

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 special assistance, 72-hour prior notification will enable the city to make reasonable arrangements. For American Sign Language interpreters, a reader during the meeting, and/or large print agendas, 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** at the meeting or the **City Clerk (714) 536-5227**.

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

MONDAY SEPTEMBER 19, 2005

4:00 P.M. - Room B-8
6:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

4:00 P.M. - Room B-8
4:06 p.m.

Call City Council/Redevelopment Agency Meeting to Order

Roll Call Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook
Present

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.)

SS (4 items), D-5, H-2a (4 items)

Public Comments Regarding 4:00 P.M. Portion of Council Meeting for Study Session and Closed Session Agenda Items

Speaker encouraged Council to favor all of Bolsa Chica if they decide to move forward with the annexation. Noted potential eco-tourism dollars and need for police department to enforce laws in the area. She also spoke regarding item H2a, questioning why the City should pay for annexation fees. Suggested no annexation agreement take place until negotiations are completed with property owner.

(City Council/Redevelopment Agency) Study Session –The City's consultant, RSG, Inc., has completed a fiscal analysis related to the potential annexation of the Warner Mesa (Hearthside Homes development). City staff and RSG will present an overview of the analysis findings. (450.40)

PowerPoint titled *Warner Mesa Annexation Study* is included in the agenda packet.

Principal Planner MaryBeth Broeren introduced the item, announced presence of LAFCO representative, Carolyn Emery to answer questions, and Felice Acosta of RSG, Inc. Ms. Acosta reported on an update to Bolsa Chica Warner Mesa development status and the fiscal impact of the annexation to the City. She explained what assumptions were made in the study based on three different scenarios: Annexation prior to development, predicting a surplus of \$19.2 million; Annexation after development (in year 3), predicting a surplus of \$4.11 million; and Development without annexation, predicting a surplus of \$3.32 million. City Clerk inquired about the numbers in the PowerPoint report. Ms. Acosta clarified that the report has been revised, and that she would submit a revised report to the Clerk's office. MaryBeth Broeren concluded staff report referring to park in-lieu fees and park space required of the developer. CM Green inquired about \$8.75 million fees. Staff responded, stating that Council would be involved in the negotiation/decision. Mayor inquired about Holly-Seacliff development and an area near Peter Green Park - if areas qualified for park credit? MPT inquired about who paid for development of half acre parks in Seacliff. Staff responded that the City paid for development. CM Cook inquired about active recreation area requirements, staff reported on Coastal Commission and County requirements. CM Hansen inquired what would compel the developer to submit to annexation? CM Coerper inquired about water supply concerns with scenario one and public safety expenditures of zero in year one. CM Bohr inquired about contract status for water. Staff reported on rights and franchise agreements. Also inquired of Ed Mountford, representing Hearthside Homes, regarding development agreement and special conditions. Mr. Mountford reported on current sales agreement status and the permit from the Coastal Commission for the Lower Bench. He also spoke re: amended site development/grading permit and tract map from the County and goal to start pipeline construction Jan/Feb 2006 to meet development goals. Outlined importance of timing and agreement with the City, obligations to Southern California Water. MPT Sullivan asked about City's obligation to So. Cal. Water, and asked for clarification on issues in letter submitted as Late Communication regarding one-time fees. Mr. Mountford responded, and staff reported on taxes vs. fees. CM Coerper inquired about cost of pipeline, facility. Mr. Mountford responded \$8 million. CM Coerper inquired further about potential litigation, City Attorney responded about franchise agreement. CM Cook inquired about property tax agreement w/county and funds City would receive--staff and consultant responded, referring to page 32 of the study, which was included in the agenda packet. CM Bohr asked about the timing of negotiated development agreements. Staff reported on the normal LAFCO process timing, and potentially expediting in four months. Councilmembers inquired re: tax revenue and the destination and allowable uses of funds. Consultant reported the funds would move over to the General Fund. City Attorney to investigate that process. LAFCO reported that funds are not overseen by LAFCO. Inquiries re: development standards that differ between county and City. Staff reported on different City specific plans including street widths.

Call Closed Session of City Council/Redevelopment Agency

**Recommended Action: Motion to recess to Closed Session on the following items:
*Motion Sullivan/Coerper, approved by consensus of all present.***

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Penelope Culbreth-Graft, City Administrator; Chuck Thomas, Acting Director of Administrative Services, Dan Villella, Finance Officer; and Irma Youssefieh, Human Resources Manager regarding labor relations matters – meet and confer with the following employee organizations: **MSOA, and SCLEA.** Subject: **Labor Relations – Meet & Confer.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party. The title of the litigation is **Lynn Copeland v. City of Huntington Beach,** Orange County Superior Court Case No. 04CC10768. Subject: **Lynn Copeland v. City of Huntington Beach.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party. The title of the litigation is **Michelle Phillipy v. City of Huntington Beach, et al.** Orange County Superior Court Case No. 04CC10619. Subject: **Michelle Phillipy v. City of Huntington Beach, et al.** (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the City is a party. The title of the litigation is **McAllister v. City of Huntington Beach;** Orange County Superior Court Case No. 05CC04676. Subject: **McAllister v. City of Huntington Beach.** (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).

