

**MEETING ASSISTANCE NOTICE - AMERICANS WITH DISABILITIES ACT**

In accordance with the Americans with Disabilities Act the following services are available to members of our community who require special assistance to participate in City Council and Redevelopment Agency meetings. If you require, American Sign Language interpreters, a reader during the meeting, and/or large print agendas, to make arrangements, please call: **Office of the City Clerk (714) 536-5227**.

To make arrangements for an assisted listening system (ALD) for the hearing impaired, please contact: the **Sergeant at Arms (714) 536-5693** or the **City Clerk (714) 536-5227**.

*72 hours prior notification will enable the city to make reasonable arrangements to ensure accessibility to a meeting.*

**ACTION AGENDA**  
**CITY COUNCIL/REDEVELOPMENT AGENCY**  
**CITY OF HUNTINGTON BEACH**

**MONDAY MAY 3, 2004**

**4:30 P.M. – Public Comments &  
Study Session - Room B-8**  
**Approx. 5:00 P.M. – Recess to  
Closed Session**

7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

**4:30 P.M. – 5:00 P.M. - Room B-8 for Adjourned Regular Meeting – 5:00 P.M. Regular Meeting Commences**

The appropriate legal notices have been posted and distributed by the City Clerk's Office in order for Council to convene at 4:30 P.M. to allow for Closed Session items.

**Call City Council/Redevelopment Agency Meeting to Order**

**Roll Call** Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen  
***Present (Sullivan arrived 4:35 p.m.; Houchen arrived 4:40 p.m.)***

**Pursuant to the Brown (Open Meetings) Act the City Clerk Announces Late Communications Received by Her Office Which Pertain to Items on the Agenda**

(1) The Brown (Open Meetings) Act requires that copies of late communications submitted by City Councilmembers or City Departments are to be made available to the public at the City Council meeting. (2) Late communications submitted by members of the public are to be made available to the public at the City Clerk's Office the morning after the Council meeting. (Late Communications are communications regarding agenda items that have been received by the City Clerk's Office following distribution of the agenda packet.)

***Study Session 2***

**Public Comments Regarding 4:30 P.M. Portion of Council Meeting (See Next Page for Study Session and Closed Session Agenda Items)**

***None***

**COMPUTER INTERNET ACCESS TO CITY COUNCIL/REDEVELOPMENT AGENCY  
AGENDA IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS**

***<http://www.surfcity-hb.org>***

**(City Council) Study Session No. 1 – Review of the Pacific City Project by the Planning Department** (440.80)

The Planning Department will present a review of the Pacific City Project.

A communication titled *Pacific City Huntington Beach* is included in the agenda packet.

***Planning Director Howard Zelefsky orally reported.***

***Planning Manager Scott Hess and Principal Planner Mary Beth Broeren presented on design and environmental aspects respectively.***

***Public Works Director Robert F. Beardsley and Transportation Manager Robert Stachelski also reported on water quality issues.***

***Soils clean-up was announced as a topic to be discussed at the June 7, 2004 Public Hearing scheduled for Pacific City, which Director Zelefsky stated would be clarified.***

**(City Council/Redevelopment Agency) Study Session No. 2 – Review of the Comprehensive Annual Financial Report by the Administrative Services Department** ( . )

Administrative Services Department will present a review of the Comprehensive Annual Financial Report.

***Administrative Services Clay Martin and Finance Officer Dan Villella reported. Director Martin stated staff will return to Council on May 17, 2004 with the mid-year budget report. Caporrici and Larson, auditors, were introduced and Finance Board member Tim Geddes, who was present in the audience.***

**Call Closed Session of City Council/Redevelopment Agency**

***Approved 7-0***

**Recommended Action:** Motion to recess to Closed Session on the following items:

1. **(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: William Workman, Acting City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; Kenneth Small, Chief of Police; Duane Olson, Fire Chief; and Steven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding labor relations matters – meet and confer with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated**. Subject: **Labor Relations – Meet & Confer**. (120.80)
2. **(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)
3. **(City Council) Closed Session** – Pursuant to Government Code Section 54957 to consider personnel matters. Subject: **Recruitment of City Administrator**. (120.80)
4. **(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(c) (Based on existing facts and 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: **Potential Litigation**. (120.80)

The City Council and the Redevelopment Agency of the City of Huntington Beach will regularly convene in joint session for the purpose of considering the following City Council-Redevelopment Agency Agenda Items.

