

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

Monday, September 16, 2002  
6:00 P.M. - Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

A videotape of the 7:00 p.m. portion of this meeting  
is on file in the Office of the City Clerk.

At 5:00 p.m. there being no quorum present, Deputy City Clerk Dale Jones recessed the Council to 6:00 p.m. Notification of this anticipated lack of quorum had been posted on the door of Room B-8, near the entrance to the Council Chambers.

**Call to Order**

Mayor Cook called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 6:00 p.m. in Room B8.

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

Present: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
Absent: None

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

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

AYES: Green, Dettloff, Boardman, Cook, Bauer  
NOES: None  
ABSENT: None (Houchen, Winchell out of room)

**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 **Mills Land & Water Company v. City of Huntington Beach, et al.**, Court of Appeal Case No. G020490, Orange County Superior Court Case No. 739412 (“Mills I”); **Mills Land & Water Company v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 763624 (“Mills II”). (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives, Agency Negotiators: William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Ronald Hagan, Director of Community Services; and Steven M. Berliner, Esq. of Liebert Cassidy Whitmore regarding **labor relations matters – meet and confer** with the following employee organizations: **PMA, POA, MSOA, FMA, FFA, HBMEA, HBMEO, and SCLEA.** Subject: **Labor Relations – Meet and Confer.** (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – 7:15 P.M. – Council Chambers.****City Council- Redevelopment Agency Roll Call**

Present: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer

Absent: None

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

**Pledge of Allegiance** – Led by Assemblyman Tom Harman

**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:

Slide show presentation dated September 16, 2002 from Shari Freidenrich, City Treasurer, titled *July Treasurer's Report*.

Slide show presentation dated September 16, 2002 from the Administrative Services Department titled *Fiscal Year 2002/2003 Preliminary Budget Overview – City Council Budget Public Hearing #2*.

Slide show presentation dated September 16, 2002 from the Fire Department titled *Huntington Beach Fire Department – Proposed Adoption of the Fire Code*.

Slide show presentation submitted by the Planning Department to the City Clerk's Office on September 16, 2002 titled *2002 Downtown Parking Master Plan – Annual Review & Monitoring Report*.

Communication dated September 12, 2002 from Doug Merlino, Beach Point Properties, in opposition to Variance No. 02-10 to permit the establishment of a day care center. Communication titled *Step by Step Day Care Center*.

Slide show presentation dated September 16, 2002 from the Planning Department titled *Step by Step Daycare, 10156 Adams Avenue, Appeal of the Planning Commission Denial of Conditional Use Permit No. 02-31 and Variance No. 02-10*.

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

Charles G. Ball, representative of the Applicant/Appellant Lester G. Smull, Business Properties, submitted the following Late Communications for the public hearing on the appeal of the Planning Commission's Denial of Step by Step Daycare Conditional Use Permit:

1. Brochure titled *Success By 6* regarding the child care industry in Orange County;

2. Communication transmitted to Charles Ball from Ann Powell dated September 13, 2002 titled *Memorandum Subject: Brookhurst & Adams, Huntington Beach (Center 213) Trash Hauling Schedule, Extermination, and Trash Enclosure Maintenance*;
3. Brochure prepared by Environmental Impact Sciences dated September 2002 titled *Acoustical Analysis Step-By-Step Early Learning Enrichment Center*;
4. Communication transmitted by Charles Ball from David and Carole Cribbs Mullins to City Council Members dated August 29, 2002 titled *Huntington Beach City Council Re: Denial of CUP for Step-By-Step Playground*;
5. Various communications titled *Summary of Sources of Letters to the City Council, Huntington Beach Regarding CUP 02-31 and Variance 02-10* dated September 16, 2002;
6. Communication transmitted by Charles Ball from Sheri A. Senter dated September 10, 2002 titled *September 10, 2002 Honorable Mayor Debbie Cook, City of Huntington Beach* regarding the proposed Step-By-Step Day Care Center; and
7. Communication titled *Site Map Adams Brookhurst* regarding property profiles by the proposed Step-By-Step Day Care Center.

In addition, a photograph was submitted by Herb Jones titled *10'/12' From Proposed Block Wall on East Side of Play Area*.

Communication submitted by City Administrator Ray Silver regarding Police Chief Lowenberg report regarding the decrease in crime statistics in Huntington Beach for 2001.

**Presentation** by Mayor Debbie Cook and Public Works Director Robert F. Beardsley, of the Mayor's Award to Michael Fry, Leadworker Water Systems, Water Division of Public Works. (160.40)

**Presentation** by Mayor Debbie Cook to Assemblyman Tom Harman and Assemblyman Ross Johnson, proclamations to thank them for their continued support in protecting local tax dollars and for ensuring that tax dollars will remain in local hands. Both legislators commended City Treasurer Shari Freidenrich for her major contribution in this effort, stating it would not have been possible without her perseverance. Mayor Cook stated that the City would have received approximately \$30,000 but now will receive approximately \$1.2 million dollars. (160.40)

**Presentation** by Mayor Debbie Cook and Economic Development Director David Biggs, a commendation to Aranda Tooling President Pedro Aranda who recently received the U.S. Commercial Services "Export Achievement Award" from U.S. Secretary of Commerce Don Evans. A brief informational presentation was made regarding Mr. Aranda's business. (160.40)

**Presentation** by Mayor Debbie Cook and Councilmember Ralph Bauer to Huntington Beach Band Director Tom Ridley, a commendation as he celebrates 25 years as Band Director with the Huntington Beach Band. Band Director Tom Ridley was present with his family to accept the commendation and the Council and the public's appreciation. (160.40)

**Public Comments**

**Debbie Borden** spoke in opposition to the absence of the invocation from the Council agenda and offered a prayer.

**Ron Boss** protested privatization of city streets in the Goldenwest Specific Plan and the installed speed bumps. Mr. Boss informed Council that his wife Stephanie is handicapped and is obstructed from street access.

**Douglas Reynolds**, Harbor Vista Condominium resident, informed Council that he met with representatives from the Police Department, City staff, and Council. He spoke regarding alleged Police negligence in preventing an individual in his community from disturbing the peace.

**Bill McCord**, a resident of Harbor Vista Condominiums, thanked Council, the Police Department and other city staff for the meeting regarding reporting incidents with a resident in his neighborhood. He informed Council that he initiated proceedings against this individual but urged Council's further attention to this matter.