6:00 P.M. - Council Chambers – 6:09 p.m.

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)).

City Attorney reported that Council authorized the City Administrator to enter into a settlement agreement and a court judgment in the McAllister v. City of Huntington Beach, et al., class action suit that provides as follows:

- 1. The City shall refund DUI fees collected during the period between September 2002 and February 2003 where the driver was arrested, but not involved in a traffic accident. This amounts to a refund of approximately \$11,300, plus 7% interest, amounting to a total refund of \$14,500.**
- 2. The City shall pay \$500 directly to the lead plaintiff, plus attorney's fees and costs to his counsel in the amount of \$9,600.**
- 3. One-third of the DUI refunds shall be paid over to the Plaintiff's attorneys, plus any refunds not claimed, up to a maximum of \$7,000.**
- 4. The City shall enter into a stipulated judgment providing that in the future, it will only collect DUI fees where: (i) there was an auto accident resulting from a driver under the influence of alcohol or drugs, (ii) an emergency response vehicle was dispatched Code 3 to the scene of a DUI arrest, or (iii) a pursuit was engaged in of a driver under the influence of alcohol or drugs.**

Mayor Pro Tem Sullivan clarified that this individual has no relation to the former Mayor.

Roll Call Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook
Present

Pledge of Allegiance/Flag Salute – To be led by the Mayor

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 – To be determined by the Mayor
Maria Khani, representing Huntington Beach Interfaith Council

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.)

SS (3 items), C-1a, D-5, H-2a

Presentation - Mayor Jill Hardy to call on Community Services Director Jim Engle to recognize the two Rotary Clubs in Huntington Beach for completion of their community project to commemorate the Centennial year of Rotary International. The clubs raised over \$15,000 from 23 corporate donors and 31 private citizens to purchase an inflatable band shell for the Central Park Bandstand. Each summer, upwards of 1000 people attend the weekly "Concerts in the Park" organized by the Huntington Beach Concert Band, and the acoustic band shell has greatly enhanced the enjoyment of concert goers. Present tonight are the Centennial year Presidents of the two clubs: Marleen Meyer from the Rotary Club of Huntington Beach and Jim Xerikos of the Sunrise Rotary Club. (160.40)

Presentation - Mayor Jill Hardy to call on Gordon Gates, manager of the Ocean View Little League All Star team (9 & 10 year old division). The team recently won the Southern California Little League Championship. This is the highest achievement that this age group can attain and the first time for Huntington Beach. (160.40)

Mayor's Award - Mayor Jill Hardy to be joined by Interim Economic Development Director Paul Emery to present the Mayor's Award to Assistant Project Manager Tom Welch. (160.40)

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.

Each speaker is allowed 3 minutes and time may not be donated to others. No action can be taken by Council/Agency on this date unless the item is agendized.

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

Speaker, Chairman of the Conference and Visitors Bureau (CVB), thanked Council for their support and spoke in support of item E-6 on the agenda.

Speaker, former Councilmember and board member with the Bolsa Chica Land Trust, spoke in support of the annexation process after the purchase of the Lower Bench is negotiated and completed. She stated that the City should not be responsible for the fee to begin the process. She also stated opinion on water pipeline costs, and asked Council to keep \$90 million that the developer will receive.

Speaker representing 2nd Harvest Food Bank reported that Poseidon donated 400 cases of water; Citywide food drive is up to 12,370 lbs. Reminded Council and audience of the needs

in Orange County, asking for donations of chili. Also thanked H.B. Clothing and Jersey Joe's for donations.

Speaker, President of Bolsa Chica Land Trust, stated he is not opposed to annexation only to the timing. He referred to the Cost Recovery Findings study for the City, asking Council to read it and understand the subsidies given to the developer if approved prior to sale. Asked Council to delay annexation until sale of Lower Bench is completed.

President of Save Our Field spoke on item E-9 urging Council to approve the item. He stated eagerness to work with the City as plan is implemented.

Speaker alleged Brown Act violation relative to the Edinger beautification project at last Council meeting and referred to a letter he delivered to Council this morning. He recommended Council reconsider the action taken at the last meeting and brings it back at the next meeting as an agenda item.

MPT Sullivan announced that he would be asking for reconsideration of the item in question, giving reasons including the previous budget process followed and changes to the process this year. He stated he did not believe there was a Brown Act violation, and that he wants the process to be consistent with the past. Motion made by Sullivan/Hardy to reconsider the budget adoption. CM Green asked for City Attorney's opinion. Attorney McGrath stated her opinion that there was no Brown Act violation. Council discussion ensued regarding reasons for supporting or opposing the motion. Mayor Hardy announced that Public Comments would need to be in Public Comments section since the public hearing was closed. Motion approved 5-2 (Bohr, Cook-No)

Speaker thanked Council for support of the Edinger beautification project, reported that reconnaissance study is complete and under budget. She presented a check for \$2,330 to Council for half of the expense. She reported Sea Isle Garden Club has \$13,550 in the bank.

Resident regarding Home Depot at Garfield and Magnolia referred to a communication he distributed to Council and thanked Ron Santos and Councilmember Bohr for assistance. He stated concern with the layout of the proposed building and suggested a different orientation, moving loading dock away from residences. Urged Council to consider issue and help with a solution.