The Huntington Beach Parking Authority, Civic Improvement Corporation, and the Huntington Beach Public Financing Authority are also agencies on which Council serves as members.

On each Agenda these Agencies may have items scheduled.

When an Agenda Item requires action by any of these Agencies, it will show in parenthesis preceding the item, for example (City Council-Redevelopment Agency).

### 7:00 P.M. - Council Chambers

#### Reconvene City Council/Redevelopment Agency Meeting

- \*\* **The City Attorney Shall Determine If Any Actions Taken By The City Council or Redevelopment Agency In Closed Session Shall Require A Reporting On Those Actions As Required By Law (Government Code §54957.1(a) (3) (B)).**  
**Mayor Green announced the appointment of Penelope (Penny) Culbreth-Graft for the position of City Administrator.**  
**Approved 6-1 (Sullivan – No)**

**Roll Call** Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen  
**Present**

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

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

**Invocation** – by Father Christian Mondor, Saints Simon and Jude

Hello and welcome to the Huntington Beach City Council meeting. If you would like to address the Council, please fill out the pink public comment sheet attached to the agenda. After completing the form, hand it to the Sergeant at Arms and he will give it to the City Clerk. **As a courtesy to those in attendance, I would ask that cellphones and pagers be turned off or set in their silent mode. Thank you.**

#### **Pursuant to the Brown (Open Meetings) Act the City Clerk Announces Late Communications Received by Her Office Which Pertain to Items on the Agenda**

**(1)** The Brown (Open Meetings) Act requires that copies of late communications submitted by City Councilmembers or City Departments are to be made available to the public at the City Council meeting. **(2)** Late communications submitted by members of the public are to be made available to the public at the City Clerk's Office the morning after the Council meeting. (Late Communications are communications regarding agenda items that have been received by the City Clerk's office following distribution of the agenda packet.)

**Study Session No. 2, E-12**

**Presentation** - Mayor Cathy Green to call on Fire Chief Duane Olson to introduce Chuck Reynolds, on behalf of the Federal Emergency Management Agency (FEMA), who will present a check for \$200,000 to the City for the Fire Department's Weapons of Mass Destruction Program. (160.40)

**Presentation** - Mayor Cathy Green to present a commendation to 11-year-old Cindy Tran (accompanied by Coach Rick Graves), from the Golden West Swim Club, for breaking the National Record in the 50-yard backstroke. (160.40)

**Presentation** - Mayor Cathy Green will proclaim May 2 through May 8, 2004 as Municipal Clerks Week. In addition, the Mayor has recently been notified by the International Institute of Municipal Clerks and will present plaques to City Clerk Connie Brockway who has been designated Master Municipal Clerk, and to Assistant City Clerk Liz Ehring who has received her designation of Certified Municipal Clerk. Currently there are 338 CMC's and 128 MMC's in 478 City Clerk Offices throughout the state. (160.40)

***Motion to bring comments on Item C-4a forward. (See Page 8)***  
***Approved 7-0***

**Public Comments on Item C-4a Only**

***Speaker and his mother spoke regarding City Clerk Connie Brockway's knowledge and good sense of humor.***

***Members of HB Tomorrow presented Proclamation to City Clerk, Connie Brockway for her outstanding service to the City.***

***Speaker, representatives of Amigos de Bolsa Chica, presented a picture from the organization to City Clerk Connie Brockway.***

***Dr. Ralph Bauer former Mayor and former Mayors Robert Mandic, Shirley Dettloff and Ron Shenkman expressed their appreciation to City Clerk Connie Brockway.***

***City Clerk Brockway spoke regarding the Wall of Mayors in the Council Chambers.***

***Mayor Green and Mayor Pro Tem Hardy presented Hollywood Centerpieces from the Library to "Shining Star" Connie Brockway, as well as a key to the City, a City flag and bouquet of flowers.***

***Each of the Council members spoke in turn to express appreciation to City Clerk Connie Brockway for her dedication to open government, her assistance, honesty and integrity and invaluable help to candidates running for elective office.***

**B. PUBLIC COMMENTS**

This is the time of the meeting for the Council to receive comments from the public regarding **items of interest or agenda items OTHER than Public Hearings.**

Generally, Council will not enter into a dialogue during this period.