**Chuck Scheid** stated his opposition to the adoption of Resolution No. 2002-86 setting the salary and benefits for City Attorney Gail Hutton from September 30, 2002 to December 2, 2002. Mr. Scheid spoke against the proposed rescission of the contract agreement previously approved by Council on July 15, 2002.

**Joey Racano** informed Council of his platform as a Council candidate relative to waste water treatment. He urged everyone to vote November 5, 2002. Mr. Racano promoted his five-step clean water plan, which includes secondary treatment, avoidance of the use of chlorine in the ocean and suggestions for the treatment of effluent.

**Bill Orton** expressed his appreciation to Council for retaining the Park Ranger on a part-time basis and for saving the Shipley Nature Center. Mr. Orton spoke regarding his candidacy for State Assembly relative to forming a bi-partisan budget committee.

**Steven Priest** spoke in opposition to parking meters in downtown and requested that Huntington Beach residents be allowed to park for free through a credit card system.

**Norm Westwell** requested that safe and sane fireworks be allowed in the city. He stated he opposes an increased city budget and taxes. Mr. Westwell urged Council to vote against adoption of proposed Ordinance No. 3578 to be considered for adoption during this evening's meeting prohibiting aerial advertising (banner towing aircraft).

**Dave Sullivan** spoke in opposition to staff's recommendation on the Public Works Commission Agenda, which would remove the Public Works Commission's review of capital project expenditures or repairs exceeding \$50,000.

**Anna Warner** informed Council that she has had an ongoing problem with trash collection and that she would like it resolved.

**(City Administrator's Report) Presentation of Department of Justice Crime Statistics Report – The City Continues to Rank as One of America's Safest Cities and One of Eight with a Record Drop in Crime in 2001 (530.10)**

City Administrator Ray Silver distributed to Council a Late Communication regarding crime statistics in Huntington Beach.

Police Chief Lowenberg gave an oral report as follows in its entirety from the Late Communication hard copy distributed by the City Administrator:

“Crime statistics in Huntington Beach dropped 0.3 percent during 2001 according to a recently released Department of Justice report. Overall crime in Orange County rose 7 percent in 2001. California crime rose 5 percent during the same time period. This was the first rise in Orange County crime statistics after a nine-year decline. Huntington Beach was one of only eight Orange County cities to record a drop in crime for 2001. Huntington Beach continues to be rank in the top ten Safest City in America.”

**(City Council) Reviewed and Accepted Shari Freidenrich, City Treasurer's July 2002 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 July 2002.

City Treasurer Freidenrich presented the PowerPoint slide show titled *July Treasurer's Report*, which was announced earlier as a Late Communication by the City Clerk.

A motion was made by Boardman, second Dettloff 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 July 2002*, 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: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
NOES: None  
ABSENT: None

**(City Council) Public Hearing Held - Opened and Continued Open from September 3, 2002 – Public Hearing Adopted the City Budget for Fiscal Year 2002-2003 – Adopted Resolution No. 2002-89 as Amended By Approval of Councilmember Bauer's Item Relative to Refuse Fee Reimbursement (320.20)**

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

The proposed budget for FY 2002/03 total \$303,968,246 including General Fund Expenditures of \$134,171,651. The complete, updated Preliminary Budget for FY 2002/03 can 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 ***Preliminary Budget Message and Summaries*** may be obtained by the public, free of charge, at the aforementioned locations.

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

City Administrator Ray Silver presented a PowerPoint slide report dated September 16, 2002 from the Administrative Services Department titled *Fiscal Year 2002/2003 Preliminary Budget Overview – City Council Budget Public Hearing #2* which had been announced earlier as a Late Communication by the City Clerk.

Mayor Cook declared the public hearing open.

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

Slide show presentation dated September 16, 2002 from the Administrative Services Department titled *Fiscal Year 2002/2003 Preliminary Budget Overview – City Council Budget Public Hearing #2*.

**Don Thomas** stated he is a part time Park Ranger for the City of Huntington Beach and urged Council to reinstate the Park Ranger program. Mr. Thomas stated that the outdoor classes provided by the Shipley Nature Center is a valuable source for children's introduction to nature.

**Dave Sullivan** presented a recommendation relative to the agenda item on the City Attorney appointment. Dr. Sullivan concurred with the previous speaker, Don Thomas's remarks. He stated reasons why he believes the appointment of a Deputy City Attorney would be more cost-effective.

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

Mayor Pro Tem Boardman informed Council she is not in support of the Budget recommendations because she does not believe Project Self-Sufficiency and the Police Crime Lab should be funded from General Fund Reserves.

Councilmember Dettloff concurred with Mayor Pro Tem Boardman that Project Self-Sufficiency should not be funded from the General Fund Reserve; that it would be better to use the reduction of recurrent hours in the Beach Maintenance Program along with Councilmembers Bauer's item regarding trash fees to maintain Project Self-Sufficiency and the Police Crime Lab.

A motion was made by Dettloff, second Winchell to re-establish monies for Project Self-Sufficiency through a method of not having the same number of recurrents in the level of positions in Beach Maintenance in the coming year, and to supplement the remainder through the revenue which would be derived if Councilmember Bauer's Agenda Item relative to refuse fee reimbursement is approved. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Winchell, Bauer  
NOES: Boardman, Cook, Houchen  
ABSENT: None

Upon Council consensus Mayor Cook brought forward Councilmember Bauer's item relative to refuse fee reimbursement.

**(City Council) Approved Recommendation for Reimbursement by General Fund of Unfunded Liability in the Refuse Fund (Trash Collection) (340.10)**

Prior to voting on the preceding agenda item on the Fiscal Year 2002-2003 City Budget, the City Council considered a communication from Councilmember Ralph Bauer transmitting the following **Statement of Issue**: As of September 30, 2002, it is estimated that the Refuse Fund will have a fund deficit of approximately \$500,000. This balance is based on the deficit fund balance of \$369,000 as of 9/30/01 and assumes an estimated additional operating deficit of \$131,000 for the year ending 9/30/02.

Mayor Pro Tem Boardman informed Council that she is in opposition to removing the 100% senior exemption for refuse collection.