40 year resident on Lindsay Lane referred to a communication (diagram) she presented to Council stating concerns about traffic flow, delivery trucks, store hours, noise, and pollution in relation to Home Depot project. Asked Council to consider local residents' needs.

Speaker stated concerns about Home Depot and loudspeaker system in garden center. She referred to Conditions for Approval relating to noise. She also stated concerns with greater potential for accidents at the entrances, suggesting alternatives. She requested an Environmental Impact Report (EIR), asking Council to consider their concerns.

Councilmember Bohr asked staff when Home Depot project is agenda item for consideration. Staff reported application would be submitted to the zoning administrator (ZA) and only to Council or Planning Commission if appealed. He suggested concerned individuals communicate with Home Depot since status has changed on some issues.

Speaker stated concerns with Home Depot hours of operation. Suggested 9:00 a.m. opening, 8:00 p.m. closing, deliveries be made between 9am-2pm M-F, no holidays. She also asked for an EIR.

Speaker, resident of Lindsay Lane, voiced concerns with Home Depot proposal and noise. Stated opinion that the physical noise barriers proposed are inadequate. Suggested loading dock be accessed from Garfield Avenue. He recommended Wal-Mart conditions be used with this project. He also asked Council to consider noise mitigations conditions required by the City of Costa Mesa. Asked Council to require an EIR.

Speaker referred to letter she sent to Ron Santos, stating concerns with Home Depot project. Listed traffic, noise, hours of operation & delivery and day laborer issues, including what she referred to as negative environmental impacts. She asked the Council to require an EIR.

Resident spoke of meeting held by Home Depot, stating that they have not addressed resident concerns. He asked Council to act in the best interest of the neighborhoods, citing traffic control concerns, child & pedestrian safety, noise levels, and loitering of day workers.

Speaker, 23 year resident, referred to email he recently sent to Council regarding concerns he has with the Home Depot project. He asked Council to require an EIR from the applicant. He gave examples of traffic concerns, operation hours, and day laborer concerns.

Lindsay Lane resident spoke of children's safety on their way to school on Magnolia and deliveries to Home Depot. She suggested restricted hours of operation and of deliveries. Asked for a crossing guard and an EIR.

Lindsay Lane resident spoke regarding Home Depot project and two concerns, stating that an 8-foot wall is not adequate, and that an EIR should be required for the project.

Speaker regarding a claim made by an individual injured at Worthy Park. Commended Police Department and alleged he reported this danger in 2002 to Community Svcs. and Planning Dept. Stated that nothing has been done to remedy the situation to this date. Also spoke regarding developer and the process of approval through the Planning Commission. Asked Council to resolve the issues.

Speaker, resident of Bahama Lane, asked if City is monitoring pollution and activity at Ascon dumpsite. Stated pollution is getting worse since construction on the berm. Asked if City has evacuation plan in place and if that plan is available to citizens of the City. Lastly, commented on traffic signals on PCH malfunctioning and the resulting traffic backups. Asked Council to address this issue.

City Administrator Penny Culbreth-Graft asked the previous speaker to fill out a blue contact card so that staff may follow up with him.

C-1. Council Committee/Appointments/Liaison Reports (120.20)

(This is the opportunity for Councilmembers to make announcements regarding Council committees, appointments or liaison reports.)

C-1a. (City Council) Presentation from Ellen Burton, Executive Director of External Affairs for the Orange County Transportation Authority (OCTA), on the Reauthorization efforts for Measure M. (940.10)

Councilmember Green introduced OCTA representatives: Art Leahy, Kelly Hart, and Ellen Burton.

She announced Measure M funds received and spoke regarding Measure M card, presenting it to Council. Announced over \$41 million dollars of funds to City of H.B. since 1990.

Art Leahy gave an update on Measure M projects and spoke regarding the importance of improving infrastructure. He gave a PowerPoint report outlining the details of the measure and results to date. He also announced action required to extend the measure beyond 2011.

Councilmember Coerper stated his appreciation for the OCTA.

C-2. City Administrator's Report

Penny Culbreth-Graft Introduced Jack Marshall, new Information Services Director and the Mayor welcomed him.

C-3. City Treasurer's Report

C-3a. (City Council) Review and Accept Shari Freidenrich, City Treasurer's July 2005 Investment Summary Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for July 2005.* (310.20)

Communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report and Summary of Investments for July 2005.

Recommended Action: Motion to:

Review and accept the Monthly Investment Report. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for July 2005*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

Coerper/Sullivan motion to approve. Approved 7-0

Councilmember Coerper commended City Treasurer and staff for efforts.

D - PUBLIC HEARING

Anyone wishing to speak on an OPEN public hearing is requested to complete the attached pink form and give it to the Sergeant-at-Arms located near the Speaker's Podium.

D-1. (City Council) Public Hearing - Adopt Resolution No. 2005-58 Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District (BID) for Fiscal Year 2005-2006 – Continued from 9/6/05 meeting. (460.30)

Communication from the Acting Director of Economic Development transmitting the following

Statement of Issue: At the City Council meeting of August 15, 2005 the City Council approved Resolution No. 2005-57. This action declared the City's intention to levy an assessment for the Huntington Beach Hotel/Motel Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the

Resolution, Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year.

