities and the need to start earlier than last year. She thanked staff and all of the city departments for their support of the Board.

Police Chief Kenneth Small spoke about "staking out" along the parade route and the increased challenges a midnight deadline pose for his staff.

There was dialog amongst councilmembers regarding alternative deadlines, additional bleachers on the parade route, and occupation versus staking.

Further discussion followed relative to term limits for board members and the amount of training necessary to fully function on the Board. Council preferences for board members, whether or not they should be Council-appointed or chosen by staff.

Councilmember Coerper announced that he would bring forward to a date uncertain an H item to Council on staking.

Motion to Recess to Closed Session – Approved

A motion was made by Coerper, second Boardman 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
NOES: None
ABSENT: None

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Penelope Culbreth-Graft, City Administrator; William P. Workman, Assistant 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)**

(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. Subject: **Southern California Water Company v. City of Huntington Beach, et al.** (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 **Opp v. City of Huntington Beach, et al.**; Court of Appeals, Fourth Appellate District, Division 3, Case No. G025947 [Opp I]; and **Opp v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 748927, Court of Appeals Case No. G030601 [Opp II]. Subject: **Opp v. City of Huntington Beach, et al. [Opp I and Opp II].** (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 JVS; and Scottsdale Insurance Company v. Huntington Beach Police Officers Association, and the related counterclaim, **American States Insurance v. City of Huntington Beach**, United States District Court Case No. SA 03-1143 JVS. Subject: **City of Huntington Beach v. HBPOA (Gun Range), and related cases.** (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 **State of California ex rel. Nora Armenta v. James Jones Company, et al.**; Los Angeles Superior Court Case No. BC 173487; and **Potential Related Action, City of Huntington Beach v. James Jones.** **-AND-** Pursuant to Government Code Section **54956.9(c)** to confer with City Attorney regarding pending litigation based on existing facts & circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation. Number of Potential Cases: **one** Subject: **State of California ex rel. Nora Armenta v. James Jones Co., et al.; and Potential Related Action, City of Huntington Beach v. James Jones.** (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
Absent: None

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

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

Pledge of Allegiance – Led by Mayor Cathy Green

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

The City Clerk Announced Late Communications

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

Two communications from the Community Services Department replacing slide 7 and slide 8 (Pages SS.7 and SS.8) of the PowerPoint presentation titled *City Council/Fourth of July Executive Board Centennial Celebration Joint Study Session*.

Nine communications dated September 7, 2004 stating their opposition to the Planning Commission approval of CUP 03-51, a third story addition located at 9151 Bermuda Drive. Submitted by Gail and Scott Swanson, John Engh, Mike and Bev Grossman, Linda Miller, James and Pamela Fast, Ann McCarthy Jeanne McKee, James Gallagher and Frances Martin.

A PowerPoint presentation submitted by the Planning Department titled *Local Coastal Program Amendment No. 1-03* revising the PowerPoint that was included in the agenda packet.

A PowerPoint presentation submitted by the City Administrator and the Director of Administrative Services titled *Fiscal Year 2004/2005 Budget Presentation*.

Communication submitted by Administration dated September 7, 2004 titled *Intergovernmental Relations Committee – Recommendations for Legislative Action*, which revises the date on the PowerPoint presentation.

Communication submitted by Administration dated September 1, 2004 titled *Cogged Stone Site, CA-ORA-83/144 National Register of Historic Places*.

Communication submitted by the Economic Development Department dated September 7, 2004 titled *Late Communication for Agenda Item H-1a* transmitting two maps regarding the Mobile Home Park Conversion Ordinance.

The Following Additional Late Communications Were Submitted During the Meeting:

An illustration of the proposed home remodel relating to Public Hearing Item D-1 (undated and untitled) was submitted by Alise Clevely.

Copies of photographs of homes in the neighborhood relative to Public Hearing Item D-1 (undated and untitled) were submitted by Jim Gill.

An illustration of an alternative home remodel relating to Public Hearing Item D-1 (undated and untitled) was submitted by Chris Clevely.

Presentation – Made by Mayor Cathy Green who called on Rita Johnson from American Legion Auxiliary Unit 133 to introduce Nina Ho, who was selected to participate in the Girls Nation Program. The Mayor presented Ms. Ho with a key to the City and a commendation. (160.40)

Presentation – Made by Mayor Cathy Green who called on Councilmember Gil Coerper to accept a recognition award for the City for adopting a “No Smoking” on the Beach ordinance. The presentation was made by Jim Walker, Executive Director for Stop Tobacco Abuse of Minors Pronto (STAMP) and Herm Perlmutter, Program Supervisor for the Orange County Health Care Agency Tobacco Use Prevention Program. (160.40)

Presentation – Made by Mayor Cathy Green who called on Fire Chief Duane Olson and Public Works Director Robert Beardsley. Chief Olson introduced John Coleman, Manager of Community Mitigations Services for the Insurance Services Offices (ISO). The City has received the ISO's highest Fire Suppression Rating based on its evaluation of three major features: fire alarms and communication systems, the Fire Department, and the city water supply systems. The plaque Mr. Coleman presented commemorates the achievement of a Class 1 Fire Suppression rating. Only 42 Fire Departments nationwide have earned this distinction. The Fire Chief and the Public Works Director recognized their staff members. The Public Works Director gave special recognition to City Engineer, Dave Webb. (160.40)

Presentation – Made by Mayor Cathy Green who called on Art Center Director Kate Hoffman. Ms. Hoffman introduced the Art Center Foundation Co-Chairs Jerry Chapman and Diana Casey. The Art Center Foundation presented a check for \$45,000 to the City's Art Center, and announced a fundraising brunch for the Art Center to be held at the Waterfront Hilton on September 19, 2004. (160.40)

Public Comments

Steve Stafford spoke regarding Crystal Island referring to what he described as an agreement between the City and the school district to maintain streets. Mr. Stafford alleged an illegal permit had been issued to the developer by the City.

Nancy Hastings spoke on behalf of Surfrider Foundation and Orange County Coastkeepers in support of the proposed Marine Life Protection Act (MLPA) and the related Resolution No. 2004-74 on the agenda.

Thomas Cox spoke in support of the proposed Mobile Home Park Conversion Ordinance and asked the City Council for a unanimous decision supporting fair market value.

Joey Racano spoke in support of the Intergovernmental Relations Committee's recommended action regarding legislation pending on Item 1 (proposed Resolution 2004-74 regarding the Marine Life Protection Act (MPLA)), Item 2 (Orange County Sanitation District request for Federal funding) and Item 5 (Cogged Stone Site as a Historic Site). Mr. Racano also reiterated his support of the proposed Mobile Home Park Conversion Ordinance.