Council voiced concerns regarding the low-income level and the method used to verify the non-paying households. Director of Administrative Services Clay Martin informed Council of the application process and stated staff would have to look at strategies to find a more reliable method.

A motion was made by Bauer, second Dettloff to reimburse the fund deficit of the Refuse Fund by the General Fund on an annual basis;

**and**

That all current non-paying households for the refuse service be required to pay at least 50% of the actual cost of the trash pick-up (generating \$42,414 in new revenue) and that a fool-proof method be instituted to confirm the income levels of all persons residing at the household requesting an exemption. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Cook, Winchell, Bauer  
NOES: Boardman, Houchen  
ABSENT: None

A motion was made by Winchell, second Green to:

Conduct the public hearing on the proposed \$369,540,335 of appropriations for the FY 2002/2003 city budget as outlined in the budget resolution (public hearing continued open from September 3, 2002)

**and**

Adopt **Resolution No. 2002-89 as amended** by approval of Councilmember Bauer's Agenda Item (Refuse Fund Trash Collection) and incorporating addendum into the budget, approving the FY 2002/2003 City Budget and incorporating the "Addendum" to the proposed budget. – *"A Resolution of the City Council of the City of Huntington Beach Adopting a Budget for the City for Fiscal Year 2002/03."* The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
NOES: None  
ABSENT: None

Mayor Cook requested to move the following public hearing forward regarding the appeal of the Planning Commission's Denial of Conditional Use Permit No. 02-31/Variance No. 02-10.  
Council concurred.

**(City Council) Public Hearing Held - Upheld Planning Commission's Denial by Denying Appeal Filed by Lester C. Smull, (Business Properties Partnership) of the Application for Conditional Use Permit No. 02-31/Variance No. 02-10 – Step by Step Daycare Facility at 10156 Adams Avenue (S/E Corner of Brookhurst Street and Adams Avenue) (420.40)**

Mayor Cook announced that this was the time scheduled for a public hearing to consider the following communication from the Planning Director.

**Applicant/Appellant:** Lester C. Smull.

**Request:** Appeal of the Planning Commission's denial of Conditional Use Permit No. 02-31 and Variance No. 02-10 to permit the operation of a daycare facility with a maximum of 88 children within a 5,525 square foot suite including a 6,000 square foot outdoor play area. The facility is proposed within an existing 135,484 square foot commercial center. The proposed request includes a parking variance to allow a reduction of approximately 28 parking spaces within the shopping center.

**Location:** 10156 Adams Avenue (southeast corner of Brookhurst Street and Adams Avenue).

**Environmental Status:** Notice is hereby given that this 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.

Assistant Planner Paul DaVeiga presented a PowerPoint slide report titled *Step by Step Daycare, 10156 Adams Avenue, Appeal of the Planning Commission Denial of Conditional Use Permit No. 02-31 and Variance No. 02-10* which had been announced earlier as a Late Communication by the City Clerk.

Mayor Cook declared the public hearing open.

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

Communication dated September 12, 2002 from Doug Merlino, Beach Point Properties, in opposition to Variance No. 02-10 to permit the establishment of a day care center. Communication titled *Step by Step Day Care Center*.

Slide show presentation dated September 16, 2002 from the Planning Department titled *Step by Step Daycare, 10156 Adams Avenue, Appeal of the Planning Commission Denial of Conditional Use Permit No. 02-31 and Variance No. 02-10*.

**Charles Ball**, Business Properties Development Company, representative of the Appellant urged Council to reconsider the Planning Commission's denial of the Conditional Use Permit No. 02-31 and Variance No. 02-10. Mr. Ball submitted the following Late Communications during the public hearing regarding the appeal of the Planning Commissions' Denial of Step by Step Daycare Conditional Use Permit:

1. Brochure titled *Success By 6* regarding the child care industry in Orange County;
2. Communication transmitted to Charles Ball from Ann Powell dated September 13, 2002 titled *Memorandum Subject: Brookhurst & Adams, Huntington Beach (Center 213) Trash Hauling Schedule, Extermination, and Trash Enclosure Maintenance*;
3. Brochure prepared by Environmental Impact Sciences dated September 2002 titled *Acoustical Analysis Step-By-Step Early Learning Enrichment Center*;
4. Communication transmitted by Charles Ball from David and Carole Cribbs Mullins to City Council Members dated August 29, 2002 titled *Huntington Beach City Council Re: Denial of CUP for Step-By-Step Playground*;
5. Various communications titled *Summary of Sources of Letters to the City Council, Huntington Beach Regarding CUP 02-31 and Variance 02-10* dated September 16, 2002;
6. Communication transmitted by Charles Ball from Sheri A. Senter dated September 10, 2002 titled *September 10, 2002 Honorable Mayor Debbie Cook, City of Huntington Beach* regarding the proposed Step-By-Step Day Care Center; and
7. Communication titled *Site Map Adams Brookhurst* regarding property profiles by the proposed Step-By-Step Day Care Center.

**Herb Jones**, member of Meredith Gardens Homeowners Association, spoke in opposition to the proposed Step-By-Step Day Care Center, stating that this project is an intrusion on his neighborhood and would have adverse effects on the homeowners. Mr. Jones voiced concerns regarding the drainage basin and the trash receptacles as being a health hazard for 88 children. He distributed a photograph of the east side of the proposed play area.

**Pat Britt**, member of the Meredith Gardens Board of Directors, stated his disapproval of the proposed Step-By-Step Day Care Center. He concurred with Mr. Jones's concerns relative to an anticipated increase in traffic and drainage problems. He stated that he believes there would be traffic increase on Lawson Lane and Meredith Drive as there are enough people cutting through there now to escape Adams Avenue and Brookhurst Street stoplight. He expressed his disagreement with the consultant regarding noise factors.

**Heather Garcia**, Step-By-Step teacher, asked Council to consider the enormous need for childcare to develop social skills and stated her support of the proposed Step-By-Step Day Care Center. Ms. Garcia stated that the center is doing what it can to mitigate the noise to the surrounding neighborhood.

**David McCartney** stated he is a parent of a pre-schooler and supports the Step-By-Step Day Care Program for its quality of care and the quality of staff. Mr. McCartney expressed his opinion that the noise factor is negligible and this program will bring revenue for the City of Huntington Beach.