1. Staff report
2. City Council discussion
3. Open public hearing
4. Following public input, close public hearing

****PowerPoint presentation titled *Huntington Beach Hotel/Motel Business Improvement District (BID) Annual Renewal for FY 2005-2006 September 6, 2005* is included in the agenda packet.**

Recommended Action: Motion to:

1. Conduct Public Hearing

and

2. Adopt City Council Resolution No. 2005-58 – “A Resolution of the City Council of the City of Huntington Beach Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District for Fiscal Year 2005-2006.”

Economic Development Consultant Michael Hennessey gave a PowerPoint report. Open public hearing. City Clerk announced requirements for protests, no public speakers, no Late Communications. Close public hearing. City Clerk announced percentage of assessments protested is 0%, \$0. Bohr/Green motion to approve recommended action. Approved 7-0.

D-2. (City Council) Public Hearing – Adopt Resolution No. 2005-60 Approving an Annual Assessment Within the Huntington Beach Downtown Business Improvement District (BID) for Fiscal Year 2005-2006 – Continued from 9/6/05 meeting. (460.30)

Communication from the Acting Director of Economic Development transmitting the following

Statement of Issue: At the City Council meeting of August 15, 2005, the City Council approved Resolution No. 2005-53. This action declared the City’s intention to levy an assessment for the Huntington Beach Downtown Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the Resolution, BID Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year, assuming the protest threshold is not reached.

1. Staff report
2. City Council discussion
3. Open public hearing
4. Following public input, close public hearing

****PowerPoint presentation titled *Downtown Business Improvement District Annual Review FY 2005-2006; September 6, 2005* is included in the agenda packet.**

Recommended Action: Motion to:

1. Conduct public hearing.

and

2. Adopt City Council **Resolution No. 2005-60** "A Resolution of the City Council of the City of Huntington Beach Approving An Annual Assessment Within the Huntington Beach Downtown Business Improvement District for Fiscal Year 2005-2006."

Economic Development Consultant Michael Hennessey gave a PowerPoint report. Open public hearing. City Clerk announced requirements for protests, no public speakers, no Late Communications. Close public hearing. City Clerk announced percentage of assessments protested is 0.39%, \$250. Coerper/Green motion to approve recommended action. Approved 7-0.

D-3. (City Council) Public Hearing – Adopt Resolution No. 2005-61 Approving an Annual Assessment for the Huntington Beach Auto Dealers Business Improvement District (BID) for Fiscal Year 2005-2006 – Continued from 9/6/05 meeting. (460.30)

Communication from the Acting Director of Economic Development transmitting the following

Statement of Issue: At the City Council meeting of August 15, 2005, the City Council approved Resolution No. 2005-52. This action declared the City's intention to levy an assessment for the Huntington Beach Auto Dealers Business Improvement District for 2005-2006 and authorized the City Clerk to schedule a public hearing to be held on September 6, 2005. Copies of the Resolution, BID Boundary Map and assessment formula were sent to each business to be assessed. In follow-up to this action, the City Council must now hold a public hearing and pass a resolution approving an annual assessment for the 2005-2006 fiscal year.

1. Staff report
2. City Council discussion
3. Open public hearing
4. Following public input, close public hearing

****PowerPoint presentation titled *Huntington Beach Auto Dealers Business Improvement District (BID) Annual Renewal for FY 2005-2006 September 6, 2005* is included in the agenda packet.**

Recommended Action: Motion to:

1. Conduct Public Hearing

and

2. Adopt City Council **Resolution No. 2005-61** – "A Resolution of the City Council of the City of Huntington Beach Approving an Annual Assessment Within the Huntington Beach Auto Dealers Association Business Improvement District for Fiscal Year 2005-2006."
Economic Development Consultant Michael Hennessey gave a PowerPoint report. Open public hearing. City Clerk announced requirements for protests, no public speakers, no Late Communications. Close public hearing. City Clerk announced percentage of assessments protested is 0%, \$0. Bohr/Coerper motion to approve recommended action. Approved 6-0-1(Sullivan out of room.)

D-4. (City Council) Public Hearing to Consider the Approval of Conditional Use Permit (CUP) No. 05-18 - Good Shepherd Cemetery (8301 Talbert Avenue) for Fencing along Newman Avenue. (420.40)

Communication from the Director of Planning.

Applicant: Mike Padian, Padian Team Consulting

Request: To permit six-foot high view fencing and pilasters within an exterior side yard (zero setback) in lieu of the maximum allowable height of 42 inches along the Newman Avenue frontage. The proposed fencing will surround two detention basins with approximately 200 feet and 60 feet of frontage respectively along Newman Avenue.

Location: 8301 Talbert Avenue (south side of Newman Avenue, east of Beach Boulevard)

NOTICE IS HEREBY GIVEN that Item Nos. 1 and 2 are categorically exempt from the provisions of the California Environmental Quality Act.

ON FILE: A copy of the proposed request is on file in the City Clerk's Office, 2000 Main Street, Huntington Beach, California 92648, for inspection by the public. A copy of the staff report will be available to interested parties at the City Clerk's Office on Thursday, September 15, 2005.