Pursuant to the Brown (Open Meeting) Act, the City Council may not discuss items unless they are on our agenda. So if you are speaking on an item not on the agenda, we cannot discuss the issue with you at this meeting. However, if you wish to meet with any of us please call the Council's Secretary at 714-536-5553. Thank you for taking the time to come to the council meeting to address the council. Councilmembers strive to treat members of the public with respect and we ask that you also express your concerns and opinions in a civil and respectful manner.

**3 minutes per person, time may not be donated to others.  
No action can be taken by Council/Agency on this date unless agendaized.**

Complete the attached pink form and give to the Sergeant-At-Arms located near the speaker's podium.

**PUBLIC COMMENTS:**

***Speaker spoke in favor of H-1a and Item H-3a and also spoke in support of H-4a stating that the best alternative is for Assistant City Clerk Liz Ehring to be appointed.***

***Speaker spoke in opposition to H-1a stating that the proposed Main Street closure may be premature.***

***Speaker stated that the case against Ron Davis is unfair and the use of aliases on the internet is not illegal.***

***Speakers spoke in favor of H-1a, alternative 2, appointing Liz Ehring as City Clerk due to the short interim before the general election in November 2004.***

***Speaker distributed Late Communication regarding Ron Davis and cited an excerpt from the e-mail.***

***Councilmember Cook read an item regarding aliases on the internet and in support of anonymous speech as a constitutional right. She announced that Ron Davis would not be asked to resign from his appointment on the Planning Commission.***

***Speaker, Longboard Restaurant owner, spoke in opposition to H-1a stating that the proposed Main Street closure is premature. He stated it will result in traffic congestion.***

***Speaker, President of Friends of Shipley Nature Center, spoke regarding banning Avitrol from the City. She spoke in favor of H-2a.***

***Speaker commended City Clerk Connie Brockway for all her knowledge and dedicated service. He also spoke recommending a committee to participate in the process of studying the proposed Main Street closure.***

**Speaker spoke regarding the alleged violation of the Brown Act by the Planning Commission. He announced that his e-mail address is [www.Bixby.org](http://www.Bixby.org) and spoke in favor of Ron Davis resigning from the Planning Commission.**

**Councilmember Cook asked City Attorney Jennifer McGrath if the issue has been brought to the District Attorney.**

**City Attorney McGrath reported that it is not a Brown Act violation.**

**Speaker spoke against the City's agreement with Coca-Cola Company, alleging human rights abuses practiced.**

**Mayor Green informed City Clerk Brockway that a videotape has been submitted to her office by the last speaker.**

**Speaker spoke regarding the suitability of Ron Davis as Planning Commissioner.**

**Speaker, Environmental Columnist, spoke in favor of H-2a stating that the poison is a neuro toxin which results in a slow death in birds, other animals who eat the such birds and children as well.**

**Speaker spoke regarding C-4a and H-2a in favor of alternative 2, the appointment of Liz Ehring. He expressed concern regarding the Channel at the Talbert Marsh and in favor of legalizing fireworks.**

**Speaker spoke regarding the new voting machine and stated that a paper trail is necessary for integrity of the system.**

**Speaker thanked City Clerk Connie Brockway. He distributed two Late Communications on Stuart Welch aka Ron Davis, alleging lies made by the alias.**

**Mayor Green moved C-4a forward. (See Page 4)**

**City Clerk Connie Brockway read her Resignation Letter (Agenda Item C-4a) verbatim which was included in the agenda packet. City Clerk Brockway asked for and received permission to be excused from the rest of the meeting.**

**Approved 7-0**

C-1. Council Committee/Council Liaison Reports - None

C-2. City Administrator's Report - None

C-3. City Treasurer's Report

C-3a. (City Council) Review and Accept Shari Freidenrich, City Treasurer's February and March 2004 Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity* (310.20)

Communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for February and March 2004.