**Barbara Tamialis** informed Council she is the Site Director for the Step-By-Step Day Care Huntington Beach location. She stated that based on the research done there would not be a traffic problem and spoke regarding designated parking spaces and pick up/drop off times. Ms. Tamialis stated that by staggering limited outdoor playtimes the noise level would not be excessive. Ms. Tamialis urged Council support of the Center.

**Rudolph Johncola** stated his life would be negatively impacted if the Step-By-Step Day Care Center were approved. He informed Council that his home is contiguous with the center's parking lot, and the noise would take away his solitude. He stated an important factor to consider is the children's welfare as the site is directly adjacent to one of the major arterials of the city and would cause environmental problems with exhaust inhalation. Mr. Johncola urged Council to not support this proposed center.

**Troy Smith** stated he agrees that the community needs a day care center but not in this location. Mr. Smith stated that many retirees live in the neighborhood next to the proposed day care center and this would have a negative impact. Mr. Smith requested that the variance be denied.

**Maria McCartney** informed Council she is a Step-By-Step Day Care teacher. She stated that there would not be excessive noise from the children because they have staggered playtime hours for planned outdoor activities. Ms. McCartney spoke regarding a ditch in the vicinity of the playground area and the measures being taken to divert the children from playing in the standing water.

**Francis Foo, M.D.** informed Council that he is a physician whose office is located at the proposed day care center site. He voiced his concerns over the health hazard of the standing water mentioned by the previous speaker. Dr. Foo stated that this is already a high traffic volume area and his elderly patients may not see the children when driving into the parking lot.

**Bob Riedese** informed Council he is the President of the Meredith Gardens Homeowners Association and spoke in opposition to the request for a variance for the proposed day care center. He stated there would be a negative impact on the surrounding neighborhood, as the already heavy traffic will be aggravated by the additional activity. Mr. Riedese spoke regarding lack of parking spaces and the water runoff problems.

**Jeannette Merlino** spoke in opposition to the proposed day care center. She stated that the noise of the children will be a big factor as well as the noise generated by the cleaning of the playground area. Ms. Merlino stated that she visited other day care centers which also back up to residences but stated she found them to be better situated in comparison because the homes are a good distance from the play areas.

**Doug Merlino** referred to his Late Communication and stated that the noise of children and additional traffic generated by the proposed day care center will be disturbing to the local residents and would have a negative impact on property values. Mr. Merlino spoke as a Real Estate Broker to say that the noise factor is a condition that has to be disclosed to prospective home buyers.

**Shannon Grubert** urged Council to support the proposed Step-By-Step Day Care Center. She stated she has two children who had been attending other sub-standard centers. Ms. Grubert stated that this is an affordable State funded school which provides high quality of care.

**Dan Vrebalovich** representing his parents, Mr. and Mrs. Wickersham, asked Council to deny the variance request of the Step-By-Step Day Care Center for the reason that his parents who have lived adjacent to the site for many years should not have to alter their lifestyles due to the noise issue. Mr. Vrebalovich stated he strongly believes that this location is a potential health hazard and it is already a high traffic area.

**Kathy LaMarche** informed Council her property is adjacent to the proposed site for the Step-By-Step Center and expressed her concerns over the added noise factor from the children and traffic. She strongly urged Council to deny the variance application for the day care center.

**Rick LaMarche** expressed concern over his family's quality of life if the proposed day care center is approved. He stated that the additional noise would prevent him from enjoyment of his outside patio area and that he is concerned about his property values declining. Mr. LaMarche urged Council to deny the variance request.

**Marie Macias** asked Council to accept the variance application for the Step-By-Step Day Care Center. She stated that this center will be of great benefit to children and will also be good for businesses in that area. Ms. Macias stated the belief that the center meets all the conditions.

**Lawrence Selvars** stated he was impressed by the sense of balance and impartiality demonstrated by the Planning Commission in its decision. He requested Council to sustain the denial of the proposed day care center stating that it would be an intrusion into peoples' backyards in the adjacent neighborhood. Mr. Selvars recommended the northeast corner of Brookhurst Street and Adams Avenue as an alternate site.

**Anne M. Broussard** informed Council she is a County of Orange Child Care Coordinator and reported on what she finds to be the lack of quality childcare facilities in Southern California communities. She stated that commercial space is the best place for day care facilities and urged Council to approve what she considers to be a proposal for a high quality day care program.

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

Council voiced concerns regarding 1.) the parking variance; 2.) the existing high traffic area; 3.) staff parking; 4.) noise environmental impact; and 5.) drainage and refuse problem could be a health issue.

Assistant Planner Paul DaVeiga and Lester C. Smull, the Director of the Step-By-Step Day Care Facility responded to Council's questions.

Mayor Cook informed Council that she visited the facility and supports approval of the project.

Councilmember Bauer stated that he also visited the site but he is in opposition due to concern over the location as a danger to children.

Assistant Planner Paul DaVeiga reported on CEQA (California Environmental Quality Act) requirements.

Councilmember Dettloff requested a consultant from the day care facility to report on what steps have been taken to address the drainage problems.

Mayor Pro Tem Boardman requested an interpretation of Page 16, Table 6 of the Sound Study conducted. A representative from Environmental Impact Sciences responded by reporting on noise level measurements.

Councilmember Green informed Council that he visited the site and spoke regarding parking and noise issues.

Planning Manager Scott Hess reported on the drainage system running through the playground area and illustrated his points using the wall diagram.

Councilmember Houchen stated she also visited the site. She expressed concern over the drainage ditch and informed Council that she will not support the project.

**(City Council) Amended Motion Denied to Approve Appeal Filed by Lester C. Smull – Sustained Planning Commission’s Denial of Conditional Use Permit No. 02-31/Variance No. 02-10 – Step-by-Step Day Care Facility at 10156 Adams Avenue (S/E Corner of Brookhurst Street and Adams Avenue) (420.40)**

Councilmember Winchell stated her belief that the site can work given conditions she cited.