Jan Vandersloot spoke in support of the Resolution regarding the Marine Life Protection Act (MLPA), the Orange County Sanitation District's request for federal funding of \$10 million, and the request by Senator Diane Feinstein relating to the Cogged Stone Site. Mr. Vandersloot also commended the City Clerk's office for the quality of the minutes.

Peter Albin spoke relative to how, in his opinion, citizens should be treated. Mr. Albin stated his support for “in place” or fair market value regarding the Mobile Home Park Conversion Ordinance.

Steve Ray, Vice Chair of the Planning Commission, spoke in support of the proposed amendments to the Planning Commission’s hearing process. Mr. Ray explained the rationale behind the suggested amendment and asked the City Council for its support.

Andrea Hiser and **Michael Hiser** spoke in support of fair and equitable market value for the mobile home owners in the event their parks are closed.

John McGregor spoke in support of the proposed Mobile Home Park Conversion Ordinance and asked for an explanation of the vote at the prior meeting.

Councilmember Cook clarified there had been no vote on the proposed Mobile Home Park Conversion Ordinance itself – there was only a vote on postponing the item to another meeting.

Jean Vierling spoke in support of the proposed Mobile Home Park Conversion Ordinance.

Kent Lucas alleged an existing conflict of interest for Council to vote on the Mobile Home Park Conversion Ordinance due to the fact that the City owns a park, Ocean View Estates.

Councilmember Cook spoke regarding the reason why the City Council placed the proposed Mobile Home Park Conversion Ordinance on the agenda.

Carmine Santanio stated his opinion that the current Mobile Home Park Conversion Ordinance does not compensate adequately, and that he doesn’t think the Smoking Ordinance is being enforced.

Guy Fortin, Grace Sandlin, Mary Jo Baretich, Jim Barker, Robert Lupo, and **Billie Kennedy** all spoke in support of the proposed Mobile Home Park Conversion Ordinance.

Al Caraccia informed Council that some mobile homes have incorrectly been defined as “trailers” when they are in fact manufactured homes. He related some of the history of the original ordinance and how the homes were appraised. Mr. Caraccia stated, in his opinion, that homes in his park are valued upwards of \$100,000 to \$300,000.

Linda Smith, Secretary of Huntington-by-the-Sea Homeowners Association, informed Council that her mobile home park is due to close in 2015.

Mayor Green asked for clarification from Ms. Smith regarding the Huntington-by-the-Sea lease. She received the response that the park is not extending beyond 2015, which is the current length of the lease held by residents.

Stella Lambretta, Patricia Devone and **David Carlson** all spoke in favor of the proposed Mobile Home Park Conversion Ordinance.

Barry Johnson spoke in support of the proposed conversion ordinance and asked Council to move the vote forward on the agenda.

Councilmember Boardman responded in the affirmative, stating it was her plan to do so.

Stephanie Barger, Executive Director for the Earth Resource Foundation spoke regarding smoke-free beaches. She recognized the influence of youths and commended Councilmember Coerper for supporting the ordinance. Ms. Barger also spoke regarding the September 18, 2004 Intercoastal Clean-up Day for which there are 18 sites throughout the County. Ms. Barger lastly spoke in support of Agenda Item F-1, the Marine Life Protection Act and other administrative items.

Rex Ricks spoke in support of an administrative item and asked the City Council to help the mobile home park homeowners.

Vickie Talley, Executive Director of the Manufactured Homes Educational Trust (MHET) spoke in opposition to the proposed Mobile Home Park Conversion Ordinance. Ms. Talley alleged that the proposed ordinance violates the constitution and state law. She further opined that the proposed ordinance is unfair to park owners and homeowners alike and needs to be modified.

Councilmember Boardman cited the law regarding relocation in rebuttal to the previous speaker's comments.

Cheryl Cook spoke in support of the proposed Mobile Home Park Conversion Ordinance and expressed her concerns regarding rent increases and the impact these increases will have on homeowners.

Steve Gullage spoke in support of Resolution 2004-74 relating to the Marine Life Protection Act (MLPA) and in support of "in place" value for mobile homes. Mr. Gullage also spoke regarding having heard of threats of rent increases if the proposed conversion ordinance is passed.

Councilmember Sullivan asked the previous speaker, as a representative of the local and the state mobile home associations, what the chances are of another park picking up relocated homes. The speaker responded that the chances are quite small.

Councilmember Cook inquired about the cost of manufactured homes, and Mr. Gullage responded.

Mike Barngrover spoke in favor of the Mobile Home Park Conversion Ordinance asking the City Council for their support.

Norm "Firecracker" Westwell, City Council and State Assembly Candidate, recommended either Grace Winchell or Ralph Bauer be appointed to replace Pam Houchen. He spoke in support of the Planning Commission's proposed amendments to the hearing process and in opposition to several Consent Calendar items and ordinances being considered for adoption. Mr. Westwell suggested adding language to the Mobile Home Park Conversion Ordinance that would protect the landowners as well.

Shawn Thompson-McGarrigle, resident of Bermuda Street, spoke regarding Public Hearing Item D-1 on the agenda stating that, in her opinion, the proposed renovations to the Clevely home are not in violation of the infill ordinance.

A motion was made by Boardman, second Sullivan to move Agenda Item H-1a (Mobile Home Park Conversion Ordinance) forward. The motion carried by the following roll call vote:

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

(City Council) The Mayor Dedicated the Meeting to Evelyn Waters, CERT Volunteer (120.85)

Mayor Cathy Green dedicated the meeting to the memory of Evelyn Waters, Community Emergency Response Team (CERT) volunteer.

(City Council) Continued from August 16, 2004 Council Meeting - Directed City Attorney to Return to Council Within 30 Days an Ordinance to Amend Huntington Beach Zoning and Subdivision Code Relating to Mobile Home Park Conversion (120.90)

Communication from Councilmember Connie Boardman transmitting the following **Statement of Issue**: At the May 17, 2004, City Council Meeting, I brought forward an H-Item regarding the City's Mobile Home Park Conversion Ordinance (see Attachment 1). At that time, I recommended that the Council consider alternatives to update the ordinance and give direction to the City Attorney as to what changes, if any, the Council wishes to make to the ordinance and that the City Attorney return the amended ordinance to the Council for approval.