**Recommended Action:** Motion 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 February and March 2004*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

***City Treasurer Shari Freidenrich reported from the PowerPoint presentation included in the agenda packet. City Treasurer Freidenrich stated that rates for investments is good news.***

***Approved 7-0***

**C-4. City Clerk's Report****C-4a. (City Council) Resignation of City Clerk Connie Brockway from the Office of the City Clerk (620.10)**

Communication from City Clerk Connie Brockway: I would like to express my appreciation to the citizens for being able to serve the city in the City Clerk's Office for the past 36 years, 16 years as the city's elected city clerk. Personal concerns prompt my resignation effective May 4, 2004. Through these 36 years I have been privileged to meet and come to know so many fine citizens who have contributed and continue to contribute so much to our community. I have also learned from the proceedings of so many city council meetings how hard our city council members work and are skillfully supported by the dedicated department heads together with all of the city employees who put into motion the policies laid out by council and who ensure that we all have the wonderful, safe community we are so proud of.

The City Clerk's staff at present numbers seven. I would like to thank Deputy City Clerks Kelly Mandic, Rebecca Ross, Dale Jones, Marie Braddock, Patty Esparza, Robin Roberts and Passport Facility Clerks Pat Sullivan and Eleanor Gonzales. They are the best staff any City Clerk could have. My very special thanks to the many citizen volunteers who through the years have been such an integral part of the City Clerk's Office.

I would like to take this opportunity to thank Assistant City Clerk Liz Ehring for ably serving in my stead during my absence. Liz Ehring is a Certified Municipal Clerk in her own right and has worked very hard the past five years in the City Clerk's Office to receive the highly valued designation of Certified Municipal Clerk. She has shown her understanding of and ability to fulfill the City Clerk's Code of Ethics, which lists eight promises. Three of these promises within the City Clerk's Code of Ethics are: *To uphold constitutional government and the laws of my community, To be ever mindful of my neutrality and impartiality, rendering equal service to all; and to record that which is true and preserve that which is entrusted to me as if it were my own.*

I sincerely impart to the City Council that the citizens of Huntington Beach would be well-served by the City Council's appointment of Assistant City Clerk Liz Ehring to fill the remainder of my term of office which expires November, 2004.

Respectfully submitted,

Connie Brockway, MMC  
City Clerk

**Mayor Green moved C-4a Forward**  
**City Clerk Connie Brockway read her Resignation Letter verbatim which was included in the agenda packet and requested that a motion be made to accept her resignation effective May 4, 2004.**

**Approved 7-0**

**(City Clerk Brockway asked for and received permission to be excused from the remainder of the meeting.)**

### E. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered by the City Council and Redevelopment Agency to be routine and will be enacted by one motion in the form listed.

**Recommended Action:** Approve all items on the Consent Calendar by affirmative roll call vote.

- E-1. (City Council/Redevelopment Agency) Minutes** (120.65) - Approve and adopt the minutes of the City Council/Redevelopment Agency Special/Adjourned regular Meetings of April 5, 2004 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.  
*Approved 7-0*
- E-2. (City Council) Receive, Review and File City Clerk's Passport Acceptance Facility Operations Quarterly Report for January 2004 through March 2004** (100.30) – Receive, review and file the Passport Acceptance Facility Report showing **net profit of \$25,994.26** for the period of **January 2004 to March 2004**, as prepared and submitted by the Office of the City Clerk. Submitted by the City Clerk. Funding Source: Not applicable. (The **total net profit** since the Passport Facility was established by Council in February 2000 is **\$163,528.74.**)  
*Approved 7-0*
- E-3. (City Council) Adopt Revisions to the City's Financial Policies as Recommended by the Finance Board** (320.60) – Adopt changes, revisions, and updates to the City of Huntington Beach Financial Policies as submitted by staff and the Finance Board. Submitted by the Administrative Services Director. Funding Source: Not applicable. ***Councilmember Sullivan stated standards are to have a report within 6 months. He commented on page E-3.10 recommending addition to the policy. Amended that the City Council to be presented annually with a list of all user fees and changes indicating when they were last changed.***  
*Approved as amended 7-0.*
- E-4. (Redevelopment Agency) Approve Loan Agreement Between the Redevelopment Agency and the Auto Dealers Association Business Improvement District (BID) – Approve Amendment No. 1 to the Lease Agreement Between the Redevelopment Agency and the Huntington Beach Automobile Dealers Association – Appropriate \$474,000 from the Redevelopment Agency's Fund Balance to Upgrade the Reader Board Sign Located Along the 405 Freeway near Beach Boulevard and Edinger Avenue** (600.30) – **1.** Approve *Loan Agreement* with the Auto Dealers Association Business Improvement District (BID) in the amount of \$474,000 and authorize the Agency Chairperson and Agency Clerk to sign the agreement; and **2.** Approve *Amendment No. 1 to Lease Agreement Between the Redevelopment Agency of the City of Huntington Beach and the Huntington Beach Automobile Dealers Association for Property Located Adjacent to the 405 Freeway in the City of Huntington Beach*; and **3.** Appropriate \$474,000 from the Redevelopment Agency's Fund Balance. Submitted by the Deputy Executive Director. Funding Source: Redevelopment Agency's Projects Fund unappropriated, undesignated, Redevelopment Agency fund balance. **(See Agenda Item E-5.)**  
*Approved 7-0*