A motion was made by Winchell, second Dettloff to approve the appeal and approve Conditional Use Permit No. 02-31 and Variance No. 02-10 to permit the establishment of Step by Step Daycare with Findings and Conditions of Approval as set forth in the staff report attached to the Request for Council Action with the following conditions: (1) Move staff parking to other side of building; (2) Drainage condition; (3) Noise buffer landscaping; (4) No more than one half of the enrolled children be outside at any given time and not before 8:30 a.m.; (5) Ages of 6 weeks to 6 years, and days of operation Monday to Friday only no weekends; (6) Latest time for cleaning the area is 7:00 p.m.; and (7) Monitoring for compliance and review and loss of CUP (Conditional Use Permit) if not in compliance. The motion **failed** by the following roll call vote:

AYES: Dettloff, Winchell  
 NOES: Green, Boardman, Cook, Houchen, Bauer  
 ABSENT: None

**(City Council) Motion to Deny Appeal Filed by Lester C. Smull – AND Sustain the Planning Commission’s Denial of Conditional Use Permit No. 02-31/Variance No. 02-10 – Step-by-Step Day Care Facility at 10156 Adams Avenue (S/E Corner of Brookhurst Street and Adams Avenue) (420.40)**

A motion was made by Bauer, second Boardman to Deny Conditional Use Permit No. 02-31 and Variance No. 02-10 to permit the establishment of Step by Step Daycare with Findings for Denial (**Attachment No. 1\* immediately following the motion in this set of minutes**). The motion carried by the following roll call vote:

AYES: Green, Boardman, Cook, Houchen, Bauer  
 NOES: Dettloff, Winchell  
 ABSENT: None

**ATTACHMENT NO. 1\* (Approved 9/16/02)****FINDINGS FOR DENIAL (Approved 9/16/02)****CONDITIONAL USE PERMIT NO. 02-31/ (Approved 9/16/02)****VARIANCE NO. 02-10 (Approved 9/16/02)****FINDINGS FOR DENIAL - CONDITIONAL USE PERMIT NO. 02-31: (Approved 9/16/02)**

1. Conditional Use Permit No. 02-31 for the establishment and operation of a daycare facility with a maximum of 88 children in a 5,525 square foot suite, within an existing 136,811 square foot shopping center including the construction of a six-foot block wall enclosure for a proposed 6,000 square foot outdoor play area, will be detrimental to the general welfare of persons working or residing in the vicinity and detrimental to the value of the property and improvements in the neighborhood. The proposed daycare facility and associated outdoor play area will result in the elimination of 16 parking spaces and reduce the amount of available on-site parking for patrons of the shopping center. The outdoor play area will result in noise impacts to adjacent residential properties and will be detrimental to the welfare of the residents.
2. The proposed daycare operation will not be compatible with surrounding uses because it eliminates existing on-site parking and results in noise impacts to adjacent residences resulting from children playing and making excessive noise in the outdoor play area. In addition, noise from the designated employee parking area would impact adjacent residents in the early morning. The facility will operate on weekdays and will affect the adjacent residential and commercial uses by occupying an area that has been reserved for customer parking. The daycare use results in a cumulative increase in traffic to the surrounding arterials during peak traffic periods in the morning and afternoon and will impact the existing on-site drainage patterns and therefore will be incompatible with surrounding properties.
3. The proposed use will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it would be located. The exception to required parking is not consistent with the Huntington Beach Zoning and Subdivision Ordinance for the proposed daycare use.
4. The granting of the conditional use permit will adversely affect the General Plan. It is not consistent with the Land Use Element designation of CG-F1 (Commercial General with FAR of 0.35) on the subject property because the proposed separation from residential uses does not adequately protect the single-family homes from the excessive or incompatible impacts of noise, vehicular traffic and visual character. In addition, it is not consistent with the following goals and policies of the General Plan:

## Policy LU 4.2.4

Require that all development be designed to provide adequate space for access, parking, supporting functions, open space and other pertinent elements.

## Policy LU 10.1.2

Establish incentives for the inclusion of day-care, public meeting rooms, and other community oriented facilities in commercial districts; possibly including the use of density bonus incentives, expedited entitlements, or other techniques.

## Policy LU 10.1.6

Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character, and operational hazards.

## Policy LU 13.1.3

Allow for the continuation of existing and development of new child, adult, and senior adult daycare facilities in any land use zone where they are compatible with adjacent uses and subject to City review and approval.

**FINDINGS FOR DENIAL - VARIANCE NO. 02-10: (Approved 9/16/02)**

1. The granting of Variance No. 02-10 for a reduction of approximately 28 parking spaces within the existing shopping center based on the proposed daycare use and mixture of on-site uses will constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The proposed daycare facility is located in an area within the shopping center that directly abuts residential properties and occupies existing parking for patrons of the center. The proposed daycare use will impact on-site parking based on the number of parking spaces required for the drop-off and pickup up of 88 children. The location of the shopping center is typical of many of other properties in the same zoning classification and there are not unique circumstances, which set apart the subject property from others in the same zoning classification.
2. There are no special circumstances applicable to the subject property, including shape and location, which require a deviation to the strict application of the zoning ordinance. The subject site is located in a typical commercial shopping center with adequate parking for retail and office tenants. The elimination of 16 parking spaces places a burden on the existing uses in the shopping center. There are no unique physical characteristics such as the shape, size, or location of the subject site that warrants the approval of a variance.
3. The granting of a variance is not necessary to preserve the enjoyment of one or more substantial property rights. The subject suite may be leased to commercial and office tenants and the existing on-site parking is adequate in supporting these uses with no further parking variances required.
4. The granting of the variance will be materially detrimental to the public welfare or injurious to property in the same zone classification. The variance for reduced parking will impact other commercial properties in the vicinity, based on the proposed location of the daycare operation, elimination of 16 parking spaces, and the requested parking variance.
5. The granting of the variance will adversely affect the General Plan. The proposed reduction of 16 parking spaces by the proposed outdoor play area will adversely affect existing and future commercial uses on the subject site.

**(City Council) Public Hearing Held - Adopted Ordinance No. 3572 (Administrative Code); Ordinance No. 3573 (Building Code); Ordinance No. 3574 (Mechanical Code); Ordinance No. 3575 (Plumbing Code); Ordinance No. 3576 (Swimming Pool, Spa and Hot Tub Code); and Ordinance No. 3577 (Electrical Code); Approved for Introduction - Adopted by Reference the 2001 Editions of the California Building & Safety Codes (Introductions of Ordinances Approved on August 19, 2002) (640.15)**

Mayor Pro Tem Boardman announced that this was the time scheduled for a public hearing to receive and consider statements of all persons who wish to be heard relative to the application described below:

Ordinance Nos. 3572, 3573, 3574, 3575, 3576 and 3577 (as described by title in the recommended action to follow).