Because of the complexity of the issues involved, the matter was scheduled for a City Council Study Session on July 19, 2004, where staff compared three elements of our conversion ordinance with ordinances from seven other California cities (Fremont, Los Gatos, Mountain View, San Jose, San Juan Capistrano, Sunnyvale, and Windsor). The three major elements of the Mobile Home Park Conversion Ordinance that the Council may wish to consider updating include: (1) the method for valuing mobile homes to be purchased rather than relocated, (2) the radius within which residents to be relocated may be moved, and (3) the minimum compensation park owners must provide displaced residents. A summary of this comparison is provided below:

	Coach Valuation Method	Relocation Radius	Minimum Compensation from Park Owner to Residents
Huntington Beach	Original purchase price discounted 4.7% per year	50 miles	<ul style="list-style-type: none"> a. Cost of physically moving mobile home within relocation radius. b. If resident wishes to relocate mobile home beyond relocation radius, additional cost of relocation beyond 50 miles will be paid by homeowner. c. If coach cannot be relocated, residents will be compensated according to the following formula: The original purchase price of each unit will be ascertained and discounted at a rate of 4.7% per year. This amount may not be less than \$4,500 plus moving expenses up to \$500, an aggregate not to exceed \$5,000. c. For residents not relocated, rent differential of 50% of the increase in the cost of housing for first year, not to exceed \$750.

	Coach Valuation Method	Relocation Radius	Minimum Compensation from Park Owner to Residents
Fremont	In Place Value	Reasonable Distance	<ul style="list-style-type: none"> a. General relocation assistance. b. Relocation of mobile homes that can be moved within a reasonable distance considering each resident's job, medical facilities, and other important facilities. c. Reasonable cost housing, if available, in the new development project. d. For residents unable to relocate their coach or move into new development project, the in place value of their coach.
Los Gatos	Fair Market Value	Within Town of Los Gatos (residents may choose to relocate elsewhere)	<ul style="list-style-type: none"> a. If resident relocates coach to another park in Los Gatos, cost of physically moving mobile home. b. If resident relocates coach to another park outside of Los Gatos, the estimated cost of moving to the closest park that would accept the coach. c. For residents unable to relocate their coach, the fair market value of their coach.
Mountain View	Fair Market Value	None	To be determined by City Council at time of application by park owner. At a minimum, if suitable relocation is not available, each resident must be compensated the in place fair market value of their coach.
San Jose	In Place Value	Santa Clara, Alameda, Santa Cruz, or San Mateo County	<ul style="list-style-type: none"> a. Costs of moving furniture and personal belongings to new residence. b. Cost of physically moving mobile home. c. For residents who move into multifamily housing, any rent differential for first two years of tenancy. d. For residents who relocate to another mobile home park, any rent differential for first two years of tenancy. e. For residents unable to relocate their coach, the in place value of their coach.

	Coach Valuation Method	Relocation Radius	Minimum Compensation from Park Owner to Residents
			<p>f. For disabled, elderly, low income, or families with children, the City may require extended leases beyond the park closure date.</p> <p>g. For disabled, elderly, low income, or families with children, the City may require setting aside rental spaces for continued tenant occupancy.</p>
San Juan Capistrano	Fair Market Value	50 miles	<p>a. Costs of relocation.</p> <p>b. Costs of physically moving mobile home.</p> <p>c. First and last month's rent and any security deposit at new mobile home park.</p> <p>d. Any rent differential at new mobile home park for first year of tenancy.</p> <p>e. For residents unable to relocate their coach, the fair market value of their coach.</p>
Sunnyvale	In Place Value	20 miles	<p>a. For residents who elect to relocate:</p> <ol style="list-style-type: none"> 1. A housing allowance of \$1,300 adjusted for inflation (1980) for first month's rent, security deposit, and temporary lodging. 2. An additional allowance will be provided of \$3,200 for a single-wide and \$12,650 for a multisection mobile home, adjusted for inflation. 3. Costs of physically moving mobile home. <p>b. For residents who elect to sell their mobile homes, 85% of (1) in place value or (2) cost of local relocation.</p>
Windsor	<u>Fair Market Value</u>	30 miles	<p>a. General relocation assistance.</p> <p>b. Costs of physically moving mobile home.</p> <p>c. First and last month's rent and any security deposit at new mobile home park.</p> <p>d. Any rent differential at new mobile home park for first year of</p>

	Coach Valuation Method	Relocation Radius	Minimum Compensation from Park Owner to Residents
			tenancy. e. For residents unable to relocate their coach, the fair market value of their coach. f. For residents who move into multifamily housing, any rent differential for first two years of tenancy.

In addition to the above three elements of the Mobile Home Park Conversion Ordinance that the Council may consider updating, I recommended that the City Council add a provision to the ordinance to eliminate the potential for mobile home park owners to raise rents and force lower income residents out of their homes. I proposed that the Council add language, such as the following, to prevent park owners from intentionally driving out residents prior to announcing their intent to close a park, thereby avoiding the relocation or compensation provisions of the City's ordinance.

Mobile home park owners applying to the City for a conversion of use must submit satisfactory documentation evidencing the following for each month for the period three years prior to the owner's initial announcement of his or her intent to close the park through the date of application to the City: each resident within the park, identifying all residents with children, disabled residents, and elderly residents; the square footage of each mobile home lot; the monthly rental rate for each mobile home lot; and the monthly space vacancies. For any resident during this period that the City determines lost their mobile home due to abandonment or foreclosure **resulting from an elevation in space rent**, the park owner shall be obligated to pay all compensation that would have otherwise been due under this ordinance. The park owner shall locate any such former residents and provide current contact information to the City. If any such former residents cannot be located, the City shall hold their compensation in trust for three years. At the end of this time, if the former resident (or the resident's heirs, if the resident is deceased) has not been located, the funds will be used to provide affordable housing in the City.

The City Council considered a communication submitted by the Administration Office and included in the agenda packet, received in the City Clerk's Office on September 1, 2004 of 52 postcards from residents of the Pacific Mobile Home Park in support of Mobile Home Park Conversion Ordinance.

Councilmember Boardman gave an oral report.

A motion was made by Boardman, second Cook that the Council give direction to the City Attorney to change the City's ordinance to include the use of in place fair market value to establish the value of the coaches and to reduce the relocation radius to 20 miles. This motion also directs the City Attorney to include the language immediately above to protect mobile home owners and that the City Attorney return the amended ordinance within 30 days to the Council for approval.

Councilmember Cook proposed amending the motion to include the provision that the value of the mobile homes not be less than replacement value. She also stated her opinion that the revised ordinance should be legally defensible, and that the City defends it if necessary.