ALL INTERESTED PERSONS are invited to attend said hearing and express opinions or submit evidence for or against the application as outlined above. If you challenge the City Council's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City at, or prior to, the public hearing. If there are any further questions please call the Planning Department at 536-5271 and refer to the above items. Direct your written communications to the City Clerk.

1. Staff report
2. City Council discussion
3. Open public hearing
4. Following public input, close public hearing

**Powerpoint presentation titled *Good Shepherd Cemetery Fencing Conditional Use Permit No. 05-18* is included in the agenda packet.

Recommended Action:

STAFF RECOMMENDATION: Motion to:

Approve Conditional Use Permit No. 05-18 with suggested findings and conditions of approval (Attachment No. 1). Funding source: Not applicable.

Associate Planner Paul DaVeiga gave a PowerPoint report. Open public hearing, no Late Communications, 2 speakers on behalf of the applicant announced their availability to answer any questions. Sullivan/Hansen motion to approve recommended action. Approved 7-0

D-5. (City Council) Public Hearing to Consider the Approval of Entitlement Plan Amendment (EPA) No. 05-03, Ellis Avenue Single Room Occupancy (SRO) Recreation Courtyard. (420.40)

Communication from the Director of Planning.

Applicant: James Lu, Huntington Beach Housing Associates, LP

Request: To modify the previously approved plan under Conditional Use Permit No. 99-31 by providing an open courtyard with landscaping, a fountain, and barbeque area in lieu of a swimming pool. The courtyard will serve as a common recreational area required for the single room occupancy development under requirements established in the Huntington Beach Zoning and Subdivision Ordinance.

Location: 8102 Ellis Avenue (south side of Ellis Avenue, east of Beach Boulevard)

NOTICE IS HEREBY GIVEN that Item Nos. 1 and 2 are categorically exempt from the provisions of the California Environmental Quality Act.

ON FILE: A copy of the proposed request is on file in the City Clerk's Office, 2000 Main Street, Huntington Beach, California 92648, for inspection by the public. A copy of the staff report will be available to interested parties at the City Clerk's Office on Thursday, September 15, 2005.

ALL INTERESTED PERSONS are invited to attend said hearing and express opinions or submit evidence for or against the application as outlined above. If you challenge the City Council's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City at, or prior to, the public hearing. If there are any further questions please call the Planning Department at 536-5271 and refer to the above items. Direct your written communications to the City Clerk.

1. Staff report
2. City Council discussion
3. Open public hearing
4. Following public input, close public hearing

**Powerpoint presentation titled *Entitlement Plan Amendment No. 05-03 To Modify the Approved Plans Under CUP No. 99-31 by Changing the Amenities in the Open Space Area* is included in the agenda packet.

Recommended Action:

STAFF RECOMMENDATION: Motion to:

Approve Entitlement Plan Amendment No. 05-03 with suggested findings and conditions of approval (Attachment No. 1). Funding source: Not applicable.

Associate Planner Paul DaVeiga gave a PowerPoint report. CM Green inquired about functionality of swimming pool year-round, reasons for substituting courtyard and commented on delays in completion of project. Staff responded, noting that the developer is also present to answer questions. MPT Sullivan inquired about the size of the gazebo or patio cover and seating available. CM Green also inquired about seating in barbeque area. Staff reported on seating consistent with size of development. Open public hearing, City Clerk read Late Communication, 3 speakers:

Speaker, applicant and 25 year resident, thanked Council for its support of the development of the project. Reported that the swimming pool is the only item remaining for construction to be complete. Delays with swimming pool due to concerns of general contractor and due to funding concerns. Stated construction costs have increased greatly over the years and that the project offers no profit to the developer. Stated they are in the red approximately \$2.2 million, and investors are unhappy. Stated the pool is impractical, has potential for future management problems, and the location is poor. He stated insurance and safety concerns as well. Asked Council to approve EPA No. 05-03.

Resident urged Council to approve the EPA and stated many are awaiting the opening of the complex, including her father. Stated she toured the property and agrees that a swimming pool is impractical in the area.

Speaker, with Huntington Beach Properties thanked Council for support of the project. Stated received interest from over 2000 applicants and over 50 phone calls per day. Stated agreement with previous speakers that swimming pool is impractical. Spoke regarding a recreation room/sunroom planned for residents' events. Also offered a alternative: to add tables with umbrellas rather than a patio cover in order to increase the light in the courtyard.

Close public hearing. MPT Sullivan inquired regarding steps on plan and staff's opinion on tables with umbrellas, staff responded that steps are no longer part of the proposal, and that staff would prefer something more permanent than umbrellas. CM Cook suggested cloth awnings with poles as an alternative to patio cover. CM Green stated concerns with how much the project has changed from the original approved plan. Mayor Hardy asked about indoor congregation areas. Staff responded that the area is adjacent to the outdoor courtyard, units have no private balconies. MPT Sullivan stated reasons for supporting approval of project. Cook/Sullivan motion to approve recommended action, amended to allow staff to research & approve alternative patio cover options other than permanent. Approved 7-0

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.
Green/Coerper motion to approve E1-E8

E-1. (City Council/Redevelopment Agency) Minutes (120.65) - Approve and adopt the minutes of the City Council/Redevelopment Agency Adjourned Regular Meeting of August 22, 2005 and City Council/Redevelopment Agency Special Meeting of August 23, 2005 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

Approved 7-0

E-2. (City Council) Adopt Annual Disadvantaged Business Enterprises (DBE) Goal for Fiscal Year 2005/2006 (340.70) – Adopt the Annual Disadvantaged Business Enterprises (DBE) goal of seven percent (7%). Submitted by the Public Works Director. Funding Source: Not applicable to this action.