Adoption of the State of California Codes – an Ordinance of the City Council of the City of Huntington Beach Amending the Huntington Beach Municipal Code by repealing Chapters 17.04, 17.40, 17.44, and 17.48 and adding thereto new Chapters 17.04, 17.40, 17.44, and 17.48 to adopt the California Building Code, 2001 Edition, California Mechanical Code, 2001 Edition, California Plumbing Code, 2001 Edition and California Electrical Code 2001 Edition and modifications to Chapter 17.02, Uniform Administrative Code and Chapter 17.46 Uniform Swimming Pool, Spa & Hot Tub Code.

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

Director of Building & Safety Ross Cranmer presented a PowerPoint slide report *titled Adoption of the 2001 California Building & Safety Codes*, which was included in the agenda packet.

Mayor Pro Tem Boardman declared the public hearing open.

As there were no persons present to speak on the matter and there were no protests filed, either written or oral, Mayor Pro Tem Boardman declared the public hearing closed.

A motion was made by Dettloff, second Green to:

After City Clerk reads by title, adopt **Ordinance Nos. 3572, 3573 as amended, 3574 as amended, 3575 as amended, 3576**, and **3577 as amended** (approved for introduction on August 19, 2002), for the adoption of the 2001 amended editions of the California Building Code, California Plumbing Code, California Mechanical Code, and California Electrical Code and amendments to previously adopted Uniform Administrative Code and the Uniform Swimming Pool, Spa and Hot Tub Code:

**Ordinance No. 3572 – “An Ordinance of the City of Huntington Beach Amending Chapter 17.02 of the Huntington Beach Municipal Code Adopting the *Uniform Administrative Code*,”**

**and**

**Ordinance No. 3573** – *“An Ordinance of the City of Huntington Beach Amending Chapter 17.04 of the Huntington Beach Municipal Code Adopting the **California Building Code**,”*

and

**Ordinance No. 3574** – *“An Ordinance of the City of Huntington Beach Amending Chapter 17.40 of the Huntington Beach Municipal Code Adopting the **California Mechanical Code**,”*

and

**Ordinance No. 3575** – *“An Ordinance of the City of Huntington Beach Amending Chapter 17.44 of the Huntington Beach Municipal Code Adopting the **California Plumbing Code**,”*

and

**Ordinance No. 3576** – *“An Ordinance of the City of Huntington Beach Amending Chapter 17.46 of the Huntington Beach Municipal Code Relating to the **Uniform Swimming Pool, Spa and Hot Tub Code**,”*

and

**Ordinance No. 3577** – *“An Ordinance of the City of Huntington Beach Amending Chapter 17.48 of the Huntington Beach Municipal Code Adopting the **California Electrical Code**.”*

The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Houchen, Winchell, Bauer  
NOES: None  
ABSENT: None (Cook out of room)

**(City Council) Public Hearing Held - Adopted Ordinance No. 3571 (Approved for Adoption by Reference of the 2001 Edition of the State of California Fire Code and Supplements Thereto) Introduction of Ordinance 3571 Approved at the August 19, 2002 Council Meeting (640.15)**

Mayor Cook announced that this was the time scheduled for a public hearing to consider adoption of the State of California Codes – an Ordinance of the City Council of the City of Huntington Beach Amending the Huntington Beach Municipal Code by repealing Chapter 17,56 and adding thereto a new Chapter 17.56 to adopt the Uniform Fire Code, 2000 Edition and the California Fire Code, 2001 edition, including Appendices I-A, I-B, I-C, II-A, II-C, II-D, II-E, II-K, II-H, IIIA, III-C, and IV-A.

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

Fire Chief/Information Systems Director Michael P.Dolder presented a PowerPoint slide report titled *Huntington Beach Fire Department – Proposed Adoption of the Fire Code* which had been announced earlier as a Late Communication by the City Clerk.

Mayor Cook declared the public hearing open.

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

Slide show presentation dated September 16, 2002 from the Fire Department titled *Huntington Beach Fire Department – Proposed Adoption of the Fire Code*.

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

A motion was made by Winchell, second Boardman to:

Adopt **Ordinance No. 3571**, by roll call vote, after the City Clerk reads by title – “*An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code Chapter 17.56 Adopting the California Fire Code.*”

The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
NOES: None  
ABSENT: None

**(City Council) Public Hearing - Accepted the Annual Review and Monitoring Report – Downtown Parking Master Plan (Downtown Specific Plan Generally Bounded by Pacific Coast Highway, Sixth Street, Acacia Avenue and Second Street) (440.30)**

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

**Applicant:** City of Huntington Beach Planning Department

**Request:** Annual Review of the Downtown Parking Master Plan addressing building activity between June 1, 2001 and June 1, 2002.

**Location:** Downtown Specific Plan area (generally bounded by Pacific Coast Highway, Sixth Street, Acacia Avenue and Second Street).

**Environmental Status:** Notice is hereby given that this item is covered under Environmental Impact Report No. 82-2, approved in conjunction with the Downtown Specific Plan.

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

Associate Planner Wayne Carvalho presented a PowerPoint slide report titled *2002 Downtown Parking Master Plan – Annual Review & Monitoring Report* which had been announced earlier as a Late Communication by the City Clerk.

Mayor Cook declared the public hearing open.

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

Slide show presentation submitted by the Planning Department to the City Clerk's Office on September 16, 2002 titled *2002 Downtown Parking Master Plan – Annual Review & Monitoring Report*.

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

A motion was made by Dettloff, second Green to accept as adequate and complete the Annual Review and Monitoring Report of the Downtown Parking Master Plan and forward to the Executive Director of the California Coastal Commission. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
 NOES: None  
 ABSENT: None

**(City Council) Public Hearing to Consider Appeal Filed by Lester C. Smull (Business Properties Partnership) of the Planning Commission's Denial of Conditional Use Permit No. 02-31/Variance No. 02-10 – Step by Step Daycare Facility at 10156 Adams Avenue (S/E Corner of Brookhurst Street and Adams Avenue) (420.40)**

This item was moved forward to earlier in the meeting following the adoption of Resolution 2002-89.