Councilmember Coerper stated for the record that he supports a revised ordinance, and made a substitute motion, seconded by Green, that an ad hoc committee be formed composed of two mobile home owners, inclusive of Steve Gullage, Mayor Green, Councilmember Boardman, City Attorney Jennifer McGrath, Vickie Talley, the landowner and Economic Development Director David Biggs to report back to Council in 30 days.

Council discussion ensued relative to advisory boards, committees, subcommittees, and the time frames involved with the issue.

Mayor Green informed Council of her opinion that the committee had been close to an agreement, and that she is concerned about the legalities of the ordinance.

(City Council) Substitute Motion Failed on Proposed Formation of an Ad Hoc Committee to Study a Mobile Home Conversion Ordinance (120.25)

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

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

The aforementioned main motion was restated, **as amended** to include verbiage that the amount paid to the mobile home owner be not less than the replacement value of a similar square footage and size.

Council made further inquiries to the City Attorney pertaining to the City Charter and zoning matters.

Mayor Green stated for the record that she would not vote for an ordinance that she believes had portions that are legally indefensible.

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

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

The City Council recessed 9:10 p.m. and reconvened 9:15 p.m.

(City Council) No Action Taken on City Attorney Jennifer McGrath's Report Regarding the Legal Requirements to Fill a Vacancy on the City Council (120.40)

Communication from the City Attorney transmitting the following **Statement of Issue**: City Councilmember Pam Houchen has submitted her written resignation, effective September 2, 2004. The following legal requirements apply to the appointment of a new City Councilmember.

Section 312 (a) of the City of Huntington Beach Charter states "*Vacancies. A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council.*" And Section 312 (c) of the City of Huntington Beach Charter states "*Replacement. In the event it shall fail to fill a vacancy by appointment within 60 days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.*"

Based on the Charter, the City Council may appoint a person to serve the remainder of Ms. Houchen's unexpired term, which ends on December 7, 2004. Since Ms. Houchen's resignation is effective September 2, 2004, the Council has until November 1, 2004, to fill the vacancy by appointment. Coincidentally, the last regularly scheduled Council meeting prior to the expiration of the sixty-day period is November 1, 2004. If the Council does not make an appointment to the position by November 1, 2004, it must forthwith cause an election to be held to fill the vacancy. However, based on our initial review of state law, it appears that the earliest date for such an election would be March 8, 2005, well after the end of Ms. Houchen's unexpired term.

Please note that the Brown Act specifically requires that all discussion for the appointment of an elected official take place in open session. The exception that exists to allow closed session discussion of personnel matters does not apply to the appointment of an elected official. (Gov't Code Section 54957(b)(4).) The appointee's term will expire on December 7, 2004.

(City Council) Public Hearing Held – Upheld Planning Commission's Approval of Conditional Use Permit No. 03-51, Alise Clevely, Applicant for a Third Story Addition - Clevely Residence Located at 9151 Bermuda Drive (n/s of Bermuda Drive and e/o Magnolia Street) - Directed Staff to Return with a Moratorium on 3-Story Housing to Allow Council to Change the Code (420.40)

Mayor Green announced that this was the time noticed for a public hearing to consider an Appeal of the Planning Commission's Approval of **Conditional Use Permit No. 03-51 (Clevely Residence – Third Story Addition)**

Applicant: Alise Clevely

Appellant: City Council Member Debbie Cook

Request: To permit the construction of a new 518 square foot third floor balcony in conjunction with the partial reconstruction and expansion of an existing two-story single-family dwelling. The dwelling will have an overall building height of 35 feet. The request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/privacy issues, such as window alignments, building pad height, and floor plan layout.

Location: 9151 Bermuda Drive (north side of Bermuda Drive and east of Magnolia Street).

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

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

The City Council considered nine communications dated September 7, 2004 stating their opposition to the Planning Commission approval of CUP 03-51, a third story addition located at 9151 Bermuda Drive. Submitted by Gail and Scott Swanson, John Engh, Mike and Bev Grossman, Linda Miller, James and Pamela Fast, Ann McCarthy Jeanne McKee, James Gallagher and Frances Martin.

Assistant Planner Rami Talleh gave a PowerPoint report. Mr. Talleh answered several inquiries from councilmembers relating to Conditional Use Permits (CUP), compliance with ordinances, the basis of the appeal, and the history of the ordinance changes relating to building height.

Alise Clevely, Applicant, provided public testimony outlining actions on the Conditional Use Permit (CUP) for her home renovation. She enumerated efforts she has made to engage her neighbors in discussion in order to mitigate any concerns. Ms. Clevely stated that the construction on her home would comply with new home standards, and distributed a Late Communication announced earlier by City Clerk Joan L. Flynn, an illustration of the proposed home remodel.

Mayor Green declared the public hearing open.

Prior to calling the speakers, City Clerk Flynn restated for the record the other Late Communications she had announced earlier that pertain to this public hearing.

Frank Begg spoke in favor of approving the CUP. Mr. Begg stated, in his opinion, that the home remodel would add to the value of surrounding property.

Chris Young spoke in opposition to the Conditional Use Permit (CUP). He stated concerns about compatibility with three-story homes in neighborhoods with existing one-story homes.

Bev Garnett spoke in opposition to the proposed development. Ms. Garnett stated her opinion that it is not right for the tract, and that it would make her neighborhood look like Huntington Harbour.

John Engh stated his opposition to approval of the Conditional Use Permit citing concerns with wind pattern and sun exposure changes.

Mayor Pro Tem Hardy asserted her opinion that the neighborhood border should be drawn at Banning Avenue, not Pacific Coast Highway.

Norm "Firecracker" Westwell spoke in favor of approving the Conditional Use Permit to encourage homeowners to improve their property rather than letting the property become dilapidated or residents moving out of the city.

Jim Gill spoke in opposition to approval of the Conditional Use Permit stating that, to his knowledge, there was a petition in opposition with 125 signatures. Mr. Gill stated his opinion that no three-story homes should exist between Hamilton and Banning Avenues, and distributed a Late Communication.

Ed Webb, Nancy Hadley, Becky Weinthal, Meg Watson, Teri Malpass, Jack Kirkorn, Marilyn Ellison, and Richard Loy all spoke in opposition to approval of the Conditional Use Permit stating concerns with compatibility and future development.

Kevin Coleman spoke in favor of approving the Conditional Use Permit.

Chris Clevely spoke about the efforts he has made to ensure a successful project, and distributed a Late Communication announced earlier by City Clerk Flynn, which is an illustration of an alternative home remodel.