- E-5. **(City Council) Adopt Resolution of Intention No. 2004-22 – Approving the Huntington Beach Auto Dealers Business Improvement District (BID) Mid-Year Modification and Assessment Increase – Schedule Public Hearing for June 7, 2004** (460.30) – 1. Adopt **Resolution No. 2004-22** - “A Resolution of the City Council of the City of Huntington Beach Declaring its Intention to Modify and Increase the Assessment within the Huntington Beach Auto Dealers Business Improvement District;” and 2. Direct the City Clerk to **schedule a public hearing to be held on June 7, 2004**, and to send copies of the Resolution, BID Boundary Map and assessment formula to each business to be assessed. Submitted by the Economic Development Director. Funding Source: Not Applicable. (A copy of the proposed Ordinance is included in the agenda packet.) **(See Agenda Item E-4.)**  
**Adopted 7-0**
- E-6. **(City Council) Approve Amendment No. 8 to Cooperative Agreement No. C-95-975 between the City and the Orange County Transportation Authority (OCTA) for Roadway Improvements through the Combined Transportation Funding Program (CTFP)** (600.25) – Approve and authorize the Mayor and City Clerk to execute *Amendment No. 8 to Cooperative Agreement No. C-95-975 between the Orange County Transportation Authority and the City of Huntington Beach.* Submitted by the Public Works Director. Funding Source: None required. Over the next five fiscal years, street improvement grants totaling up to \$5.9 million have been awarded to the City.  
**Approved 7-0**
- E-7. **(City Council) Adopt Resolution No. 2004-23 Approving the Huntington Beach and Fountain Valley Hazard Mitigation Committee By-Laws** (510.10) – Adopt **Resolution No. 2004-23** – “A Resolution of the City Council of the City of Huntington Beach Approving the By-Laws of the Huntington Beach/Fountain Valley Hazard Mitigation Committee.” Submitted by the Fire Chief. Funding Source: None required.  
**Adopted 7-0**
- E-8. **(City Council) Approve the Release of Securities for Tract No. 15472 Located North and East of the Intersection of Bolsa Chica Street and Warner Avenue (s/o Heil Avenue) - Accept the Public Improvements (W. L. Homes, LLC, a Delaware Limited Liability Company - dba John Laing Homes – Meadowlark Specific Plan)** (420.60) - 1. Accept the improvements constructed and dedicated for public use with Tract No. 15472; and 2. Accept the Guarantee and Warranty Bond No. 392484; the security furnished for guarantee and warranty of improvements, and instruct the City Clerk to file the bond with the City Treasurer; and 3. Release Faithful Performance/Labor and Material Bond No. 392484 and Monument Bond No. 392485 pursuant to California Government Code Section No. 66499.7(b); and 4. Instruct the City Clerk to notify the developer, W. L. Homes, LLC, a Delaware limited liability company (dba John Laing Homes), of this action and the City Treasurer to notify the Surety, **Seaboard Surety Company America**, of this action; and 5. Instruct 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.  
**Acting City Administrator William Workman recused himself due to residing within a 500-foot proximity of the project.**  
**Approved 7-0**