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

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

(City Council) Contract for Gail Hutton for the Office of City Attorney from September 30, 2002 to December 2, 2002 to Fill the Vacancy to be Created by Her Retirement and Rescind the Agreement Between the City and Contract for Gail Hutton for Early Retirement and Provision of Transitional Consultant Legal Services Which Was Approved on July 15, 2002 (700.90)

(City Council) Agreement Between the City and the Orange County Water District (OCWD) for the Groundwater Replenishment Project (Injection Barrier Wells and Pipeline Property Exchange) and the Ellis Avenue Widening Project, CC-891 (600.25)

**Consent Calendar – Items Approved**

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

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell (August 26, 2002 Minutes-Winchell Abstained), Bauer (August 15, 2002 Minutes-Bauer Abstained)  
NOES: None  
ABSENT: None

**(City Council/Redevelopment Agency) Minutes** - Approved and adopted the minutes of the City Council/Redevelopment Agency Adjourned Regular meetings of August 12, 2002, City Council Special meeting of August 15, 2002, City Council/ Redevelopment Agency Regular meetings of August 19, 2002 and Adjourned Regular meetings of August 26, 2002 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(City Council) Adopted Resolution No. 2002-87 Establishing Annual Appropriation Limit for Fiscal Year 2002-2003 Pursuant to Article 13B of California Constitution (\$386,282,166) – (GANN) (340.90) – Adopted Resolution No. 2002-87 – “A Resolution of the City Council of the City of Huntington Beach Establishing the Appropriation Limit for Fiscal Year 2002/2003.”** Submitted by the Administrative Services Director. Funding Source: Not Applicable.

**(City Council) Approved Grant Agreement Between the City and the Huntington Beach Conference & Visitors Bureau (HBCVB) for Fiscal Year 2002/2003 for Public Relations Services (600.10)** – Approved and authorized execution by the Mayor and City Clerk of the *Grant Agreement Between the City of Huntington Beach and the Huntington Beach Conference and Visitors Bureau, Inc. (HBCVB) for Public Relations Services* for Fiscal Year 2002/2003 in the amount of \$250,000. Submitted by the Economic Development Director. Funding Source: Budgeted Item.

**(City Council) Approved First Amended and Restated Affordable Housing Agreement for PLC Land Company (Siena Apartments, Project at N/W Corner of Main and Gothard Streets) – To Restrict 26 Instead of 27 as Affordable Units (600.10)** – Approved the *Amended and Restated Agreement Containing Covenants Affecting Real Property – Affordable Rental Housing by and between the City of Huntington Beach and PLC*, and authorized the Mayor and City Clerk to execute and the City Clerk to record with the County Recorder. Submitted by the Planning Director. Funding Source: Not Applicable.

**(City Council) Adopted Annual Disadvantage Business Enterprises (DBE) Goal for Fiscal Year 2002/2003 Receipt of Federal Funds Through CalTrans (340.70)** – Adopted the Annual Disadvantaged Business Enterprises (DBE) goal of 7%. Submitted by the Public Works Director. Funding Source: Not Applicable. (To be eligible for financial assistance from the Federal Highway Administration (FHWA), the City must adopt an annual DBE goal, which sets target levels for female-owned and ethnic, minority-owned businesses in its contracts on Federal aid projects.)

**(City Council) Approved Agreement Between the City and Rainbow Disposal to Provide AB939 Educational Assistance (Waste Management Public Information) (600.45)** – Approved and authorized the Mayor and City Clerk to execute the *Agreement between the City of Huntington Beach and Rainbow Disposal for Waste Management Public Education*. Submitted by the Public Works Director. (Pursuant to Integrated Waste Management Act of 1989.)

**(City Council) Approved the Release of Securities for Tract No. 14829 and Accepted the Public Improvements (S/O Talbert Avenue, W/O Joyful Lane) – Parkside Court, LLC – (Sassounian Capital Ventures)** (420.60) – **1.** Accepted the improvements constructed and dedicated for public use with Tract No. 14829; and **2.** Released Faithful Performance/Labor and Material No. 3SM95693600 pursuant to California Government Code Section No. 66499.7(b); and **3.** Accepted the Guarantee and Warranty Bond No. 3SM954935-A (**American Motorists Insurance Company**) the security furnished for guarantee and warranty of improvements, and instructed the City Clerk to file the bond with the City Treasurer; and **4.** Instructed the City Clerk to notify the developer, Parkside Court, LLC, of this action and the City Treasurer to notify the Surety, American Motorists Insurance Company, of this action; and **5.** Instructed the City Clerk to record the “Notice of Acceptance of Public Improvements” (attached) with the Orange County Recorder. Submitted by the Public Works Director. Funding Source: Not Applicable.

**(City Council) Approved Amendment No. 5 (Updating the Exhibit which Lists Approved Funded Projects) to Cooperative Agreement No. C-95-975 Between the City and the Orange County Transportation Authority (OCTA) – (Measure M Funding Eligibility)** (420.60) – Approved and authorized the Mayor and City Clerk to execute *Amendment No. 5 to Cooperative Agreement No. C-95-975 between Orange County Transportation Authority (OCTA) and the City of Huntington Beach*. Submitted by the Public Works Director. Funding Source: Not Required for this Action.

**(City Council) Approved Final Tract Map No. 16287 of Tentative Tract Map No. 16287 (PLC One Lot Subdivision) N/S Clay Avenue, E/O Holly Street (Holly-Seacliff Development Agreement Area)** (420.60) – Approved Final Tract Map No. 16287 pursuant to findings and requirements – see Attachment No. 1 as follows: **Findings for Acceptance of Final Map:** Final Tract Map No. 16287 is in conformance with the California Subdivision Map Act, the City of Huntington Beach Subdivision Ordinance and Tentative Tract Map No. 16287 conditions of approval, as approved by the Zoning Administrator. **Requirements:** 1. Acceptance of offer of dedication shall be subject to completion of improvements and requirements shown on the final map; and 2. The City Clerk shall file the following bonds with the City Treasurer: (a) Faithful Performance Bond No. B34224566 (Attachment No. 7); (b) Labor and Material Bond No. B34224566 (Attachment No. 7); (c) Monument Bond No. B34224565 (Attachment No. 7) (Gulf Insurance Co.); and 3. The City Clerk shall affix her signature to the map and release it for recordation by the County of Orange; and Approve the Subdivision Agreement between the City and PLC, a California General Partnership, and authorize execution by the Mayor and City Clerk (Attachment No. 6). Submitted by the Planning Director. Funding Source: Not Applicable.