Adopted 7-0

E-3. (City Council) Approve Supplemental Law Enforcement Services Fund (SLESF) Grant from the County of Orange, Appropriate \$291,597 and Authorize Expenditure Plan for Fiscal Year 2005-2006 on Patrol Related Equipment (340.60) – 1. Approve the spending plan for the Fiscal Year 2005-2006 SLESF grant; and 2. Accept the grant award of \$291,597 from the County of Orange SLESF for funding cycle year 2005/2006; and 3. Establish a separate business unit for this funding; and 4. Authorize the Chief of Police to expend \$291,597, plus any accrued interest on patrol related equipment as described; and 5. Appropriate \$291,597, plus any accrued interest to be expended on patrol related equipment. Submitted by the Police Chief. Funding Source: No match will be required for this grant.
Approved 7-0

E-4. (City Council) Transfer Street Easement at Southeast Corner of Beach Boulevard and Edinger Avenue, related to Beach Boulevard Widening Improvements (CC-1105) to the State and Quitclaim Unneeded Portion Back to the Original Grantor of Street Easement (650.80) – 1. Authorize the Mayor and City Clerk to execute the Highway Easement Deed granting the State of California an easement for street and public utility purposes over that certain real property designated as Parcels 102341-1 and 102341-2, and described on the attached exhibits; and 2. Authorize the Mayor and City Clerk to execute the Quitclaim Deed in favor of Huntington Executive Park, a California limited partnership, relinquishing the City's street easement rights over that certain real property designated as Parcels 1 and 2, and described on the attached exhibits. Submitted by the Public Works Director. Funding Source: Not applicable.
Approved 7-0

E-5. (City Council) Approve Grant Agreement Between the City of Huntington Beach and the Huntington Beach Conference and Visitors Bureau (HBCVB) for Fiscal Year 2005-2006 (600.10) – Approve and authorize 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 (HBCVB), for \$400,000 for fiscal year 2005-06. Submitted by the Acting Economic Development Director. Funding Source: Funding for the Grant Agreement is included in the proposed fiscal year 2005-06 City budget, Account No. 10080101.69365.
Approved 7-0

E-6. (City Council) Approve Employment Agreement Between the City of Huntington Beach and Stanley Smalewitz as Director of Economic Development (600.10) – 1. Approve the appointment of Stanley Smalewitz to the position of Director of Economic Development; and 2. Approve and authorize execution by the City Administrator of the Employment Agreement between the City of Huntington Beach and Stanley Smalewitz to the position of Director of Economic Development. Submitted by the Acting Deputy City Administrator. Funding Source: The position of Director of Economic Development is scheduled to be a budgeted position in the fiscal year 2005/2006 budget. No additional funding is required.
Approved 7-0

E-7. (City Council) Adopt Resolution No. 2005-66 Approving an Amendment to the Memorandum of Understanding (MOU) between the City and the Huntington Beach Police Officers' Association (HBPOA) (720.20) - Adopt Resolution No. 2005-66 – A Resolution of the City Council of the City of Huntington Beach Approving an Amendment to the Memorandum of Understanding between the City of Huntington Beach and the Huntington

Beach Police Officers' Association to Implement a Transfer in the Scope of Representation for Employees in the Classifications of Police Sergeant and Senior Police Sergeant from the Police Management Association to the Huntington Beach Police Officers' Association. Submitted by the Human Resources Manager. Funding Source: No additional funding required. All funding remains included in the Fiscal Year 2004/2005 budget and in the Fiscal Year 2005/2006 budget.
Adopted 7-0

E-8. (City Council) Waive Municipal Code Section 3.03.120 and Approve Amendment No. 3 Authorizing Execution of a One-Year Extension to the Professional Services Contract between the City and The Ferguson Group, LLC to Assist the City in Acquisition of Federal Funding for Priority Projects within the City and Related Legislative Issues

(600.10) – 1. Approve waiving Municipal Code section 3.03.120, prohibiting the extension of an agreement beyond three years; and 2. Approve extending the contract with the Ferguson group; and 3. Authorize the Mayor and City Clerk to execute Amendment No. 3 to the contract between the City and the Ferguson Group. (.) – Submitted by Mayor Jill Hardy on behalf of Intergovernmental Relations Committee: Members Councilmember Coerper and Councilmember Bohr. Funding Source: Funds are budgeted in the fiscal year 2005-06 budget under Administration Department, Professional Services Account #10030201.69365. The total cost for this contract amendment is not to exceed \$84,588.