- E-9. (City Council) Approve Project Plans and Specifications and Authorize Advertisement of Bids for 1) Lift Station “D” (Existing Lift Station “D” is Located s/o Warner Avenue near Edgewater Avenue, New Lift Station Location is at the Intersection of Warner Avenue and Los Patos Avenue); CC-1182a and 2) Gravity Sewer Improvement Project (Located in Pacific Coast Highway and Warner Avenue); CC-1182b** (600.60) Approve the project plans and specifications and authorize the Director of Public Works to request bids for Lift Station “D”, CC-1182a and Gravity Sewer Improvement Project, CC-1182b. Submitted by the Public Works Director. Funding Source: Funds are budgeted in the Sewer Service Fund. Funding for this project includes an Environmental Protection Agency Grant, Sewer Service Charge User Fees and an agreement with the Seal Beach Sanitary District. The engineer’s cost estimate is \$3,990,000 for the construction of Lift Station “D” and \$4,400,000 for installation of the gravity sewer, total estimate \$8,390,000.  
***Approved 7-0***
- E-10. (City Council) Accept Bid by All American Asphalt and Award Construction Contracts for Graham Street (CC-1158) and Warner Avenue (CC-1159) Rehabilitation Improvements** (600.50) – **1.** Accept the lowest responsive and responsible bid submitted by All American Asphalt in the amount of \$535,440.85 for Graham Street and Warner Avenue Rehabilitation Improvements, CC-1158 & CC-1159, respectively; and **2.** Authorize the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: Budgeted in the Gas Tax, Arterial Rehabilitation, Street Improvements Account. Grant funds in the amount of \$290,045 are included in the budgeted funds. The engineer’s preliminary estimate is \$622,555.  
***Acting City Administrator William Workman recused himself due to residing within 500-foot proximity of the project.***  
***Approved 7-0***
- E-11. (City Council) Accept Bid by R. J. Noble and Award Construction Contracts for Magnolia Street (CC-1153); Hamilton Avenue (CC-1155); and Yorktown Avenue (CC-1156) Rehabilitation Improvements** (600.50) – **1.** Accept the lowest responsive and responsible bid submitted by R. J. Noble in the amount of \$707,429.60 for Magnolia Street, Hamilton Avenue and Yorktown Avenue Rehabilitation Improvements; CC-1153, CC-1155 & CC-1156, respectively; and **2.** Authorize the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. Submitted by the Public Works Director. Funding Source: Budgeted in the Gas Tax, Arterial Rehabilitation, Street Improvements Account. Grant funds in the amount of \$272,533 are included in the budgeted funds. The engineer’s preliminary estimate is \$702,408.  
***Approved 7-0***

**E-12. (City Council) Adopt Resolution of Intention No. 2004-24 to Grant an Oil Pipeline Franchise to Pacific Terminals, LLC – Schedule Public Hearing for June 7, 2004**

(600.45) – 1. Adopt **Resolution No. 2004-24** - “A Resolution of the City Council of the City of Huntington Beach Declaring its Intention to Grant an Oil Pipeline Franchise to Pacific Terminals, LLC;” and 2. Direct the City Clerk to **schedule a public hearing to be held on June 7, 2004** at 7:00 p.m. or as soon thereafter as the matter may be heard, for the adoption of an ordinance granting an oil pipeline franchise to Pacific Terminals, LLC. Submitted by the Public Works Director. Funding Source: Not Applicable. (Exhibit A of Resolution 2004-24 is the proposed ordinance; Exhibit B is the public hearing notice.)

**Adopted 7-0**

**F. Administrative Items - None**

**G. Ordinances**

**G-1. Ordinances for Adoption**

**G-1a. (City Council) Adopt Ordinance No. 3652 Amending Chapter 8.21 of the Huntington Beach Municipal Code Re: Refuse Management** (640.10) – **Ordinance 3652** – “An Ordinance of the City of Huntington Beach Amending Chapter 8.21 of the Huntington Beach Municipal Code Relating to Refuse Storage and Containers.” Submitted by the Public Works Director. (Approved for Introduction April 19, 2004.)

**Recommended Action:** After City Clerk reads by title, adopt **Ordinance No. 3652** by roll call vote.

**Adopted 6-0-1 (Houchen out of the room)**

**G-1b. (City Council) Adopt Ordinance No. 3653 Establishing Procedures to Pay Retirement Tax Refund Claims in Connection with Howard Jarvis Taxpayers Association v. City of Huntington Beach (This Ordinance Supercedes Resolution No. 2001-19)** (640.10) – **Ordinance No. 3653** – “An Ordinance of the City of Huntington Beach Directing the City Administrator to Approve all Valid 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, and Establishing Procedures to Determine Their Validity.” Submitted by the City Attorney. (Approved for Introduction as amended April 19, 2004.)