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

Council discussion ensued regarding the need to change the code citywide to further regulate creation of three-story homes.

Further discussion was held regarding the possibility of establishing a three-story building moratorium giving Council time to investigate the issue.

A motion was made by Sullivan, second Hardy to **deny** CUP 03-51 with Findings of Approval. The motion **failed** by the following roll call **tie** vote:

AYES: Sullivan, Coerper, Hardy

NOES: Green, Boardman, Cook

ABSENT: None

FINDINGS AND CONDITIONS OF APPROVAL CONDITIONAL USE PERMIT NO. 03-51

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administer finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15302 of the CEQA Guidelines, because the project consists of the replacement of an existing structure and facilities where the new structure will have substantially the same purpose and capacity are exempt.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 03-51:

1. Conditional Use Permit No. 03-51 for the construction of a new 518 sq. ft. third floor and 133 sq. ft. third floor balcony in conjunction with the partial reconstruction and expansion of an existing two-story single-family dwelling with an overall height of 35 ft. will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The third story addition is concealed within the second story roof volume and setback 5 ft. from the first and second story façade to minimize building mass and bulk. In addition, the third story windows are oriented away from the adjacent residences to preserve their privacy. The third story deck is oriented toward the public right-of-ways only and screened from abutting residences. Access to the third story deck is provided from within the dwelling. The second and third story addition will maintain a 31 ft. front yard setback consistent with existing homes in the neighborhood and twice the setback required by code. In addition, the proposed site coverage will be approximately 10% less than the code allowed maximum of 50%.
2. The conditional use permit to construct a third story addition to a single family home will be compatible with surrounding uses because the proposed three story home is designed to appear as a two-story home with dormer windows. Furthermore, the third story addition is

similar in design, materials, and massing as other dwellings existing in the surrounding neighborhood. In addition, several other single-family homes with similar designs have been constructed within the neighborhood. Furthermore, the third story deck is setback five feet from the building exterior and is located below the highest point of the second story roof.

3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, including parking requirements, maximum building height, maximum lot coverage, minimum yard setbacks, and third-story design criteria.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL (Residential Low Density) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
 - LU 9.2.1: Require that all new residential development within existing neighborhoods be compatible with existing structures, including the:
 - LU 9.2.1b: Use of building heights, grade elevations, orientation, and bulk that are compatible with surrounding development;
 - LU 9.2.1c: Maintenance of privacy on abutting residences.

The proposed dwelling will comply with maximum building height permitted in the RL zone with a conditional use permit. The proposed third-story and third-story deck will be setback from the first and second-story façade as required by the HBZSO, thus minimizing the building massing, and is designed in compliance with the City's third-story design standards. No third-story windows or deck areas are oriented toward adjoining properties.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 03-51:

1. The site plan, floor plans, and elevations received and dated May 20, 2004, shall be the conceptually approved design with the following modifications:
 - a. The elevations shall be revised to depict a dimension line measuring the height of the structure from top of curb to the highest point of the structure. The height of the structure shall not exceed 35 ft. 0 in.
 - b. The floor plans shall be revised to depict the interior dimensions of the existing garage. The minimum interior dimensions shall be 18 ft. by 19 ft.
2. Prior to submittal for building permits, zoning entitlement conditions of approval shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any

claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

A motion was made by Boardman, second Cook to direct staff to return to Council with a Moratorium on three-story housing so that Council and Staff have time to change the current code.

The motion carried by the following roll call vote:

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

(City Council) Public Hearing Not Opened – Amended Motion Approved to Continue to 9/20/04 as a Consent Calendar Item to Approve Modifications to the Local Coastal Program Amendment (LCPA) No. 1-03 Suggested by the California Coastal Commission by Adopting Two Resolutions Amending the Huntington Beach Zoning and Subdivision Ordinance Sections 230, 231 and 254, Respectively (420.85)

Mayor Green announced that this was the time noticed for a public hearing to consider approval of modifications to the Local Coastal Program Amendment (LCPA) No. 1-03.

Applicant: City of Huntington Beach

Request: 1.) To accept modifications to the Huntington Beach Zoning and Subdivision Ordinance approved by the California Coastal Commission on June 10, 2004 for LCPA No. 1-03; and 2.) To amend the Huntington Beach Zoning and Subdivision Ordinance to reflect the California Coastal Commission's modifications.

Location: Coastal Zone.

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

Planning Director Howard Zelefsky orally reported in response to Council inquiries regarding intent of the item.

City Clerk Joan L. Flynn restated for the record the Late Communication she had announced earlier.

City Attorney McGrath clarified that the public hearing is not being opened.

Staff recommended action was presented as follows:

Recommended Action: Motion to:

1. ~~Adopt **Resolution No. 2004-73** – “A Resolution of the City Council of the City of Huntington Beach, California, which Acknowledges Receipt of the Coastal Commission Action and Accepts and Agrees to Local Coastal Program Amendment No. 1-03 as Modified;”~~

and

2. ~~After the City Clerk reads by title, approve for introduction the following ordinances incorporating the modifications suggested by the California Coastal Commission, by roll call vote:~~

~~**Ordinance No. 3664** – “An Ordinance of the City of Huntington Beach Amending Chapter 230 of the Huntington Beach Zoning and Subdivision Ordinance Relating to Wireless Communications Facilities;” and~~

~~**Ordinance No. 3665** – “An Ordinance of the City of Huntington Beach Amending Chapter 231 of the Huntington Beach Zoning and Subdivision Ordinance Relating to Off-Street Parking and Loading Provisions;” and~~

~~**Ordinance No. 3666** – “An Ordinance of the City of Huntington Beach Amending Chapter 254 of the Huntington Beach Zoning and Subdivision Ordinance Relating to Parkland Dedications and Reservations.”~~

A motion **as amended** to change the recommended action was made by Sullivan, second Hardy to continue the item to the 9/20/04 meeting and to change it to a Consent Calendar agenda item with 2 resolutions. The motion carried by the following roll call vote:

AYES: Sullivan, Hardy, Green, Boardman, Cook

NOES: None

ABSENT: None (Coerper out of the room)

(City Council) Opened Public Hearing and Continued Open to September 20, 2004 to Consider Adoption of the Proposed City Budget for Fiscal Year 2004-05 (320.20)

Mayor Green announced that this was the time noticed for a public hearing for the purpose of considering the City budget for fiscal year 2004/05.