Approved 7-0

E-9. (City Council) Approve Acquisition for Public Park Purposes a Portion of the Site Formerly Used for Lamb Elementary School, Located at 10251 Yorktown Street, and a Portion of the Site Formerly Used for Wardlow Elementary School, Located at 9191 Pioneer Drive

(650.20) – 1. Approve acquisition of 2.6 acres of Lamb School and 6.0 acres of Wardlow School properties at 25% of fair market value utilizing the Naylor Act consistent with the City's Surplus Schools Property Purchasing Plan. 2. Appropriate \$3,836,096 from the Park Acquisition and Development Fund to cover the total purchase price plus fees associated with the transfer of the real property. The General Fund 2nd Tier Reserves to loan the Park Acquisition and Development Fund \$1,836,096 to cover the total purchase price of the \$3,836,096. The loan to be paid back to the General Fund in FY 06/07 and FY 07/08. The loan will accrue interest at the annual rate earned by the City Treasurer on the city's investment portfolio. 3. Authorize execution of the Purchase Agreements in substantially the same form as attached, and other necessary related documents by the Mayor, City Administrator, and City Clerk when advised by the City Attorney. 4. Direct staff to open escrow on both parcels and to issue the required \$50,000 deposit per property. Submitted by the Acting Director of Economic Development/Deputy City Administrator, Community Services Director and City Attorney. Funding Source: Total of \$3,836,096 (\$1,158,596 for the Lamb property, \$2,665,500 for the Wardlow property, and up to \$12,000 for fees associated with the transfer of the real property). The Park Acquisition and Development (PA & D) Fund will be the ultimate funding source, but it is proposed to have the PA & D Fund designate \$2,000,000 for the acquisition in FY 05/06 with the General Fund 2nd Tier Reserves providing a loan to the PA & D Fund for the remainder of the acquisition costs. The PA & D Fund will then pay back the General Fund loan with interest over the next two years.

Sullivan asked Council to look at page E9.61 and stated concern with effect on the City's park fund. Suggested \$750,000 comes out of park fund and the balance from the secondary tier reserve. CM Hansen inquired about deficit balance, future construction of Senior Center costing \$10 million, and stated his opinion that the staff recommendation is the best use of the funds. CM Bohr inquired about restricted usage of the different fund accounts. City Administrator Culbreth-Graft reported. Sullivan/Coerper motion to approve recommended action amended to extend loan payback (item 2) to FY 2011/12.

CM Bohr inquired re: Quimby revenues. Staff reported about \$1.8 million expected. CM Hansen suggested amendment to motion (item 2) to add "or earlier if the Council should see fit". Amendment accepted by maker & second. Approved 7-0

F. Administrative Items

F-1. (City Council) Adopt Resolution No. 2005-65 Approving Memorandum of Understanding (MOU) Between the City and the Huntington Beach Marine Safety Officers' Association (MSOA) for October 1, 2003 to September 30, 2006 (720.20)

Communication from the Acting Deputy City Administrator transmitting the following **Statement of Issue**: Should the City and the Huntington Beach Marine Safety Officers' Association (MSOA) enter into a new Memorandum of Understanding (MOU) covering the period October 1, 2003 to September 30, 2006? Funding Source: Funding is included in the Fiscal Year 2004/2005 budget and will be included in the Fiscal Year 2005/2006 budget. The cost to implement the MSOA Memorandum of Understanding in Fiscal Year 2004/2005 is \$64,235 and \$62,650 in Fiscal Year 2005/2006.

Recommended Action: Motion to:

Adopt Resolution No. 2005-65 - "A Resolution of the City Council of the City of Huntington Beach Approving and Implementing the Memorandum of Understanding between the Huntington Beach Marine Safety Officers' Association (MSOA) and the City of Huntington Beach for October 1, 2003, to September 30, 2006."

City Administrator Penny Culbreth-Graft gave a PowerPoint report. She thanked H.R. Manager Irma Youssefieh, City Attorney Jennifer McGrath, and Acting Deputy City Administrator Chuck Thomas. Coerper/Bohr motion to approve recommended action. Approve 6-0-1 (Cook out of room)

G. Ordinances

G-1. Ordinance for Adoption

G-1a. (City Council) Adopt Ordinance No. 3722 Deleting Chapter 2.12 of the Huntington Beach Municipal Code with Reference to the Department of Administrative Services (700.10) – Ordinance No. 3722 – "An Ordinance of the City of Huntington Beach Deleting Chapter 2.12 of the Huntington Beach Municipal Code Relating to Administrative Services Department."

Recommended Action: After City Clerk reads by title, adopt **Ordinance No. 3722**, by roll call vote.

Coerper/Green motion to adopt. Approved 7-0

H. City Council/Redevelopment Agency Items

H-1a. Submitted by Councilmember Cook

(City Council) Verizon Work on Private Streets - Continued from 9/6/05 meeting. (120.90)

Communication from Councilmember Cook transmitting the following

Statement of Issue:

Verizon's "Fiber to the Premises" (FTTP) project involves street work throughout most of Huntington Beach. Verizon is required to obtain a Utility Encroachment Permit from the Public Works Department for inspection of work within the public right-of-way. The construction work affecting street pavement and concrete sidewalk areas consists of boring and open cut trenching to install conduits through which the fiber optic cables will be pulled.