**Recommended Action:** After City Clerk reads by title, adopt **Ordinance No. 3653** by roll call vote.

**Adopted 6-0-1 (Houchen out of the room)**

**G-2. Ordinances for Introduction - None****H. City Council/Redevelopment Agency Items****H-1a. Submitted By Councilmembers Pam Houchen, Dave Sullivan, and Gil Coerper****(City Council) Direct Staff to Prepare a Plan for the Closure of Main Street Between the Fourth of July and Labor Day (Downtown Huntington Beach) and Return for Council Approval on June 7, 2004** (960.20)

Communication from Councilmembers Pam Houchen, Dave Sullivan, and Gil Coerper transmitting the following **Statement of Issue**: Since adoption of the "Village Concept" of the Downtown Specific Plan in 1995 and its subsequent implementation in the years following, the downtown district has experienced a renaissance in new development, patronage and economic vitality.

The success of the revitalization effort has resulted in considerable increases in both pedestrian and vehicular traffic volumes along Main Street in the downtown core, especially during the summer months. The temporary closure of Main Street within the downtown core between July 4th and Labor Day will improve public safety, enhance the experience of visitors (in particular those dining outdoors), and stimulate patronage for downtown business. Many residents have echoed this sentiment over the years.

Accordingly, we recommend that the City Council approve the following motion:

***Planning Director Howard Zelefsky responded to Councilmember Sullivan's inquiry regarding feasibility of returning in 3 months.***

***Acting City Administrator referred to a study in November 2001.***

***Amended motion:***

**Recommended Action:**

Direct staff to prepare a plan for the closure of Main Street between July 4th and Labor Day, for approval **for consideration** by the City Council on June 7, 2004.

***Approved as amended 7-0***

**H-2a. Submitted By Councilmember Connie Boardman****(City Council) Direct the City Attorney to Draft an Ordinance Banning the Use of the Bird Poison Avitrol in the City of Huntington Beach** (520.20)

Communication from Councilmember Connie Boardman transmitting the following **Statement of Issue**: In recent weeks concerned residents contacted the Council over the use of the bird poison Avitrol by a concessionaire in Central Park. This poison, while usually used to kill pigeons as was intended in this case, can also be consumed by other birds that eat the poisoned bait.

Central Park is a very important bird area to migratory birds and attracts birders from all over the world. In addition, the Friends of Shipley Nature Center are in the process of restoring the Shipley Nature Center to make it even more attractive to birds. In light of this, I was very surprised to find out that Avitrol is being used to poison birds at a facility in the park.

I can understand the desire to control pigeons in some areas of the park, but there are effective, non-lethal ways to discourage pigeons from roosting and nesting that don't impact other bird species.

Currently, the use of Avitrol is legal in the city of Huntington Beach and there is nothing to prevent the use of it again. This poison, to my knowledge, has been banned in New York City; Fort Collins, Colorado; and Boulder, Colorado. I request the Council approve the recommended action below to ban the use of Avitrol in Huntington Beach.

**Recommended Action:** Motion:

To direct the City Attorney to draft an ordinance banning the use of the bird poison Avitrol in the City of Huntington Beach.

**Councilmember Boardman reported**

**Approved 7-0**

**H-3a. Submitted By Councilmember Pam Houchen**

**(City Council) Approve the Waiving of \$2,346 in Fees for the Huntington Youth Shelter For the Installation, Maintenance, and Removal of the City’s Holiday Light-A-Light of Love Snowflake Lights Downtown and on the Pier** (960.20)

Communication from Councilmember Pam Houchen transmitting the following

**Statement of Issue:** Since 1998, the Huntington Youth Shelter has decorated the Municipal Pier and downtown Main Street during the holiday season with decorative snowflake lights.

The Light-A-Light of Love project was originally organized as a partnership between the City and the Youth Shelter. The Youth Shelter purchased the lights at no cost to the City and the City’s Public Works Department installed, maintained, and took down the fixtures at no cost to the Youth Shelter. The Youth Shelter also organized a lighting ceremony, which included a small parade down Main Street and entertainment at Pier Plaza.