The proposed budget for FY 2004/05 totals \$297,925,177 including General Fund Expenditures of \$148,432,357. The complete, proposed budget for FY 2004/05 may be reviewed by the public from 8:00 AM to 5:00 PM, Monday through Friday in the City Clerk’s Office at City Hall, 2000 Main Street, Huntington Beach. Copies of the proposed budget are also available for public review at the City’s Central Library located at 7111 Talbert Avenue (Goldenwest St. and Talbert Ave.), and all branch libraries. Copies of the **Proposed Budget Message and Budget Summary** may be obtained by the public from the City’s website at <http://www.surfcity-hb.org>.

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

Administrative Services Director Clay Martin presented the PowerPoint report included in the agenda packet.

Mayor Green declared the public hearing open.

City Clerk Joan L. Flynn restated for the record the Late Communication she had announced earlier.

There being no persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor declared the public hearing continued until September 20, 2004.

Consent Calendar – Items Removed for Separate Discussion

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

(City Council) The Children’s Needs Task Force Reappointments of Ian Collins, Patricia Guidotti, Phyllis Lembke, and Catherine McGough and the Appointments of Adam Buttons and Rebecca Keene for a Term of September 1, 2004 to August 31, 2008 and Approve the Student Appointment of Katherine Do and Student Reappointment of Travis Holler for a Term of September 1, 2004 to April 30, 2005

(Redevelopment Agency) Agency Resolution No. 350 Approving an Owner Participation Agreement and Affordable Housing Agreement between the Agency and Colette’s Children’s Home, Inc., (a Four-Plex Providing Shelter and Social Services to Homeless Women and their Children) Located at 7702 Cypress Avenue (Oakview Redevelopment Project Area)

(City Council) Project Plans and Specifications and Advertisement of Bids for the Civic Center ADA (Americans with Disabilities Act) Site Accessibility Project; CC-1245 (to Provide Adequate Access to City Hall Buildings Including the Council Chambers and City Jail)

Consent Calendar – Items Approved

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

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

(City Council/Redevelopment Agency) Minutes (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of June 21, 2004, July 6, 2004, and July 19, 2004 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

(City Council) Waived Bid Requirements by Directing Staff to Prepare and Execute Amendment No. 2 to the Professional Services Contract between the City and Advocation, Inc. for Lobbying Services to Assist in the Acquisition of State Funding for Priority Projects Within the City and Related Legislative Issues (600.10) **1.** Waived the requirement to go out to bid; and **2.** Approved extending the contract with Advocation for one additional year at the same rate as last year; and **3.** Authorized staff to prepare and execute contract Amendment #2 to the professional services contract, as approved by the City Attorney, between the City of Huntington Beach and Advocation, Inc. for the purpose of assisting the City in the acquisition of state funds for priority projects within the City and to advocate on our behalf on legislation that impacts the City. Submitted by Mayor Pro Tem Jill Hardy, Chair, on Behalf of Intergovernmental Relations Committee Members, Councilmembers Gil Coerper and Dave Sullivan. Funding Source: Funds for the Contract have been budgeted in the 2004-05 fiscal year budget under the General Fund Intergovernmental Relations Professional Services Account. The total cost for this contract amendment is not to exceed \$64,000.00 for the year.

(City Council) Waived Bid Requirements by Directing Staff to Prepare and Execute Amendment No. 2 to the Professional Services Contract between the City and the Ferguson Group, LLC to Assist the City in its Intergovernmental Affairs Program in the Acquisition of Federal Funding and Related Legislative Issues (600.10) –

1. Waived the requirement to go out to bid; and 2. Approved extending the contract with The Ferguson Group with the same terms as previous years with an increase of 5% from \$76,000.00 to \$79,800.00; and 3. Authorized staff to prepare and execute contract Amendment #2, as approved by the City Attorney, to the professional services contract between the City of Huntington Beach and the Ferguson Group for the purpose of assisting the City in the acquisition of Federal funds for priority projects within the City. Submitted by Mayor Pro Tem Jill Hardy, Chair, on Behalf of Intergovernmental Relations Committee Members, Councilmembers Gil Coerper and Dave Sullivan. Funding Source: Funds for the Contract have been budgeted in the 2004-05 fiscal year budget under the General Fund Intergovernmental Relations, Professional Services Account. The total cost for this contract amendment is not to exceed \$79,800.00 for the year.

(City Council) Approved Extension of the Professional Services Contract between the City and Moreland & Associates, Inc. to Assist in the Processing of Howard Jarvis Property Tax Refund Claims – Authorized Appropriation of Funds Not to Exceed \$350,000 (600.10) –

1. Authorized the City Administrator to extend the agreement with Moreland & Associates, Inc. to assist in processing property tax refund claims; and 2. Appropriated \$350,000 from Fund 707, the Employees' Rate Contingency fund (identified as impounded property tax override revenue from FY 2000-01) to fund the agreement. Submitted by the Administrative Services Director. Funding Source: Sufficient funds (not-to-exceed \$350,000) exist as part of FY 2000-01 property tax override revenue impound.

(City Council) Approved Deposit Agreement between the City and CIM/Huntington, LLC for Bond Counsel and Other Legal Services Incurred in the Formation of a Community Facilities District (CFD) for The Strand Project (600.10) –

1. Approved the *Deposit Agreement by and between the City of Huntington Beach and CIM/Huntington, LLC for Bond Counsel and Other Services* relating to the formation of the Community Facilities District for The Strand project and authorized the Mayor and City Clerk to sign the agreement; and 2. Authorized the acceptance of \$10,000 deposit funds from CIM/Huntington, LLC into revenue account 10000100.48410 and appropriated \$10,000 from the Economic Development Business Development Fund account 10080101.69325 for expenses associated with Professional Services Contracts pertaining to the deposit agreement, and authorized the reimbursement to CIM/Huntington, LLC any unspent deposit funds after the termination of the consultants' contracts; and 3. Authorized the Director of Economic Development to enter into the Professional Services Contracts funded through the Deposit Agreement with CIM/Huntington, LLC. Submitted by the City Attorney and the Economic Development Director. Funding Source: General Fund unappropriated fund balance. An equal amount of revenue will be deposited into the General Fund. In essence there will not be an impact on the General Fund.

(City Council) Accepted Annual Review of the Flood Management Plan (FMP) and Authorized Submittal to the Federal Emergency Management Agency (FEMA) (550.50)

Accepted the annual review of the Flood Management Plan as adequate and completed and forwarded it to FEMA. Submitted by the Planning Director. Funding Source: Not applicable.