**(City Council) Approved Final Tract Map 16289 of Tentative Tract No. 16289 – PLC One Lot Subdivision – N/E Corner of Clay Avenue and Main Street – (Holly-Seacliff Development Agreement Area)** (420.60) – Approved Final Tract Map No. 16289 and accepted the offer of dedication, improvements, and bonds pursuant to findings and requirements – see Attachment No. 1 as follows: **Findings for Acceptance of Final Map:** Final Tract Map No. 16289 is in conformance with the California Subdivision Map Act, the City of Huntington Beach Subdivision Ordinance and Tentative Tract Map No. 16289 conditions of approval, as approved by the Zoning Administrator. **Requirements:** 1. Acceptance of offer of dedication shall be subject to completion of improvements and requirements shown on the final map; and 2. The City Clerk shall file the following bonds with the City Treasurer: (a) Faithful Performance Bond No. B34224555 (Attachment No. 7); (b) Labor and Material Bond No. B34224555 (Attachment No. 7); (c) Monument Bond No. B34224557 (Attachment No. 7) (Gulf

Insurance Co.); and 3. The City Clerk shall affix her signature to the map and release it for recordation by the County of Orange; and Approved the Subdivision Agreement between the City and PLC, a California General Partnership, and authorized execution by the Mayor and City Clerk (Attachment No. 6). Submitted by the Planning Director. Funding Source: Not Applicable.

**(City Council) Approved Agreement Between City and Los Angeles Times Communications, LLC (dba Huntington Beach Independent) for Legal Advertising Services** (600.10) – Approved and authorized execution of the *Agreement Between the City of Huntington Beach and Los Angeles Times Communications, LLC, doing Business as the Huntington Beach Independent, for Legal Advertising*. Submitted by the City Administrator and City Clerk. Funding Source: General Fund Budgeted.

**(City Council) Appropriated Funds and Authorized Payment to County of Orange for March 2002 Special Municipal Election and for Verification of Signatures on Property Rights Protection Measure Petition** (620.30) – Authorized appropriation and payment to the County of Orange in the amount of \$45,814 for signature verification (Property Rights Protection Measure EE) and payment in the amount of \$87,717.95 to the County of Orange for services and supplies relating to the Huntington Beach March 5, 2002 Special Municipal Election consolidated with the Statewide Primary Election. Submitted by the City Clerk. Funding Source: Unappropriated, Undesignated General Fund Balance – Account No. 100.31100.1999.

**(City Council) Adopted Resolution No. 2002-86 Appointing Gail Hutton to the Office of City Attorney from 9/30/02 to 12/02/02 to Fill the Vacancy to be Created by Her Retirement and Rescinded the Agreement Between the City and Gail Hutton for Early Retirement and Provision of Transitional Consultant Legal Services Which Was Approved on July 15, 2002** (700.90)

The City Council considered a communication from the City Administrator which sets forth that the City Attorney has submitted her resignation, effective September 28, 2002. The City Council must appoint a City Attorney to serve the remainder of her unexpired term, which ends December 2, 2002.

Councilmember Bauer requested that this agenda item be removed from the Consent Calendar for an explanation of the salary and benefits offered to City Attorney Gail Hutton.

Assistant City Attorney Paul D'Alessandro responded to Councilmember Bauer's request.

A motion was made by Bauer, second Dettloff to:

1. Appoint Gail Hutton to the Office of City Attorney, from September 30, 2002 to December 2, 2002; to fill the vacancy to be created by her retirement effective September 28, 2002;

**and**

2. Adopt **Resolution No. 2002-86** – “*A Resolution of the City Council of the City of Huntington Beach Providing Benefits and Salary for the City Attorney for the Period of September 30, 2002 to December 2, 2002;*”

**and**

3. Approve rescinding the Agreement between the City of Huntington Beach and Gail C. Hutton for Early Retirement and Provision of Transitional Consultant Legal Services which was approved on July 15, 2002. Submitted by the City Administrator. Funding Source: Proposed FY 2002-2003 Budget.

The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Houchen, Winchell, Bauer  
 NOES: Cook  
 ABSENT: None (Green out of room)

**(City Council) Approved Agreement Between the City and the Orange County Water District (OCWD) for the Groundwater Replenishment Project (Injection Barrier Wells and Pipeline Property Exchange) and the Ellis Avenue Widening Project, CC-891 (600.25)**

The City Council considered a communication from the Director of Public Works informing Council that a cooperative agreement between the City and the Orange County Water District (OCWD) has been drafted to describe the respective agency's responsibilities regarding the OCWD's Groundwater Replenishment Project and the City's Ellis Avenue Widening Project, CC-891.

Councilmember Bauer requested that this agenda item be removed from the Consent Calendar to ask staff if we are coordinating this project with the Orange County Water District.

City Engineer David Webb affirmed and reported on the project.

A motion was made by Bauer, second Dettloff to approve *Agreement for Groundwater Replenishment System Injection Barrier Wells and Pipeline Property Exchange with City of Huntington Beach* and authorize execution by the Mayor and City Clerk. The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Cook, Houchen, Winchell, Bauer  
 NOES: None  
 ABSENT: None Green out of room)

**(City Council) Adopted Ordinance No. 3578 Amending the Huntington Beach Municipal Code by Adding Chapter 9.07 Prohibiting Aerial Advertising (Banner Towing Aircraft) (640.10)**

After the City Clerk read by title, a motion was made by Boardman, second Houchen to adopt **Ordinance No. 3578** – *“An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code by Adding Thereto Chapter 9.07, Prohibiting Aerial Advertising.”* The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Cook, Houchen, Winchell  
 NOES: Green, Bauer  
 ABSENT: None

**(City Council) Approved Recommendation for Reimbursement by General Fund of Unfunded Liability in the Refuse Fund (Trash Collection) (340.10)**

This item was moved forward to earlier in the meeting during the public hearing to adopt Resolution No. 2002-89.

**Adjournment – City Council/Redevelopment Agency**

Mayor Cook adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, October 7, 2002, 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