The last two years the City has invoiced the Youth Shelter for the cost of installing the snowflakes and running the parade as follows:

**Huntington Youth Shelter Cost**

Year	Installation of Snowflakes	Parade/Ceremony	Total Bill
1998-2001	\$0	\$0	\$0
2002	\$2,283	\$1,840	\$4,123
2003	\$2,346	\$1,261	\$3,607

The Youth Shelter is requesting that the City waive the 2003 cost for installation of the snowflakes (\$2,346). They will pay the cost for the parade and ceremony (\$1,261).

Without the Youth Shelter’s efforts, the City would have no holiday decorations. Because these are the only holiday decorations that the City displays and because they decorate our most famous landmark, the Pier, I strongly recommend that the City continue to cover the cost of installation, maintenance, and removal of the fixtures. This partnership further promotes the City’s goal of becoming a destination attraction.

**Recommended Action:** Motion to:

Approve the waiving of \$2,346 in fees for the Huntington Youth Shelter for the installation, maintenance, and removal of the city’s holiday lights downtown and on the pier.

**Councilmember Houchen reported**

**Approved 5-2 (Sullivan, Green – No)**

**H-4a. Submitted By Mayor Cathy Green****(City Council) City Council To Determine the Appropriate Procedure to Appoint a City Clerk to Fill the Remainder of the Unexpired Term (December 6, 2004) Left Vacant on May 4, 2004 due to the Resignation of the City Clerk ( . )**

Communication from Mayor Cathy Green transmitting the following **Statement of Issue:** After 36 years of dedicated service to the City of Huntington Beach, City Clerk Connie Brockway has resigned, effective May 4, 2004. Since the next regular election for the office of City Clerk will not be held until November 2, 2004, a process needs to be approved regarding the appointment of a new City Clerk by the City Council to serve the remainder of the current unexpired term.

Analysis: In order to assure the most effective operation of the City Clerk's Office, there is a need to appoint a City Clerk to carry on the respective duties of the elective office as identified in the Charter for the remainder of the current term, which expires on December 6, 2004.

I believe the City Council has three procedures to choose from:

Alternative 1: Conduct a short recruitment and interview process, and make a selection after interviewing several qualified candidates. This was the process used by the City Council to fill the vacancy following the last resignation of a Council member, and the vacancy following the resignation of the previous City Treasurer.

Alternative 2: Make a selection without any formal recruitment or interview process, as was the procedure used following the resignation of the previous City Clerk.

~~Alternative 3: Do not make an appointment, and call for a special election.~~

***Mayor Green reported the need to fill unexpired term May 4, to December 6, 2004.***

**Recommended Action:** That the City Council determine the appropriate procedure to appoint a City Clerk for the remainder of the unexpired term.

***Motion to appoint Assistant City Clerk Liz Ehring under Alternative 2  
Motion failed 3-4 (Hardy, Boardman, Cook, Houchen – No)***

***Motion to conduct short recruitment – Applications due on May 17, 2004 to the City Attorney's Office at 4:00 p.m. and determine when to conduct interviews under Alternative 1 at the May 17, 2004 Council Meeting.  
Approved 6-1 (Coerper - No)***

**Council Comments - (Not Agendized)**

At this time Councilmembers may report on items not specifically described on the agenda which are of interest to the community. No action or discussion may be taken except to provide staff direction to report back or to place the item on a future agenda.

***Mayor Green congratulated the Police Chief of the Officers who received Medals of Valor.***

**Council/Agency Adjournment** to Monday May 17, 2004, at **4:00 P.M.**, in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

Council/Agency Agendas and Minutes are Available at No Charge to the Public at the City Clerk's Office, on the City's Website, Via Email, and Through Paid Subscription. Complete Agenda Packets are Available at the Central Library and Library Branches on Friday Prior to Meetings. Videotapes of Council Meetings are Available for Checkout at the Central Library at No Charge.

**CONNIE BROCKWAY, CITY CLERK**  
City of Huntington Beach  
2000 Main Street - Second Floor  
Huntington Beach, California 92648

Internet: <http://www.surfcity-hb.org>