(City Council) Approved Project Plans and Specifications and Authorized Advertisement of Bids for the Central Park and Warner & Nichols Storm Water Treatment Project; CC-1257 (600.60) – Approved the project plans and specifications and authorized the Director of Public Works to request bids for the Central Park and Warner & Nichols Storm Water Treatment Project, CC-1257. Submitted by the Public Works Director. Funding Source: Funds are budgeted in the Proposition 13 - 2000 Water Bond Act Grant Account. The engineer's cost estimate is \$450,000.

(City Council) Adopted Resolution No. 2004-72 Amending the Memorandum of Understanding (MOU) between the City and the Surf City Lifeguard Employees' Association (SCLEA) by Adopting the Side Letter of Agreement Re: the 1,500 Hours Provision (Number of Permitted Work Hours within a Twelve-Month Period) (720.20) - **Adopted Resolution No. 2004-72** – *“A Resolution of the City Council of the City of Huntington Beach Amending the Memorandum of Understanding between the City and the Surf City Lifeguard Employees' Association, by Adopting the Side Letter of Agreement (Regarding Number of Permitted Work Hours within a Twelve-Month Period).”* Submitted by the Administrative Services Director. Funding Source: No cost.

(City Council) Directed Staff to Prepare Mayor's Letter to the State Department of Parks and Recreation Exercising City's Option to Extend the Bolsa Chica State Beach Operating Agreement between the City and the State of California for 20 Years (November 30, 2006 to November 30, 2026) (120.90) – Approved exercising the city's option granted in the 1986 Bolsa Chica State Beach Operating Agreement between the city and the State of California to extend the term for a period of twenty years from November 30, 2006 to November 20, 2026, and authorized staff to prepare a letter for the Mayor's signature to communicate the option to the State Department of Parks and Recreation. Submitted by the Community Services Director. Funding Source: Not applicable.

(City Council) Approved a Reimbursement Agreement between the City and Huntington Center Associates, LLC for Professional Building Inspection Services in Connection with the Bella Terra Project – Authorized Appropriation of Funds (600.10) - **1.** Approved the *Reimbursement Agreement between the City of Huntington Beach and Huntington Center Associates, LLC* and authorized the Mayor and City Clerk to sign; and **2.** Appropriated Ninety Thousand Dollars (\$90,000) to Building & Safety Department operating account number 10055201.69365 in connection with the Reimbursement Agreement between the City and Huntington Center Associates, LLC; and **3.** Authorized the acceptance of two payments of \$45,000.00 on or before October 1, 2004 and February 1, 2005 from Huntington Center Associates, LLC for building inspection services. Submitted by the Building and Safety Director. Funding Source: The proposed Agreement allows the developer to pay for expanded services by depositing funds totaling \$90,000. Two payments of \$45,000 each will be made on or before October 1, 2004, and February 1, 2005.

(City Council) Approved the Children's Needs Task Force Reappointments of Ian Collins, Patricia Guidotti, Phyllis Lembke, and Catherine McGough and the Appointments of Adam Buttons and Rebecca Keene for a Term of September 1, 2004 to August 31, 2008 and Approved the Student Appointment of Katherine Do and Student Reappointment of Travis Holler for a Term of September 1, 2004 to April 30, 2005 (570.70)

Councilmember Coerper requested that this agenda item be removed from the Consent Calendar to highlight the names of the appointees and reappointees.

A motion was made by Coerper, second Green to approve the Children's Needs Task Force Appointments and Reappointments as recommended. The motion carried by the following roll call vote:

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

(Redevelopment Agency) Adopted Agency Resolution No. 350 Approving an Owner Participation Agreement and Affordable Housing Agreement between the Agency and Colette's Children's Home, Inc., (a Four-Plex Providing Shelter and Social Services to Homeless Women and their Children) Located at 7702 Cypress Avenue (Oakview Redevelopment Project Area) (600.30)

Councilmember Coerper requested that this agenda item be removed from the Consent Calendar to inquire if staff has received any comments from the community. Deputy Executive Director David Biggs reported that no issues have been raised.

Councilmember Boardman commented on the favorable impression Colette's Children's Home has made on its neighbors.

A motion was made by Coerper, second Green to adopt Agency **Resolution No. 350** – *“A Resolution of the Redevelopment Agency of the City of Huntington Beach Approving an Owner Participation Agreement by and between the Redevelopment Agency of the City of Huntington Beach and Colette's Children's Home, a California Nonprofit Corporation.”* The motion carried by the following roll call vote:

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

(City Council) Approved Project Plans and Specifications and Authorized Advertisement of Bids for the Civic Center ADA (Americans with Disabilities Act) Site Accessibility Project; CC-1245 (to Provide Adequate Access to City Hall Buildings Including the Council Chambers and City Jail) (600.70)

Councilmember Coerper requested that this agenda item be removed from the Consent Calendar to inquire if plans are available for the public to view. Public Works Director Robert F. Beardsley reported approved plans would be made available in his office.

A motion was made by Coerper, second Hardy to approve the project plans and specifications and authorize the Director of Public Works to request bids for the Civic Center ADA Site Accessibility Project, CC-1245. The motion carried by the following roll call vote:

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

(City Council) Approved City Council Position on Legislation Pending before the Federal, State, or Regional Governments as Recommended by the City Council Intergovernmental Relations Committee (IRC) – Adopted Resolution No. 2004-74 Regarding the Implementation of the Marine Life Protection Act (MLPA) (640.90)

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 Hardy, second Coerper to:

1. **ADOPT Resolution Number 2004-74-** *“A Resolution of the City Council of the City of Huntington Beach Regarding the Implementation of the Marine Life Protection Act (MLPA);”*

and

2. **AUTHORIZE** a letter of **SUPPORT** for the Orange County Sanitation District's request for \$10 million in Federal funding for Infrastructure Improvements to meet Federal Secondary Treatment Standards;

and

3. **REMOVE SUPPORT** and watch SCA 9 (Brulte) – Transportation as Amended 7/29/04;

The motion carried by the following roll call vote:

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

A motion was made by Hardy, second Coerper to **SUPPORT** Proposition 1A (SCA 4) on the November Ballot – Providing Constitutional Protection for Cities' Property Tax Revenues and other components of the State Budget Compromise. The motion carried by the following roll call vote:

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

Mayor Pro Tem Hardy reported on the Cogged Stone Site (CA-ORO-83), its location in Bolsa Chica and the connection to the City of Huntington Beach, and requested Council support.

Council discussion ensued relative to the history of this item, the purpose of the designation as a historical site, effects on future development of the land, and communications with interested parties.