The Public Works Department has the ability to require street restoration and concrete replacement in the public right-of-way. On private streets, areas covered by homeowners associations (HOA), Verizon may request access to these areas directly through the HOA with no Public Works encroachment permit required. Most HOAs do not have the expertise to condition and inspect the work of Verizon's subcontractors.

It is important that these HOAs be provided the opportunity to retain professional assistance to properly oversee the work on their private streets and sidewalks. This assistance could be made available by private consulting inspection firms or through the city's Public Works Department.

Recommended Action:

1. Direct staff to develop a communication tool that provides HOAs the adopted standards for restoration of infrastructure so that each HOA may retain its own consulting inspection; and/or
2. Direct staff to develop a "template" agreement in coordination with the City Attorney's office that allows HOAs to compensate the city for inspection services. Include in the agreement the necessary releases of liability.

Each of these approaches would allow the HOAs to charge Verizon for the right to work on the private streets to offset the cost of inspection.

Councilmember Cook reported orally. Verizon representative also reported, asking that Verizon be allowed to participate on the template. Cook/Bohr motion to approve recommended action, as amended to allow Verizon opportunity to comment on the template. Approved 6-0-1 (Hardy away from desk)

H-2a. Submitted by Councilmember Hanson**(City Council) Annexation of the Bolsa Chica Warner Mesa (Hearthside Homes Development Site) (450.40)**

Communication from Councilmember Hanson transmitting the following

Statement of Issue:

The Hearthside Homes Project on the unincorporated Bolsa Chica Warner Mesa was approved by the California Coastal Commission on April 14, 2005, for the construction of 349 homes. Due to the adjacency of the project site to the city limits, this project will be an extension of the city and will use or require city services. As a result, there will be a fiscal impact to the city.

The Warner Mesa Annexation Study, a fiscal impact analysis prepared for the city by Rosenow Spevacek Group, Inc., is scheduled for review by the City Council at the September 19, 2005, Study Session. Preliminary review of that study by city staff indicates that it would be fiscally

beneficial to the city of Huntington Beach for annexation to occur prior to development of the project.

Due to Hearthside's expected development schedule of the proposed project, it would be best to initiate annexation as soon as possible. On August 15, 2005, staff from the Local Agency Formation Commission (LAFCO) indicated that because the Warner Mesa is already within the city of Huntington Beach's sphere of influence, annexation would be supported by LAFCO. However, based on LAFCO requirements, the development site must be pre-zoned prior to annexation.

If the city chooses to initiate the annexation, fees totaling \$42,848 from an applicant would not be realized.

Recommended Action:

Direct the Planning Department to prepare a Zoning Map Amendment, Environmental Assessment, and Annexation Request for the Warner Mesa Hearthside Homes development and return to the City Council with an appropriation of funds for LAFCO application costs.

Upon receipt of an application for a development agreement, dedicate the staff resources necessary to conclude the process in a timely manner.

Councilmember Hansen reported, asking recommended action be amended to state report be returned to Council the first meeting of December. Hansen/Coerper motion to approve as amended. Council inquiries followed relative to fees, development agreement deadlines, and timelines for approval process. Mayor Hardy reported on first meeting in December tradition of light agenda. CM Cook suggested project be referred to as Bolsa Chica rather than Warner Mesa, and asked for a legal opinion on how property taxes can be used. She also stated other concerns with the report given by consultant earlier this evening. CM Bohr suggested amendments to motion: to direct staff to pursue reimbursement of all application fees from developer, confirm that project be referred to as "Bolsa Chica Mesa," to direct staff to do value engineering on costs for water pipeline, water reservoir, and accessory items. Councilmembers commented on importance of waiting for purchase agreement to be finalized. Maker of motion agreed to amend to second meeting in December, and accepted suggested amendments made by CM Bohr. CM Bohr suggested a Special meeting on 12/12. Maker & second accepted amendment. MPT Sullivan inquired further about development and purchase agreements. CM Cook reported on deadline for agreement before funds go away. Mayor Hardy reported on property taxes received by City and stated her opposition to annexation until purchase agreement is finalized, but supports a study of pipeline costs. CMs Bohr, Hansen, and Green stated reasons for supporting motion including benefits to the City. CM Cook reiterated her opinion there is a need for legal opinion on tax revenue usage. Mayor Hardy spoke regarding park open space, suggesting park in-lieu fees are necessary to negotiate as part of the development agreement. MPT Sullivan stated desire for proof of Lower Bench sale and for strong staff negotiations on development agreement. CM Coerper stated concerns with County developed area, and less park areas than the City would require.

Approved recommended action, as amended - 5-2 (Cook, Hardy- No)

Council Comments - (Not Agendized)

CM Green reported on events attended including funerals for Harry Dotson, Richard Silver; Spurgeon Awards, Eagle Scout Ceremony.

CM Coerper reported that his son returned two weeks ago and must report back to Iraq.

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.

Council/Agency Adjournment at 10 p.m. to an Adjourned Regular Meeting **Monday, September 26, 2005, at 6:00 p.m.**, in Council Chambers Civic Center, 2000 Main Street, Huntington Beach, California.

The next regularly scheduled Council meeting is **Monday, October 3, 2005**, 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.

JOAN L. FLYNN, CITY CLERK
City of Huntington Beach
2000 Main Street - Second Floor
Huntington Beach, California 92648

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