A motion was made by Sullivan, second Hardy to approve a letter of **SUPPORT** for designation of the Cogged Stone Site (CA-ORO-83) in Huntington Beach as a Historic Site on the National Register of Historic Places as requested by Senator Feinstein.

The motion carried by the following roll call vote:

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

(City Council) Approved as Amended to Apply to Public Hearing Items Only - Proposed Amendments by the Planning Commission to the Planning Commission Public Hearing Process Regarding Presentation and the Allocation of Speakers' Time (110.10)

Communication from the Planning Director transmitting the following **Statement of Issue:** Transmitted for (Council) consideration are proposed amendments to the Planning Commission public hearing process, contained in Section 12: Presentations to the Planning Commission (Attachment No. 1). The section is only a portion of the overall changes to the Planning Commission public hearing process focusing on presentations to the Planning Commission and allocation of speakers' time. The remaining changes to the public hearing process are pending and have not received preliminary Planning Commission approval.

The Planning Commission approved the amendments to the Planning Commission public hearing process and the allocation of speakers' time and is recommending approval. The proposed amendments are recommended to improve the public hearing process by defining the role of the applicants, appellants, and the general public; provide opportunities to make presentations; and allow allocation of speakers' time up to a maximum of 12 minutes. The proposal was approved for a trial period of one-year and is to be re-evaluated by the Planning Commission after that time. The revised public presentation process is outlined in Attachment No. 1.

Planning Director Howard Zelefsky gave an oral report explaining staff's recommendation of non-support. Director Zelefsky also referred to the comments made by Planning Commissioner Steve Ray earlier in the Public Comments section of the meeting.

A motion was made by Sullivan, second Hardy to approve the Planning Commission Public Hearing Process – Speakers' Allocation of Time as submitted by the Planning Commission for a trial period of one-year (ATTACHMENT NO. 1 in the agenda packet).

Council discussion followed relative to concerns about having different rules for the Council and the Commission, the distinctions between public hearing items, non-public hearing items, the donation of speaker's time and the legalities of regulating comments on different types of issues.

The motion on the table was withdrawn.

A motion was made by Sullivan, second Hardy to approve the Planning Commission's Recommendation **as amended** to pertain to public hearing items only. The motion carried by the following roll call vote:

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

(City Council) Adopted Ordinance No. 3661 Establishing the Huntington Beach Downtown Business Improvement District (BID) (460.30)

After the City Clerk read by title, a motion was made by Cook, second Boardman to adopt **Ordinance No. 3661** - *"An Ordinance of the City of Huntington Beach Establishing the Huntington Beach Downtown Business Improvement District."* (Approved for introduction as amended August 16, 2004.) The motion carried by the following roll call vote:

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

(City Council) Adopted Ordinance No. 3662 Amending Chapter 2.86 of the Huntington Beach Municipal Code Relating to the Powers and Duties of the Library Director (700.10)

After the City Clerk read by title, a motion was made by Cook, second Boardman to adopt **Ordinance No. 3662** - *"An Ordinance of the City of Huntington Beach Amending Chapter 2.86 of the Huntington Beach Municipal Code Relating to Powers and Duties of the Library Director."* (Approved for introduction August 16, 2004.) The motion carried by the following roll call vote:

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

(City Council) Reviewed and Approved the Property Tax Refund Appeal Practices and Guidelines and Approved as Amended Introduction of Ordinance No. 3663 Modifying Ordinance No. 3653 which Established Appeal Procedures for the Howard Jarvis Tax Refund Property Claims Filing Process (630.50)

After the City Clerk read by title, a motion was made by Hardy, second Boardman to:

1. Review and approve the property tax refund appeal practices and guidelines;

and

2. Approve for introduction **Ordinance No. 3663** *"An Ordinance of the City of Huntington Beach Modifying Ordinance No. 3653 which Established the Appeal Procedures for Tax Refund Claims Filed in Connection with the Case Entitled "Howard Jarvis Taxpayers Association v. County of Orange" and Real Party in Interest City of Huntington Beach, Orange County Superior Court Case No. 818780."*

Councilmember Sullivan amended the motion, second Coerper to revise the ordinance to provide the appellant with 30 days notice prior to the hearing (Section 1(c)) and to send notification via certified mail, return receipt rather than regular mail (Section 1(e)).

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

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

(City Council) Approved for Introduction Ordinance No. 3667 Amending Huntington Beach Municipal Code Chapter 13.08 to Expand for Clarification the Definition of Beach (630.10)

After the City Clerk read by title, a motion was made by Coerper, second Boardman to approve for introduction **Ordinance No. 3667** – *“An Ordinance of the City of Huntington Beach Amending Chapter 13.08 of the Huntington Beach Municipal Code Pertaining to Beach Regulations.”* The motion carried by the following roll call vote:

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

(City Council) Motion Failed to Schedule a Study Session for City Council Discussion of an Alternate Process to Section 2.34 of the Municipal Code for the Appointment of Planning Commissioners (120.10)

Communication from Councilmember Boardman transmitting the following **Statement of Issue:** The Huntington Beach Municipal Code, Chapter 2.34, establishes the City Planning Commission and outlines their duties, membership, appointments, terms, and compensation. Specifically, sub section 2.34.050 Appointment states, “Each member of the City Council shall appoint one member to the Planning Commission.”

During my term on the City Council, I have seen that some members of our boards and commissions are appointed through an application and interview process. Other board and commission appointments are made without the formality of such a process. Appointments to the Planning Commission, for example, are typically made without an application and interview procedure.

I believe it is a good time for the City Council to discuss how we appoint members of the Planning Commission, and to compare that to a variety of other cities to see if there is an alternative way the Council may wish to appoint commissioners.

A motion was made by Boardman, second Cook to schedule a Study Session to discuss an alternate process for the appointment of Planning Commissioners.

Mayor Green and Mayor Pro Tem Hardy stated their reasons for opposing the motion.

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

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

(City Council) Councilmember Coerper Commended Eagle Scouts (120.85)

Councilmember Gil Coerper announced he had attended two events for Eagle Scouts. He commended Henry Edward Grumet and Christopher Andrew Case for their achievements.

(City Council) Councilmember Boardman announced Jazz Concert Series (120.85)

Councilmember Connie Boardman announced she had attended a wonderful Jazz Concert at the Art Center. She highly recommended the series, and thanked the Art Center and Boeing for their efforts.

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, September 20, 2004, at 5:00 p.m., in Room B-8 Civic Center, 2000 Main Street Huntington Beach, California.

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

ATTEST:

City Clerk-Clerk

Mayor-Chairman